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Cemetery Regulations for the Diocese of Winona

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These regulations are effective September 1, 1997

LOCAL ORDINARY - shall mean the Roman Catholic Bishop of the Diocese of Winona.

LOCAL MANAGEMENT - as used herein means the pastor and any other officially delegated individual or groups of individuals for the purpose of conducting and administrating the cemetery association/corporation owned and operated by a local parish(es).

CEMETERY - all property for earth burials and mausoleums for crypt entombment.

LOT - shall include and apply to more than one adjoining grave, or more than one adjoining crypt.

GRAVE - shall mean a space of ground in the cemetery used or intended to be used for the burial of human remains.

CRYPT - shall mean a space of sufficient size in a mausoleum or underground vault used, or intended to be used, to entomb human remains.

INTERMENT - shall mean either earth burial or entombment.

ENTOMBMENT - shall mean burial in a mausoleum crypt or underground vault.

LOT HOLDER - shall mean a person who has been granted interment or entombment rights or who holds same by right of inheritance or transfer.

RIGHT OF BURIAL - shall mean only the privilege of interment or entombment in the cemetery. IT DOES NOT convey an ownership of land or other interest in the grave, crypt, or lot to which it refers.

CERTIFICATE OF RIGHT OF BURIAL - grants only the privilege of interment or entombment as defined above and is not to be construed as a deed to the land itself.

MEMORIAL - shall include monument, grave marker, mausoleum, sarcophagus, or inscription on crypt fronts for one or more deceased persons.

CARE - shall mean that care of the cemeteries as herein defined.

SIBLING - shall mean a brother or sister, half-brother or half-sister, or as defined by the State of Minnesota concerning question of equal inheritance and degree of kindred.

I. PURPOSE OF CATHOLIC CEMETERIES

A. Catholic cemeteries are intended for the burial of Catholic Christians who are entitled to burial according to the rules and discipline of the Roman Catholic Church. However, the burial of individuals who do not profess the Roman Catholic faith and the conduct of their burial service by a minister of religion is permitted in a Catholic cemetery. This most frequently involves situations of interfaith marriage in which spouses choose to be buried next to each other. Other situations may arise which require the sensitivity and pastoral judgment of the local priest. Unusual cases, especially those that may cause some scandal to the faithful, may be referred to the local ordinary for advice.

II. CEMETERY FUNDS

A. Two separate funds are to be established for each Catholic cemetery: 1) a cemetery operating fund and, 2) a permanent care fund.

1. Cemetery Operating Fund - Gifts to the cemetery fund that are not designated for permanent care, annual interest from the permanent care fund, and monies from the sale of lots in excess of that designated for permanent care and/or monies for the opening and closing of graves comprise this fund. This fund is to be used to defray expenses for the general preservation, maintenance or improvement of the lots, grounds, walks, roadways, boundaries and structures, sodding, cutting of grass at reasonable intervals, snow removal, salaries, contract labor/services, insurance, purchase of equipment (*tractor, lawn mower, truck, snow blower, landscaping tools/equipment*), raking and cleaning of

grounds, planting and pruning of trees, shrubs and flowers placed by local management, care of lights and other electrical needs, flag poles, well and watering system, cemetery monument centerpieces or cemetery-owned devotional statuary, and for the purchase of more land.

2. Permanent Care Fund - Gifts designated for permanent care of the cemetery and at least twenty-five (25) percent of monies from the sale of lots comprise this fund. This fund is to be invested with the Diocese of Winona Deposit and Loan Corporation and is treated like an endowment fund from which only interest earned may be spent to ensure that cemetery property shall remain and be reasonably cared for as cemetery grounds forever.
- B. All monies and assets belonging to the cemetery shall be kept separate from other funds of the parish corporation and shall be used only for cemetery purposes. Minnesota law prohibits the loan of these funds for any reason.
- C. Cemetery operating funds are to be held only in low-risk investments such as insured savings, government bonds, certificates of deposit, etc.
- D. A gift for cemetery purposes shall be construed to be a gift for the cemetery operating fund unless the donor specifically designated the permanent care fund as the recipient, or the cemetery board elects to invest the gift or some portion of it in the permanent care fund.
- E. No lot or portion thereof may be sold without permanent care assessment.
- F. The permanent care assessment may be no less than twenty-five (25) percent of the cost of a lot sold. All

monies collected for permanent care must be deposited into the permanent care fund of the Diocese of Winona Deposit and Loan Corporation, the principal of which may never be expended for any purpose.

- G. A minimum of \$25,000 (in value of current dollars) per acre of cemetery land is to be held in permanent care. Investments beyond this minimum should continue to be made by the cemetery association in order to ensure perpetuity of the cemetery.

III. SALE OF LOTS AND LOT HOLDERS

- A. Subject to the limitations set forth below, local management has the full and exclusive power to determine the price of lots, including the percentage amount for permanent care (*if over twenty-five percent*) and the charges for special services to lot holders, so far as such decisions are in accord with Diocesan Cemetery Regulations, the Roman Catholic Church, and the laws of the State of Minnesota.
- B. Local management has the full and exclusive power to issue instruments of conveyance (*certificates of right of burial and permanent care records*) for cemetery lots; such instruments are to be signed by the pastor or people officially designated by them. Requiring names of heirs or assigns at the time of sale are also to be provided to facilitate contacting appropriate people if memorial repairs are required, or if there is a request for purchase of an unused grave, etc.
- C. Local management is to submit permanent care funds and a copy of the permanent care record and Next of Kin Register to the Diocesan Office of Cemeteries within

thirty (30) days of sale.

- D. Lot holders are granted only the privilege of interment or entombment in the cemetery. A certificate of right of burial is not to be construed as a deed to the land itself. Local management reserves the right to refuse permission for interment of anyone who, at the time of death, is not the holder of the lot or an authorized relative of the holder by blood or marriage.
- E. No adult burial lot or portion thereof shall be sold for less than one-hundred (\$100) dollars per grave after these regulations are in effect. Grave lots for infants should be priced proportionately.
- F. If approved by local management, lots may be purchased with deferred payments executed in contract form with local management. When a lot is purchased on deferred payments, one burial may be made on said lot, provided the purchaser has paid an amount equal to the cost of one grave as well as interment fees. Memorials may not be installed on lots purchased on the installment plan until the full purchase price has been paid.
- G. It remains the right and Christian duty of the cemetery board to make special arrangements and adjust prices to accommodate the poor and destitute, unknown people, or multiple victims of a disaster to ensure the dignity and care of all human remains.

IV. DESCENT OF TITLE AND TRANSFER OF LOTS

- A. The laws of the State of Minnesota govern the descent of title to cemetery lots as well as other matters pertaining

to assignments, conveyances, trust deeds, etc.

- B. The title of old lots where there are several claimants thereto is to be vested in those blood descendants who have provided, or will provide, permanent care for the lot, subject to any disposition made by the law of the State of Minnesota to the right in said lot. In the event that all blood descendants agree to payment for permanent care, they shall all have equal right in said lot. In case of a dispute in regard to title or interment privileges, blood descendants claiming right to said title must request the decision of the courts by means of a court order directing the cemetery. All costs associated with the court's decision are the sole responsibility of the descendants seeking the court order.

- C. The descent of title to a cemetery lot is governed by Minnesota State Statute, Section 525.14 as follows:

Subject to the right of interment of the decedent therein, a cemetery lot or burial plot, unless disposed of as provided in Section 306.29, shall descend free of all debts as follows:

- (1) To the decedent's surviving spouse, a life estate with right of interment of the spouse therein, and remainder over to the person who would be entitled to the fee if there were no spouse, provided, however, if no person so entitled to the remainder of the fee survives, then the entire fee to the surviving spouse with right of interment therein;
- (2) If there is no surviving spouse, then to the decedent's eldest surviving child;

- (3) If there is no surviving child, then to the decedent's youngest surviving sibling;
- (4) If there is no surviving spouse, child or sibling of the decedent, then, if not sold during administration of decedent's estate to the cemetery association or private cemetery in trust as a burial lot for the decedent and such of the decedent's relatives as the governing body thereof shall deem proper.

The cemetery association or private cemetery, or with its consent, any person to whom the lot shall descend may grant and convey the lot to any of the decedent's parents, siblings or descendants.

A crypt or group of crypts or burial vaults owned by one person in a public or community mausoleum shall be deemed a cemetery lot.

Grave markers, monuments, memorials and all structures lawfully installed or erected on any cemetery lot or burial plot shall be deemed to be a part of and shall descend with the lot or plot.

- D. The transfer of title and interest in and to a lot or grave must be executed by an agreement to transfer.
- E. Reclamation of abandoned lots by the local management is governed by the laws of the State of Minnesota, section 306.21 - 306.241.

V. MEMORIALS

- A. The express permission of local management is required before a memorial of any nature may be erected or set in the cemetery.
- B. The responsibility of keeping any memorials, monuments, markers, etc., in a safe and proper state of repair shall be that of the lot holder, the heirs or assigns, subject to the Diocesan Cemetery Regulations and rules of the local cemetery association.
- C. If no heir or assign can be located when a memorial is in need of repair, it becomes the responsibility of the local management to return the memorial to a safe and proper state, using cemetery operating funds.

VI. INTERMENT AND DISINTERMENT

- A. A burial permit as required by Minnesota law must be presented before interment can take place in the cemetery.
- B. The permission of the lot holder is required for interment to take place. Where there is a question, such permission should be in writing.
- C. The interment of cremated remains is permitted in Catholic cemeteries provided the Catholic Cemetery Association Guidelines on Cremation are followed.
- D. The regulations governing the disinterment of the remains of a deceased person and removal to another plot in the same cemetery, are governed by the Statutes of the State of Minnesota, rule 4610.2200, entitled Permit for Disinterment and Reinterment, and by the regulations duly promulgated by the Bishop of the Roman Catholic Diocese of Winona, Minnesota.

The consent of all the next of kin of the deceased person

whose body is to be disinterred is required in every case. The next of kin are defined as the surviving spouse and children of the deceased person, (provided the children are over the age of 18 years).

It is to be noted that the request must be unanimous by all of the next of kin. Neither the cemetery, nor the local management of the Cemetery Association Board can take any action if there is any controversy or opposition to the request. If the request is not unanimous, application should be made to a court having jurisdiction, and proper notice given to the next of kin.

In every case the consent of the holder of the plot from which the body is to be disinterred is also required. In the event the holder of the plot is deceased, then the consent must be secured from his/her heirs at law or devisees.

In case removal is to be made from a single grave for which no certificate of ownership has been issued, the only consent required will be the unanimous consent of the next of kin.

The petition found in Appendix 3, must be completed in all cases, and Forms A and B where applicable. (Note: (a) if the lot holder is living, use Form A attached; (b) if lot holder is deceased, use Form B attached.)

- E. Local management is to assist in any way they can in case of disinterment required by civil courts or authorities. Local management is to have written approval of the person(s) construed to have custody of the body (*if twins*) and of the lot holder (*if living*) if disinterment is for the purpose of relocation of remains, unless disinterment is required by civil law for some reason (*relocation of a cemetery, etc.*).
- F. The local management will in no way be liable for any delay in the interment of a body when a protest to the interment has been made, or where the rules or regulations have not been complied with; further, the

local management reserves the right under such circumstances to place a body in a receiving vault until the full rights have been determined. The management shall be under no duty to recognize any protest of interment unless it be in writing and filed at the local management's office (*parish rectory*).

- G. The local management shall not be held responsible for any order given by telephone, or for any mistake occurring for the want of precise and proper instructions as to the particular space, size, and location in a lot where the interment is desired. Orders for interment must be given by the holder of the lot or legal representative. This is often handled by the funeral director. However, when the holder is not readily available, telegraphic permission will be accepted. All funeral processions on reaching the cemetery shall be under the supervision of local management. Once the burial service is completed, the casket and/or vault cannot be opened without the consent of the legal representative of the deceased, except as noted in IX. D. above. When the instructions from the lot holder regarding the location of an interment space in a lot cannot be obtained or are indefinite, or when for any reason the interment space cannot be opened when specified, the local management may in its discretion open it in such location in the lot as it deems best and proper, so as not to delay the burial, and the local management shall not be liable for any error so made.
- H. In order to maintain a right standard of care and to eliminate sunken graves caused by collapse of wooden boxes or other weak materials, it is required that all burials be in outside containers made of natural stone, metal, or of reinforced concrete.

VII. LOCAL PARISH CEMETERY REGULATIONS AND

POLICIES

- A. It shall be the responsibility of local management to formulate local cemetery regulations and policies pertaining to the sale of lots, placement of memorials, planting of trees, flowers or decorative shrubbery, and whatever else pertains to the functioning and orderly management of a Catholic cemetery in keeping with the Diocesan Cemetery Regulations, the Roman Catholic Church, and the laws of the State of Minnesota.
- B. A copy of each Catholic cemetery's regulations and policies are to be sent to and kept on file with the Diocesan Office of Cemeteries.
- C. Local management reserves the following rights:
1. to enlarge, reduce, replat, or change the boundaries or grading of any section(s) of the cemetery;
 2. to modify or change the location of, or remove or regrade roads, drives or walks, or any part thereof;
 3. to lay, maintain, operate, alter, change, or remove pipelines, water systems, electrical service, gutters, drainage, planting, or monuments;
 4. to use cemetery property unsold as lots for other purposes, such as storage areas for landfill or other incidentals;
 5. to buy/sell acreage and to open new sections when they determine it is appropriate;
 6. to themselves and to those lawfully entitled thereto a permanent right of ingress and egress over plots for the purpose of passing to and from other plots;
 7. to set hours of operation of the cemetery for visitors and workers;
 8. to remove or cause to be removed any individual who

does not observe appropriate behavior within or near the cemetery boundaries

9. to make temporary additional rules which may be needed from time to time, to meet emergency or other situations which are not covered by these regulations, the Diocesan Cemetery Regulations, or Minnesota Law; and
10. to amend these regulations and the appendixes by a two-thirds vote of the local management and with written approval of the Cemetery Board.

VIII. PROPER CONDUCT IN THE CEMETERY

- A. There has been a long-standing tradition supporting our respect for the dead and respect for those visiting the cemetery for prayer through our observance of certain courtesies and the avoidance of unbecoming behaviors while in a cemetery. Visitors and workers are expected to refrain from loud or boisterous conversations and unchristian language. Idling, loitering, or playing on the grounds is not permitted. Except for designated work crews, no lunches or refreshments should be brought into or consumed on the cemetery grounds. Peddling or soliciting the sale of any commodity within the cemetery is prohibited, as well as placing of signs, notices, or advertisements of any kind. Dogs and other pets are not allowed in the cemetery. Firearms are not to be brought onto cemetery property except by military escort accompanying a veteran's funeral or attending memorial services. Trimmings, dead flowers, or refuse from weeding should be removed from the grave areas, placed in trash receptacles, if available, in an area of the cemetery if one has been so designated for this purpose or should be removed from the cemetery property to be properly disposed of elsewhere.