

TOWN OF BAILEYS HARBOR
ORDINANCE NO. 02-2024
Amendment of the System of Management and Operation of Town Cemeteries

Section 1: Authority

The Town Board of the Town of Baileys Harbor has specific authority under s. 157.50 (2), Wis. Stats., and general authority under its village powers under s. 60.22, Wis. Stats., to adopt this ordinance.

Section 2: Purpose

The purpose of this Ordinance is to regulate the construction, management, operation, and platting of Town owned cemeteries, the burial of human corpses, and other Town cemetery uses and activities in the town.

Section 3: Application

All cemeteries and subdivisions thereof operated by the Town of Baileys Harbor shall be ruled by the regulations herein set forth.

Section 4: Ordinances Repealed

Amended Ordinance 2017-03 dated March 14, 2017, amended Ordinance 1-05 dated October 14, 2019, and any other Town of Baileys Harbor Ordinance with provisions inconsistent with this ordinance are hereby repealed and replaced by this ordinance.

Section 5: Definitions

1. **Burial:** Entombment, inurnment, or interment and “bury” means to entomb, inurn, or inter human remains.
2. **Gravesite or Burial Site:** An actual site of interment contained within a lot is 5’x10’ or 5’x5’ depending on the Section.
3. **Lot:** A section of eight burial sites contained within a specific lot. A lot for eight graves shall have a dimension of 20’x20’ or 20’x10’ depending on the Section.
4. **Non-resident:** For the purposes of this ordinance, anyone who does not meet the qualified elector standard established below shall be considered non-resident regardless of where they live or own property.
5. **Resident:** For the purposes of this ordinance, an individual who has been a qualified elector in the Town of Baileys Harbor for a minimum period of six consecutive months prior to purchasing the gravesite or lot. An individual who can demonstrate to the satisfaction of the Town of Baileys Harbor that they have occupied a dwelling unit in the Town for an extended period of time may be considered a resident.
6. **Section:** A section of the cemetery, which is differentiated according to time of incorporation into the cemetery, e.g., Section A, Section B, Section C, etc.
7. **Sexton:** A town employee, independent contractor, or appointed official 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.
8. **Town Cemetery:** Any location owned by the Town for burial of human remains in the Town of Baileys Harbor.

Section 6: Statement of Policy

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.

1. **Platting.** Before any new Section of any existing town cemetery is opened for the sale of Lots for burial of human remains after the effective date of the ordinance, the town board or the sexton for a town cemetery shall have the newly platted Section and Lots recorded with the Register of Deeds in Door County, Wisconsin in accordance with s. 157.065, Wis. Stats.
2. **Purchase of new land.** The town board or the sexton shall not purchase any land for cemetery purposes without approval of the electors of the town at a regular or special town meeting.

Section 7: Purchase of Lots in Town Cemetery

1. **Price of Lots:** The town board shall, by resolution, fix a price on all related fees and charges in any town cemetery.
2. **Sales of lots:** Persons, or their authorized agents, desiring to purchase a lot or gravesite in any town cemetery for burial are referred to the sexton or town clerk. The sexton or town clerk shall have available documents showing available lots, gravesites and any other information that may be required. Upon receipt of proper payment to the town clerk, the town chairperson and town clerk shall issue a cemetery deed. The original deed from the town and the records kept by the town clerk or other designee of the town board are the only evidence of title to any gravesite. The deed shall be signed by the town clerk and town chairperson, or other persons designated by the town board.

Section 8: Ownership Rights of Burial in Town Cemetery

1. **Ownership conditions.**
 - a. The owner of a gravesite, or his/her authorized agent, shall have the right to use a gravesite or portion of a gravesite for burial purposes only in accordance with the terms of this ordinance or any town cemetery bylaws and regulations.
 - b. Upon full payment by any person of the purchase price of a gravesite, the town clerk and town chair shall issue a cemetery deed, and a copy of the deed shall be filed in the records of the town as evidence of ownership of the lot. Gravesites for which deeds have been issued by the town may not be subdivided.
2. **Burial.**
 - a. In this subsection, "relative" means a parent, grandparent, child, grandchild, brother, sister, parent-in-law, grandparent-in-law, brother-in-law or sister-in-law, uncle or aunt, and nephew or niece.
 - b. Any gravesite owner acquires the gravesite solely for the purpose of burial of the owner at the time of the owner's death. If the gravesite is owned jointly by spouses, either spouse is entitled to burial at that gravesite. The gravesite 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 gravesite, the written consent of all living persons having an ownership interest in the gravesite is required to permit the burial of a person other than the owner or owner's spouse.
 - c. Unless otherwise directed in a writing filed with the town clerk by the gravesite owner under paragraph a., the sexton or town clerk shall permit the burial of persons at any gravesite at the request of any interested person upon proof of eligibility for burial at the gravesite as follows:

- i. The gravesite owner, and surviving spouse of the gravesite owner, have the first right to burial or to direct the right of burial.
- ii. When there is no surviving spouse, the devisees or heirs of the owner may, by agreement in writing of all the heirs or devisees, determine who shall have the right of burial or direction for burial, which the agreement shall then be filed with the town clerk.
- iii. If no agreement under subdivision ii. is filed, the sexton or town clerk may determine use, giving preference to relatives in the order listed in paragraph a.

3. Ownership Rights.

All burial rights in the gravesites shall occupy the same position as real estate at the death of the owner. Only persons whose name appear on the cemetery records of the town will be recognized as owners or part owners of the gravesite. Gravesite owners may not allow burials to be made in their gravesite for any compensation or financial consideration. In case of the death of a gravesite owner, when the gravesite is transferred by a will, and when ownership is to be determined, a certified copy of the will or final judgement in the decedent's estate must be delivered to the town clerk before the town will recognize the change in ownership. If the deceased gravesite owner left no will, satisfactory proof of descent must be provided. It is recommended that gravesite owners, in making their wills, include a provision covering the town cemetery gravesites and devise the gravesites to one person.

4. Resale.

Gravesite owners may not resell or transfer gravesites or parts of gravesites except as follows:

- a. Reconveyance of gravesites or parts of gravesites may be made only upon written request filed with and approved by the town clerk. The request shall be executed by the owner of the gravesites, or, if the owner is deceased, by the legal heirs. The request shall state section, lot and gravesite number. Upon approval by the town clerk, the town shall execute a deed in the same form as the original deed under Section 7, subsection 2.
- b. The town clerk shall enter in the record kept for the purpose copies of all deeds of transfer and reconveyance of cemetery lots. No deed reconveyance may be received and filed by the town clerk until proper transfer payment has been made to the town clerk.
- c. A cemetery deed may only be transferred once within the family, unless when transferred by a will or satisfactory proof of descent is provided.
- d. The town has a perpetual and exclusive First Right of Refusal to purchase any gravesite for the original price, without accrued interest, prior to any conveyance to another individual.

Section 9: Care of Lots at the Town Cemetery

The town board shall direct and administer all improvement and maintenance within the cemetery before and after any burials. The town board shall be responsible for determining proper and decent care of the cemetery. All graves shall be sodded/seeded and mowed, when determined necessary by the sexton. Resodding/seeding of existing graves or following disinterment will be done when determined necessary by the town board or the sexton.

Section 10: Town Cemetery Burials:

1. Daylight Burials: Burials shall be made only during daylight hours.
2. Outer Containers: All burials and reinterments shall be made in a permanent outer burial container not constructed of wood.
3. Grave Digging:

- a. All graves shall be opened and dug at no cost or expense to the town but shall be under the direction of the town board or the sexton.
 - b. The town board or sexton may charge the full cost for any grave opening and closing service provided by the town, including any fees for the sexton to stake the gravesite.
 - c. Arrangements for any disinterment or burial services, including payments due to the town, shall be made with the town clerk, the sexton, or other person designated by the town board at least 48 hours in advance of the service.
4. Seasonal Burial: duty to bury: The town board or the sexton shall provide for cemetery services and burials during each season, including winter, whenever practicable and weather permitting, in compliance with s. 157.114, Wis. Stats. However, the town has no duty to bury or remove any human remains, unless those requesting burial or disinterment are or will be in full compliance with this ordinance, state law and any bylaws and regulation established by the town board. The town board may, at 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.
 5. Maintenance of Flower, Wreaths, and Other Personal Items at Burial Sites: There shall be no responsibility on the part of the town, its officers, employees, contractors, or agents, including the sexton or other designees of the town board, for the protection and 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.
 6. Full Body Burial: One (1) remain and one (1) cremation or two (2) cremations per gravesite, allowing one (1) monument per gravesite. Full body burials must be placed in a cement or steel vault and will only be conducted in designated sections.
 7. Cremation: Two (2) cremations per gravesite, allowing one (1) monument per burial site.
 8. Reburial: Removal of bodies shall only be permitted upon the receipt of a written request with the consent of the town board. The requesting party shall be responsible for all costs including removal, refilling the grave and any recording costs. The request for disinterment shall also include any permits required by the State of Wisconsin.
 9. Pet Remains: Pet remains may be buried only when cremated and only at the same time or after the owner of the gravesite is buried in such site. No gravesite may contain only pet remains.

Section 11: Monuments and Foundations

1. Foundations.
 - a. Foundations shall be concrete or stone a minimum of 4" thick and placed according to the town's instructions and shall be set below the surface.
 - b. The foundation for an upright monument can have a width of not more than 5" on each side of the monument.
2. Monuments.
 - a. All monuments, flat or upright, must be placed on foundations, and no taller than 3 feet above grade.
 - b. All monuments shall be constructed of stone except Military Plaques which are to be constructed of bronze.
 - c. All other types of designs of monuments, markers or mausoleums are hereby prohibited.
 - d. Only one monument shall be allowed per burial site except in the case of a family lot.
 - i. Family lot being all eight (8) burial sites purchased under one family surname.

- ii. Only one (1) family surname marker may be placed in the center of a family lot with individual markers, no more than 8" tall, placed at the East or West end edge of each grave.
- iii. Marker placed on the western edge of the family lot will face east.

3. Setting of Monuments.

- a. No monuments shall be placed unless all fees and charges have been paid.
- b. Maintenance of the marker shall be the responsibility of the gravesite or lot owner. Perpetual care provides for the maintenance of the grounds only.
- c. The location of all monuments shall be determined by the Town of Baileys Harbor and/or its appointed sexton.
- d. No placement of monument shall be done until approved by the designated town board or appointed sexton.
- e. No less than forty-eight (48) hours' notice shall be given prior to the placement of the monument.
- f. All monuments to be erected and placed on the graves shall be of the specifications herein set forth. Failure to set the monuments properly shall result in notification in writing to the company or individuals setting the monuments, informing them as to the inappropriateness of their setting. The company/individual shall have sixty (60) days from the day of notification to correctly set the monument. Should said company/individual fail to perform within said time limits, the Town of Baileys Harbor shall correct said monument's setting and bill the company/individual for the cost of correcting the fault.

Section 12: Privileges and Restrictions

- 1. Mounds prohibited: No person may raise the level of the earth over any grave above the general level of the cemetery lot.
- 2. Limitations on structures and urns:
 - a. In this subsection "urn" means a vessel for the display of flowers or plants that is attached to a gravesite or is of such a weight, as determined by the town board or sexton, that it cannot be readily moved from its placement on the gravesite. "Urn" does not include a vessel containing cremated human remains properly inured on the gravesite.
 - b. 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 gravesites. If placed on gravesites, these items may be removed by the town board or the sexton without oral or written notice.
- 3. Landscaping: All landscaping, mowing, and general care of gravesites, and other work, construction, or maintenance in the town cemetery shall be performed by the town by its officers, employees, independent contractors, or agents, including the sexton.
- 4. Access to Lots: opening and closing of burial places: The town reserves the right for its officer, employees, contractors, and agents, including the sexton and the town board, necessary to the performance of normal town cemetery operations to enter upon or cross over any gravesite 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, including the sexton, 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 cemetery, unless so ordered by a court of record to open or close such places.

5. No assumption of Liability for Damages: The town, and its officers, employees, contractors, and agents, including the sexton 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 cemetery, any gravesite, or for loss by vandalism or other acts beyond its reasonable control at a town cemetery.
6. 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.

Section 13: Rules for Visitors to Town Cemeteries

1. Firearms: Firearms are prohibited in any town cemetery except in conjunction with military funerals or specific memorial events permitted by the town board, the sexton, or other designees of the town board. At all other times, firearms, bows and arrows, slingshots, and other like articles are prohibited.
2. Visitors:
 - a. Visitors shall use existing walkways and roadways whenever possible.
 - b. No person shall mar or deface any monument, stone or structure.
 - c. No person may loiter, cause a public nuisance, or engage in any sport or other recreation activity without the written consent of the town board or the sexton.
3. Vehicles:
 - a. No motor vehicle, except authorized maintenance vehicles for the town, shall be driven off the designated roadways. Nor shall any motor vehicles be driven in a reckless manner.
 - b. No person may ride, operate, or make use of any of the following vehicles in any cemetery unless the vehicles are present in conjunction with the cemetery business or are authorized in writing by the town board or the sexton: snowmobiles, go-carts, play vehicles and other amusement vehicles, including any coaster, skateboard, roller skates, sled toboggan, unicycle, or toy vehicle upon which a person may ride.
 - c. No person may, without written consent of the town board, or the sexton, park or abandon any motor vehicle on any grassy or seeded area or upon any other location except engaging in official cemetery business. Any motor vehicle parked more than 24 hours, without written consent of the town board or sexton, shall be declared abandoned by the town board and may be towed or removed, or caused to be towed or removed, by the town board or sexton.
4. Protection of Cemetery Property: No person without consent of the town board or the sexton may do any of the following:
 - a. Trap, hunt, kill, injure, or disturb, or attempt to trap, hunt, kill, injure, or disturb any animal, bird, or waterfowl, wild or domestic.
 - b. Climb any tree.
 - c. 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, except as otherwise provided in the ordinance.
5. Littering, Soliciting, and Advertising Prohibited: No person may litter, dump, or deposit any rubbish, refuse, earth, or other material, including any placement of advertising, without written consent of the town board or the sexton.

6. Sound Devices: No person may operate or play any amplifying system or sound device without the written consent of the town board or the sexton.
7. 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, 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 by or at the direction of the town board or sexton unless approved by the town board or sexton.
8. Working in the Cemetery: All contractors or other persons having work in the cemetery shall notify the town clerk or the sexton prior to commencement of the work. All contractors or others working are responsible for the cost for any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages by the town board, pay that sum to the town board.

Section 14: Plantings (trees, shrubs, flowers, etc.)

1. Tree and Shrub: The planting of trees and shrubs on purchased gravesites is prohibited except by written consent of the town board or the sexton.
2. Flowers and Hanging Floral Baskets: Individual flower beds, growing plants, and seed plantings are prohibited. Hanging floral baskets are permitted only when hung from a Sheppard's Stake placed at the head of the gravesite. If at any time the town board, public works personnel or sexton determines the hanging floral basket is spent, they may remove it without notice.
3. Fresh Flowers and Flags: Fresh cut flowers may be used in any town cemetery at any time. Containers for cut flowers are not permitted. If at any time the town board, public works personnel or sexton determines the fresh cut flowers are spent, they may remove it without notice. All flags placed on gravesites for Memorial Day shall be removed by the day following Flag Day of that year.
4. Potted Plants: Potted plants at any town cemetery may be placed at the head of the gravesite, 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 on the gravesite, the potted plant may be picked up and destroyed by the town board or the sexton of the town.
5. Artificial Flower Decorations: Artificial flower decorations are prohibited in any town cemetery unless in a vase or pot and when so used will be treated as potted plants.
6. Vine, Wreath, and Memorial Removals: Vines, wreaths and memorials that interfere with the proper care of lots or graves or injure or damage the grass will be removed by the town board, sexton, or public works department when found objectionable.

Section 15: Miscellaneous:

1. Neglected Gravesites: It is urged that gravesite owners interest themselves in the present and future care of their gravesites, and a single neglected gravesite mars the beauty of the entire town cemetery. The town board or sexton may notify, or attempt to notify, in writing a gravesite owner that any gravesite, or monument thereon, is being neglected.
2. Schedule of Payments: A schedule of the fees and charges for any town cemetery, as established by the town board by resolution shall be on file in the office of the town clerk. The town board may by resolution change the schedule from time to time without advance notice to conform fees and charges to current economic conditions.

3. Amendment of Ordinance: The town board reserves the right to amend this ordinance to conform with newly developed cemetery practices or any other legal purpose that the town board deems necessary and appropriate.

Section 16: Penalties

1. Any person violating any provision of the Ordinance shall forfeit not less than \$50.00 nor more than \$100.00 for the first offense, and not less than \$100.00 nor more than \$200.00 for the second and subsequent offenses, plus court costs and penalty assessment. Each day a violation exists shall be considered a separate violation.

Section 17: Effective Date and Publication

This ordinance shall become effective upon adoption and publication as required under s. 60.80, Wis. Stat.

The foregoing ordinance was adopted at a regular meeting of the Town Board of the Town of Baileys Harbor, Door County, Wisconsin on the 8th day of July 2024.

Board Members	Aye	Nay	Exc.
Dave Eliot	X		
Peter Jacobs	X		
Roberta Thelen	X		
Sue Tishler	X		
Paul Kordon	X		

I, Haley Adams, Clerk of the Town of Baileys Harbor,
hereby certify that the above is a true and correct copy
of an ordinance that was adopted on the 8th day of July 2024, by the Board of Supervisors.


Haley Adams