

Town of Winchester
Winnebago County, WI
Ordinance 2026-03
Town Cemetery and Burial Site Ordinance

Section 1. Purpose.

The purpose of this ordinance is to regulate the construction, management, operation, and platting of cemeteries, the burial of human corpses, and other cemetery uses and activities at, on or within cemeteries owned by the Town of Winchester.

Section 2. Authority.

The Town Board of the Town of Winchester has been authorized to exercise village powers pursuant to Wis. Stat. §§ 60.10(2)(c) and 60.22(3). The Town Board adopts this ordinance under its general village powers and Wis. Stat. § 157.50(2).

Section 3. Definitions.

For the purposes of this Ordinance

Block means a group of 8 Lots which serves as an organizational and platting component for cemetery layout.

Burial means entombment, inurnment, or interment.

Bury means to entomb, inurn, or inter.

Cemetery means any location for burial of human remains within the Town.

Human Remains means the body of a deceased individual that is in any stage of decomposition or has been cremated.

Lot means a single grave lot platted in accordance with this Ordinance, and serving as a burial site in accordance with this Ordinance.

Outer Burial Container means any container that is placed or intended to be placed into the burial excavation of a grave and into which a casket or cremation urn is placed or intended to be placed at the time of burial.

Reburial means to disentomb, disinurn, or disinter human remains that are buried in a cemetery and reentomb, reinurn, or reinter the human remains in another grave, mausoleum space, or other place used or intended to be used for the burial of human remains.

Recreational Activity means any activity undertaken for the purpose of exercise, relaxation or pleasure or the instruction or practice of any such activity, including, but not limited to hunting, fishing, trapping, camping, cycling, horseback riding, motorcycling, operating an all-terrain or utility-terrain vehicle, snowmobiling, skiing, wood cutting or removal, animal training, harvesting the products of nature, sport shooting, and any other sport, game, or leisure activity.

Relative means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, uncle, aunt, nephew or niece.

Sexton means an individual employed, retained, or appointed by the Town Board to administer, repair, maintain, manage, and operate a cemetery, or a part of a cemetery, owned by the Town. In the event no person is specifically designated as “sexton” by the town board, “sexton” means any person or committee designated to act administratively and to manage, operate, maintain, and

provide care for the town cemetery or any part of the operations or of any town cemetery pursuant to this ordinance

Town means the Town of Winchester, Winnebago County, Wisconsin.

Town Board means the duly elected Town of Winchester Board of Supervisors actively serving their term as provided by Wis. Stats. §60.30.

Town Cemetery means a municipal cemetery owned, operated, and maintained by the Town pursuant to Wis. Stat. § 157.50.

Town Chair means the chairperson of the Town Board.

Town Clerk means the clerk of the Town.

Town Treasurer means the treasurer of the Town.

Urn means a vessel for the display of flowers or plants that is attached to a Lot or is of such weight, as determined by the Town Board or the Sexton, that it cannot be readily moved from its placement on the Lot. *Urn* does not include a vessel containing cremated human remains properly inured on/in a lot.

Section 4. Identification of Cemeteries subject to this Ordinance

- (a) The facilities subject to this Ordinance are:
 - (1) Oak Grove Cemetery, 5510 Grandview Road, Larsen;
 - (2) St. Peters Cemetery, 8794 County Road MM, Larsen;
 - (3) St. John's Cemetery, 9310 Maple Lane, Larsen
 - (4) Any other property owned and/or administered by the Town intended for use as a cemetery.
- (b) Every Town cemetery is owned, operated, directly controlled, and maintained by the town for the benefit of all citizens. Persons of all denominations of all religions, sexes, creeds, and races, shall be allowed to be buried in a town cemetery. This ordinance, adopted pursuant to s. 157.50 (2), Wis. stats., governs the construction, management, administration, platting, maintenance, and operation of any town cemetery and of any new cemetery or expanded cemetery of any other type in the Town, including cemeteries operated by associations, religious orders and societies, and privately owned, controlled, operated, and maintained cemeteries.

Section 5. Purchase or Expansion of Town Cemetery.

- (a) Purchase of New Lands. Neither the Town Board nor the Sexton shall purchase any land for Town Cemetery purposes without approval of the electors of the Town obtained at a regular or special town meeting.

Section 6. Purchase of Lots in Town Cemetery.

- (a) Price of Lots. The Town Board shall, from time to time, fix a price on all lots to be sold for burial in any Town Cemetery which is to include a Perpetual Care Fee as prescribed by Section 8, (a) of this ordinance.
- (b) Sales of Lots. Persons, or their authorized agents, desiring to purchase a Lot or Lots in any Town Cemetery shall be referred to the Town Clerk. The Town Clerk shall have available

suitable plats, showing size and price of Lots and any other required information, and shall render assistance to those desiring to purchase Lots. Upon receipt of payment for the Lot or Lots, the Town Chair and the Town Clerk shall issue a Cemetery Lot Deed to the Lot. The original Deed from the Town and the records of the Cemetery kept by the Town Clerk and/or the Town Board are the only evidence of title to any Lot. The Deed shall be signed by the Town Clerk and the Town Chair.

Section 7. Ownership Rights of Burial in Town Cemetery.

(a) Ownership Conditions.

- (1) The owner of a Lot in a Town Cemetery, or his/her authorized agent, shall have the right to use the Lot, or a portion thereof, for burial purposes only, in accordance with the terms of this Ordinance.
- (2) Lots for which deeds have been issued by the Town may not be subdivided unless the owner, or his/her authorized agent, receives written consent from the Town Board for such subdivision.

(b) Burial.

- (1) The owner of any Lot in a Town Cemetery and his/her spouse, if any, is/are entitled to burial at that Lot. The Lot owner may grant written permission, which must be notarized and filed with the Town Clerk, for the burial of specific persons other than the owner and the owner's spouse. If more than one person has an ownership interest in the Lot (e.g., spouses jointly owning the Lot), the written consent of all persons having an ownership interest in the Lot are required to permit the burial of a person other than the owner or owner's spouse.
- (2) Unless otherwise directed in writing, as described in Section 7, subsection (b), paragraph (1), the Sexton shall permit the burial of persons at any Town Cemetery Lot at the request of any interested person upon proof of eligibility for burial at the cemetery Lot, as follows:
 - a. The Lot owner and surviving spouse of the Lot owner have the first right of burial or to direct the right of burial.
 - b. When there is no surviving spouse, the heirs or devisees of the owner may, by written agreement of all heirs or devisees, determine who shall have the right of burial or direction for burial, with such agreement being filed with the Town Clerk.
 - c. If no agreement described in Section 7, subsection (b), paragraph (2), subparagraph (b) is filed, the Sexton may determine use, giving preference to relatives in the order listed in the definition of 'Relative' within this Ordinance.

- (c) **Ownership Rights.** All burial rights in the Lots of any Town Cemetery and purchased from the Town shall occupy the same position as real estate at the death of the owner. Only persons whose names appear on the cemetery records of the Town will be recognized as owners or part owners of Lots. Lot owners may not allow burials to be made in their Lots for any remuneration or financial consideration. In the case of the death of a Lot owner, when the cemetery Lot is disposed of by a will, and when ownership is to be determined, a

certified copy of the will or final judgment in the decedent's estate must be delivered to the Town Clerk before the Town will recognize the change of ownership. If the deceased Lot owner left no will, satisfactory proof of descent must be provided. The Town recommends that Lot owners, in making their wills, include a provision covering the Town Cemetery Lots and devise the Lots to one person.

- (d) Resale. Owners of Lots in a Town Cemetery may not resell or transfer Lots, or parts of Lots, except as follows:

- (1) Resale or transfer of Lots may be made only upon written application filed with the Town Clerk and approved by the Town Board. The application shall be executed by the owner of the Lot(s), or, if the owner is deceased, by the owner's legal heirs or legal representative. The application shall state the applicable Lot and Block numbers. Upon approval from the Town Board, the owner of the Lot shall execute a deed in the same form as an original deed from the Town described in Section 6, subsection (c).
- (2) The Town Clerk shall enter in the record kept for Lot ownership purposes copies of all deeds of resale or transfer of Town Cemetery Lots. No deed may be received and filed by the Town Clerk until an administration fee of \$50 has been paid to the Town Clerk.
- (3) The fee described in Section 7, subsection (d), paragraph 2, shall be deposited into the Town's Cemetery Perpetual Care Fund.

- (e) Reburials.

- (1) Any reburial of any person buried in a Town Cemetery shall comply with the provisions of Wis. Stat. § 157.112. Any person seeking reburial shall seek approval from the Town Board. An authorization for disinterment and reinterment shall be obtained from Winnebago County before any disinterment and reinterment, as required by Wis. Stat. § 69.18(4).

- (f) Lot Abandonment.

- (1) Abandonment of Lots in a Town Cemetery shall be controlled by the provisions of Wis. Stat. § 157.115(2).
- (2) Any abandoned Lots in a Town Cemetery shall be resold and used for burials before any new areas of the Town Cemetery are platted or used.

- (g) Illegal Burial.

- (1) After the date of adoption of this ordinance, any place in the town where human remains are buried on private or public land without written permit approval of the town board and not timely removed within 24 hours after receipt of written notice from the town board to remove said remains is declared to be a public nuisance. In addition to commencing an action for penalties as provided in this ordinance, the town may take action to abate the nuisance and recover its costs of doing so, as provided in the town Public Nuisance Ordinance. This paragraph does not apply to any established cemetery or burial site grounds approved, owned, and operated in accordance with ch. 157, Wis. stats., and this ordinance.

Section 8. Care of Lots at a Town Cemetery.

- (a) Perpetual Care Fund for Town Cemetery. To assure reliable means for the permanent care of any Town Cemetery, a Perpetual Care fund shall be created relating to all Town Cemeteries. The principal of such fund, and any income derived therefrom, shall provide for all or partial maintenance costs of all Town Cemeteries. All Lots sold in any Town Cemetery shall be charged a Perpetual Care Fee, which will be included in the Lot price, and each grave shall be provided with perpetual care services under subsection (b) of this Section. A record of the Perpetual Care Fund shall be kept in the office of the Town Clerk. The Fund may be increased by gifts, bequests, memorial charges, or other service revenues. All gifts shall be received, kept and maintained pursuant to Wis. Stat. §§ 157.11(8)-(9) and 157.50(6).
- (b) Perpetual Care. The Town shall furnish perpetual care to all graves located in any Town Cemetery. Such perpetual care is limited to lawn maintenance, leaf disposal, the filling of sunken graves, the raising of markers, and the caring for avenues, alleys, fences, buildings and grounds in general. Expenditures of income from the Perpetual Care Fund shall be made at the discretion of the Town Board. The Town shall not be bound to make a separate investment of money set aside for perpetual care from a particular Lot sale, but the proceeds of each Lot sale shall be added to the Perpetual Care Fund, and the proceeds of the fund shall be used by the Town as provided in this subsection. Nothing in this Ordinance shall be construed as obligating the Town as to any alleged existing contract for perpetual care of a grave or graves. The Town Board shall operate and maintain the Town Cemeteries such that proper and decent care is taken of all Town Cemeteries and the graves contained therein.
- (c) Costs of Care Fixed. The Town Board shall annually fix, pursuant to Wis. Stat. § 157.11(5), a sum necessary for the proper and decent care of graves, unoccupied cemetery Lots, and any improvements within any Town Cemeteries to be paid from the following sources, as determined by the Town Board:
 - (1) Payments from Winnebago County to the Town for veteran's graves;
 - (2) Income generated by the Perpetual Care Fund;
 - (3) Any taxes levied by the Town Board.
- (d) General Improvements. The Town Board shall direct and administer all improvements and maintenance within a Town Cemetery before and after any burials. The Town Board shall be responsible for determining the proper and decent care of a Town Cemetery. All graves shall be sodded and mowed when determined necessary by the Town Board. The grade of the cemetery lots shall be determined by the Town Board. Resodding of existing graves or following disinterment will be done when determined necessary by the Town Board.
- (e) Veterans Graves.
 - (1) Pursuant to Wis. Stat. § 45.85, the Town Board shall at all times see that the graves and tombstones of all veterans, including women's auxiliary organizations created by Act of Congress, who shall at any time have served in any branch of the armed forces of the United States, and of the spouses or surviving spouses of all those veterans, receive proper and decent care, and the Town Board may employ all necessary assistance to carry out this section.

- (2) The expense of the care of such graves and tombstones shall be borne by Winnebago County except where suitable care is otherwise provided. The amount charged to Winnebago County for the care may not exceed the charge made for the care of other graves in the same Town Cemetery. The Town Board shall report to the Winnebago County clerk, on or before September 1 of each year, the locations of the graves cared for by the Town Board pursuant to Wis. Stat. § 45.85, together with the names of the deceased and the amount claimed for the care during the fiscal year from the previous July 1 to June 30.

Section 9. Privileges and Restrictions in Town Cemeteries.

- (a) Mounds Prohibited. No person may raise the level of the earth over any grave in a Town Cemetery above the general level of the cemetery Lot.
- (b) Limitations on Structures and Urns. No structures, hedges, fences, railings, embankments, depressions or other enclosures of any kind are permitted on or around Lots in any Town Cemetery. Wooden boxes, wire containers, glass jars, bottles, toys, cans, memorials, memorabilia, personal items, and other similar objects may not be placed on Lots without written approval of the Town Board, and any such permitted placed items may be removed by the Town Board without oral or written notice. Urns are not permitted at any Town Cemetery on Lots sold after the effective date of this Ordinance. Urns existing at any Town Cemetery prior to the effective date of this Ordinance shall be removed by the Town Board if they become unsightly or deteriorated, and such Urns shall not be replaced. Before an Urn is destroyed or discarded, the last owner of record of the Lot on which it is located shall be notified by registered or certified mail, return receipt requested, by the Town Clerk that the Urn has been removed from the Lot and will be destroyed or discarded unless the owner of the Urn claims it within 30 days after the mailing of such letter.
- (c) Landscaping. All landscaping, mowing and general care of lots, and other work, construction or maintenance in the Town Cemeteries shall be performed by the Town through its officers, employees, independent contractors, or agents, unless otherwise provided in writing by the Town Board.
- (d) Access to Lots; Opening and Closing of Burial Places. The Town reserves the right for its officers, employees, contractors, agents, and the Town Board, necessary to the performance of normal Town Cemetery operations, to enter upon or cross over any Lot in any Town Cemetery in the performance of any duties or work necessary under this Ordinance. The Town Board, by its officers, employees, contractors, and agents, has the sole right to the opening and closing of burial places used or to be used for burial of human remains in the Town Cemeteries, unless so ordered by a court of record to open or close such places.
- (e) No Assumption of Liability for Damages. The Town, including its officers, employees, contractors, agents, and the Town Board, assume no liability for damages to property or person, or for physical or mental suffering, arising out of the performance of its normal operations related to the construction, management, operation, maintenance, care and platting of any Town Cemetery, including care of the Town Cemetery, any Lot, and the graves, or for loss by vandalism or other acts at a Town Cemetery beyond the Town's reasonable control.

- (f) Altering Physical Conditions. The Town Board reserves the right to alter, change, or close alleys, roadways, walkways, water mains, and other physical public properties at any Town Cemetery.
- (g) Enforcement of Ordinance. The Town Board may appoint, with citation issuance and service powers, any employee or agent of the Town, including, without limitation, a Sexton, to administer and enforce this Ordinance.

Section 10. Rules for Visitors of Town Cemeteries.

- (a) Visiting Hours. Every Town Cemetery shall be always open to visitors between the hours of sun-up and sun-down. Permission to enter any Town Cemetery at any other time must be obtained from the Town Board or the Sexton.
- (b) Children. Children under 16 years of age shall not enter any Town Cemetery except when accompanied by parents or guardians or as otherwise permitted, in writing, by the Town Board or the Sexton.
- (c) Food/Refreshments Prohibited. Persons, including picnic parties, with food, refreshments or alcoholic beverages are prohibited from entering any Town Cemetery.
- (d) Dogs and Other Animals. Any person that owns pet animals must abide by the following regulations while visiting any Town Cemetery:
 - (1) Pets shall at all times be kept on a leash. All pet animals, including but not limited to dogs, shall be effectively restrained and under the owner's/handler's control at all times.
 - (2) The owner or person in charge of any animal shall not permit solid fecal matter of said animal to be deposited at any facility unless such matter is immediately removed there from by said owner or person in charge of the animal. Fecal matter shall not be disposed in the Town waste receptacles.
 - (3) No pet animal shall be tied up to any trees, benches, tables, flagpoles, playground equipment, or other equipment at any facility at any time. For the purposes of this section, "other equipment" will be defined with the following examples: fire hydrant, trash/recycle receptacle, etc.
 - (4) Any guide dog, signal dog, or other animal that is individually trained to accompany a person or persons with disabilities are allowed at all facilities while complying with the hours of operation for all facilities.
 - (5) Law enforcement K-9 animals are allowed at all facilities and at all times when acting in official Law enforcement activities.
- (d) Firearms. Firearms are prohibited in any Town Cemetery except in conjunction with military funerals or specific memorial events permitted by the Town Board or the Sexton. At all other times, no person other than law enforcement officers acting in their official capacity may use or discharge firearms, bows and arrows, slingshots, and other like articles in the Town Cemeteries.

(e) Visitors.

- (1) Visitors to Town Cemeteries are required to use existing walkways and roadways whenever possible.
- (2) No person in any Town Cemetery may: (A) pick or cut any flowers, either wild or cultivated; (B) injure any shrub, tree or plant; or (C) mar or deface any monument, stone or structure.
- (3) No person may damage, deface, or destroy any Town Cemetery property, structure, fence, grave, Lot, vases, flowerpots, Urns, or other objects that have been placed on any Lot or cemetery grounds.
- (4) No person, except the owner of a Lot, a person with the Lot owner's consent, or a person with the Town Board's or the Sexton's written consent who is engaged in official cemetery management and care duties by the Town, in any Town Cemetery may: (A) remove or mark, in any manner, any cemetery markers, headstones, monuments, fences or structures; (B) remove any vases, flower pots, Urns or other objects that have been placed on any lot; (C) move or remove any cemetery equipment without the written consent of the Town Board or the Sexton; or (D) remove any Town Cemetery property not described above.
- (5) No person may loiter, cause a public nuisance, or engage in any sport or other Recreational Activity on or in any Town Cemetery without the written consent of the Town Board or the Sexton.

(f) Vehicles.

- (1) Motor vehicles traveling within any Town Cemetery may not exceed 15 miles per hour. No motor vehicle, except authorized Town maintenance vehicles, shall be driven except on roadways designated for that purpose, and no motor vehicles shall be driven in a reckless manner in a Town Cemetery.
- (2) No person may ride, operate or make use of any of the following vehicles in any Town Cemetery unless the vehicles are present in conjunction with Town Cemetery business or are otherwise authorized in writing by the Town Board or the Sexton: (A) snowmobiles; (B) go-carts; (C) all-terrain vehicles; (D) utility-terrain vehicles (E) mopeds; (F) electric bicycles; (G) motorcycles; and (H) play vehicles and other amusement vehicles, including, without limitation, any coaster, skateboard, roller skates, sled, toboggan, unicycle or toy vehicle upon which a person may ride.
- (3) No person, without written consent of the Town Board or the Sexton, may park or abandon any motor vehicle in any Town Cemetery on any grassy or seeded area or upon any other location except a designated parking area. No person shall park or abandon a motor vehicle on any Town Cemetery property for any purpose except to engage in official cemetery business. Any motor vehicle parked more than 24 hours, without written consent of the Town Board or the Sexton, shall be declared abandoned by the Town Board or the Sexton and may be towed or removed, or caused to be towed or removed, by the Town Board or the Sexton.

- (g) Protection of Cemetery Property. No person, without written consent of the Town Board or the Sexton, may do any of the following: (1) trap, hunt, kill, injure or disturb, or attempt to trap, hunt, kill, injure or disturb, any animal, bird or waterfowl, wild or domestic; (2) climb any tree; or (3) break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property within any Town Cemetery, except as provided in this Ordinance.
- (h) Littering, Soliciting and Advertising Prohibited. No person may litter, dump or deposit any rubbish, refuse, earth or other materials, including any placement of advertising, in any Town Cemetery without the written consent of the Town Board or the Sexton.
- (i) Sound Devices. No person may operate or play any amplifying system or sound device in any Town Cemetery without the written consent of the Town Board or the Sexton.
- (j) Authorized Notices. No person may post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any Town Cemetery, except with the written consent, or at the direction of the Town Board or the Sexton. No person shall remove, deface or damage, in any manner, any sign or notice posted in any Town Cemetery by or at the direction of the Town Board or the Sexton, unless approved by the Town Board or the Sexton.
- (k) Working in Town Cemetery. All contractors or other persons working in a Town Cemetery shall notify the Town Clerk prior to commencement of such work. All contractors or others doing work in a Town Cemetery are responsible for the cost of any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages or loss by the Town Board, pay that sum to the Town Board.

Section 11. Town Cemetery Burials.

- (a) Daylight Burials. Burials at any Town Cemetery shall be made only during daylight hours unless as otherwise approved, in writing, by the Town Board or the Sexton.
- (b) Outer Containers. All burials and reinterments, at any Town Cemetery, shall be made with a container (typically a casket) placed in permanent outer burial container (typically a vault) not constructed of wood. All cremation remains shall be placed in a container (typically a cremation urn) that is then placed in a permanent outer burial container (typically an urn vault) not constructed of wood.
- (c) Grave Digging. All graves at a Town Cemetery to be used for burials shall be opened and dug at no cost or expense to the Town but shall be performed under the direction of the Town Board and the Sexton. The minimum depth of graves shall be established by the Town Board from time to time, and all graves shall be dug in strict conformity with the Town Board directives then in effect. The Town Board or the Sexton may charge the full cost for any grave digging and opening service provided by the Town at any Town Cemetery, including the fees for the Sexton or other designee of the Town Board, for staking the plot, if the Town Board has authorized the Town or its officers, employees, contractors or agents, including, without limitation the Sexton or other designees, to provide grave staking, grave opening or digging services. The Town Board or the Sexton may also establish charges for snowplowing and seasonal additional access costs to the Lot owner incurred by the Town to provide burial or disinterment services. Arrangements for any disinterment or burial services, including

payments due to the Town, shall be made with the Town Clerk, the Sexton or other Town Board designee at least 48 hours in advance of the services. The time for any disinterment or burial service shall be arranged so that the grave shall be properly filled, and all surplus earth removed before 4:30 p.m. on the day of the disinterment or burial service, unless that requirement is specifically waived in writing by the Town Clerk or the Sexton.

- (d) Burial Permit. No burial in a Town Cemetery shall be permitted until a legal burial permit has been issued by the Town Clerk or the Sexton.
- (e) Maintenance of Flowers, Wreaths and Other Personal Items at Burial Sites. There shall be no responsibility on the part of the Town or its officers, employees, contractors or agents, including, without limitation, the Sexton or other designees of the Town Board, for the protection and/or maintenance of flowers, wreaths, plants, emblems, urns, family or personal items, memorials or similar items used or placed at any Town Cemetery in conjunction with funerals or burials, including disinterment, or memorial events.
- (f) Number of Graves Per Lot. No Lot at any Town Cemetery may be used for the burial of more than one body, except in the following circumstances:
 - (1) Two remains from cremation shall be allowed in one Lot with one headstone or two flat markers to be placed only in line with other headstones;
 - (2) One full body and one remains from cremation shall be allowed in one Lot, with one headstone or two flat markers to be placed only in line with other headstones.
- (g) Seasonal Bury; Duty to Bury. The Town Board or the Sexton shall provide for cemetery services and burials at any Town Cemetery during each season, including winter, whenever practicable, in compliance with Wis. Stat. § 157.114. The Town has no duty to bury, remove any human remains, or allow the burial or removal of any human remains, however, unless those requesting burial or disinterment are, or will be, in full compliance with this Ordinance or other applicable state law. The Town Board may, in its discretion, charge additional costs to the person requesting burial in order to provide safe and timely access to and from the grave or burial site during burial services.

Section 12. Town Cemetery Monuments and Markers.

- (a) Setting Grave Markers.
 - (1) Grave markers, monuments and foundations at any Town Cemetery may be set only after the person desiring to set the marker, monument or foundation obtains a permit therefor from the Town Clerk or the Sexton. Grave markers, monuments and foundations at any Town Cemetery may be set by monument company employees or agents or other persons authorized by the Lot owner, but not the Town Board or the Sexton. Except as otherwise provided in this Ordinance, under no conditions will the Town Board or the Sexton construct any monument or marker bases or erect monuments or markers on bases.
 - (2) All markers and monuments must have a cement/concrete foundation. Foundations shall be of such size and design as will provide ample insurance against settlement or injury to the monument or marker, as determined by the Town Board or the Sexton. The top of the foundation shall be constructed flush with the ground line. Whenever

possible, all markers shall be set with, at minimum, a 5-inch margin from the outer edges of the foundation.

- (3) The setting of grave markers, monuments, and foundations, and the transportation of all tools and related materials, within any Town Cemetery is subject to the supervision and control of the Town Board or the Sexton. Unless previously authorized by the Town Board or the Sexton, the setting of grave markers, monuments, and foundations shall be conducted between the hours of sun-up and sun-down, Mondays through Fridays, except on national holidays. Truck operation is not permitted within any Town Cemetery when the Town Board or the Sexton determines that such truck operation may cause damage to the driveways or other Town Cemetery property or gravesites. Except as previously authorized by the Town Board or the Sexton, all work in the setting of grave markers, monuments, and foundations shall be completed promptly, and all debris shall be removed immediately.

(b) Limitations. All the following apply to monuments and markers in a Town Cemetery:

- (1) The Town Board or the Sexton may refuse permission to erect any monument, marker or foundation not in keeping with the good appearance of the grounds at a Town Cemetery. The size of any monument or stonework must be provided to the Town Board or the Sexton and approved before any work related to any monument, marker or foundation will be permitted on a Lot in a Town Cemetery.
- (2) Only one monument or marker shall be allowed per Lot except as provided for in Section 11, subsection (f) of this Ordinance.
- (3) No foundation marker or monument may be larger than the width of the Lot or group of Lots purchased. All monuments and foundations must be set in line with other monuments to the extent possible, as directed by the Town Board or the Sexton. Government service monuments or markers shall be surface mounted or attached to the monument or marker. No monument or marker may be more than 5 feet in height.
- (4) Temporary markers shall be removed or replaced with permanent markers within 1 year of burial.
- (5) A preneed marker may be placed on a Lot or group of Lots before burial.
- (6) No materials other than granite, marble or standard bronze may be used for outside and above-ground portions of any marker or monument.
- (7) Within one year after burial, a marker or monument identifying the burial shall be placed at the grave site. The Town Board or the Sexton may require, at minimum, prior to burial, a deposit of \$1,000.00 payable to the Town to ensure timely placement of a proper marker or monument. The Town may place a marker or monument and assess any surviving owners of the Lot for the costs of the marker or monument and the costs of installing the same, if a marker or monument is not placed by the Lot owner or any surviving Lot owners within one year after burial.

(c) Removal of Monuments. A marker or monument, once placed on its foundation at a Town Cemetery, may not be removed without written permission from the Town Board or the Sexton.

- (d) Payment. Any Lot at a Town Cemetery must be paid for, in full, before foundations, markers, and monuments are set and before any cemetery deed conveyance. All outstanding charges due to the Town must be paid prior to burial.

Section 13. Town Cemetery Vaults and Mausoleums.

Construction of vaults and mausoleums in any Town Cemetery is prohibited unless approved, in writing, by the Town Board.

Section 14. Trees, Shrubs, and Flowers at Town Cemetery.

- (a) Tree and Shrub Planting. The planting of trees and shrubs on newly purchased Lots in a Town Cemetery is prohibited unless approved, in writing, by the Town Board or the Sexton.
- (b) Large Tree Removal. Lot owners may request the Town Board or the Sexton, remove large trees on or adjacent to cemetery Lots in any Town Cemetery that hinder the full use of the Lot. Removal is contingent upon Town Board approval, with any approved removal to be completed by a contractor or agent of the Town Board's choosing. The expense of the tree and stump removal shall be paid for by the Lot owner(s). In lieu of removal, the Town Board may offer the provision of an alternative available Lot to the party making the request. The alternative Lot shall be an available Lot in the closest proximity to the Lot obstructed by the tree.
- (c) Flowers, Decorations, and Memorials. All flowers, fresh or artificial, baskets, wreaths, decorations, memorials, etc. placed at graves or Lots at a Town Cemetery shall be within the boundary of the foundation of the grave marker/monument and shall not interfere with regular mowing and maintenance operations, and shall be removed by October 15 of each year. Fresh cut flowers may be used in any Town Cemetery at any time. Containers for cut flowers are to be mounted or placed within the boundary of the foundation of the grave marker/monument, and of a type that does not hold water when not in use, or of the type to be disposed of when flowers are removed.
- (d) Flags. U.S. flags may be placed on Veterans graves at any time throughout the year but shall be properly maintained, replacing or repairing worn, torn or tattered flags.
- (e) Potted Plants. Potted plants may be set on any Town Cemetery Lots, without disturbing the sod, if removed within 5 days of being set. If a potted plant is not removed within 5 days of being set, the potted plant may be removed and disposed of by the Town Board, the Sexton, or their designee.
- (f) Planting. Planting of flower beds, plants, trees or shrubs, is prohibited unless preauthorized by the Town Board or the Sexton.

Section 15. Miscellaneous.

- (a) Neglected Lots. The Town Board or the Sexton may notify, or attempt to notify, in writing, a Lot owner that any Lot, or any monument or marker thereon, is being neglected and that failure to comply with this Ordinance regarding proper care and management, or failure to rehabilitate a neglected Lot, may be cause of imposition of forfeitures under Wis. Stat. § 157.11(2).

- (b) Schedule of Payments. A schedule of the fees and charges for any Town Cemetery, as established by the Town Board, shall be on file in the office of the Town Clerk. The Town Board may change the schedule from time to time, without advance notice, to conform the fees and charges to current economic conditions.
- (c) Fee Payment Location. All fees and charges for any Town Cemetery are payable to the Town of Winchester at the Office of the Town Clerk, where receipts will be issued for the amounts paid.
- (d) Sexton. The Town Board may designate, retain or employ a person as Sexton of any or all the Town Cemeteries, or may designate any other person or committee to act administratively and to manage, operate, maintain and provide care for the Town Cemetery or any part of the operations or of any Town Cemetery pursuant to this Ordinance. The Sexton may be a Town employee or may, with proper insurance and indemnification protection for the Town and its officers, employees and agents, be an independent contractor or agent retained under written contract for a fixed term. The Town Board, consistent with this Ordinance, shall designate the authority, responsibility and duties to the Sexton. The Town Board shall be responsible for proper supervision of the Sexton.
- (e) Amendment of Ordinance. The Town Board may amend this Ordinance to conform with newly developed cemetery practices or for any other legal purpose that the Town Board deems necessary and appropriate.

Section 16. Severability.

If any section, clause, provision or a portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remaining provisions shall not be affected thereby.

Section 17. Administration, Enforcement, Citations, and Penalties.

- (a) Administration and Enforcement. The Town Chairperson, Supervisors, the Sexton, and/or their designee(s) may issue a verbal or written warning or citation to any offender who is in violation of this Ordinance.
- (b) Penalties. Any person who violates any provision of this Ordinance and/or Wis. Stat. § 157.11(2) shall, upon conviction not less than \$100 nor more than \$500 for each offense, together with the costs of prosecution. Each day a violation exists or continues constitutes a separate offense under this Ordinance. The Town Board may withhold the issuance of any Town licenses, authorities, grants or permits, and any additional cemetery Lot purchases and permits for burial or disinterment, until the violation has been abated and all penalties and costs satisfied.
- (c) Abatement.
 - (1) In lieu of or in addition to any other penalty for a violation of this Ordinance, if the violation consists of a physical condition, the Town Board may issue a written notice to the person responsible for the violation, if known, requiring the person responsible to abate the violation within 7 days of receipt of the notice. Service of notice shall be by personal service or registered mail, return receipt requested.

- (2) If the person responsible for the violation of this Ordinance is unknown, or the person responsible has not abated the violation within 7 days of receipt of the notice described in Section 17, Subsection (c), paragraph (1), the Sexton, or some other person designated by the Town Board, may immediately abate or remove the violation in a manner approved by the Town Board. The cost of such abatement or removal may be recovered from the person responsible for the violation.
- (d) Injunctive Relief. In lieu of, or in addition to, any other penalty for a violation of this Ordinance, the Town Board may seek to enjoin any continuing violation of this Ordinance as provided in Wis. Stat. Ch. 813.

Section 18. Effective Date.

This Ordinance shall take effect the day after the notice of its approval is posted by the Town Clerk as required under s. 60.80.

Approved this 3rd day of August, 2026.


Matthew J. Olson, Town Chairman


Attest: Holly Stevens, Town Clerk