



PARISH CEMETERY MODULE



Diocesan Regulations and Guidelines

® 1062CC Revised May 2014



OFFICE OF THE BISHOP

DIOCESE OF GREEN BAY

P.O. Box 23825 • Green Bay, WI 54305-3825 • 920-272-8194 • FAX 920-435-1330

February 20, 2014

Dear Pastor/Administrator/Pastoral Leader, Cemetery Personnel/Committee Member:

In our Catholic tradition, Christian burial has always been an important and integral part of the Church. It reminds us that death is a passage to new life – eternal life with our Lord. Parish and diocesan cemeteries also reflect and honor the Church's tradition by providing a sacred place of rest for the faithful departed and a quiet place for prayer and devotion.

In 2001, this cemetery module was developed and distributed to assist those who care for our parish and diocesan cemeteries. This module has proven to be a useful resource and I wish to continue to make it available. It contains diocesan cemetery regulations and procedures, canon law, state statutes and guidelines for parish cemetery committees.

Copies of this module should be given to all those involved in the operation of the parish cemetery. I believe that those who care for our parish cemeteries have a responsibility to insure that burial of the faithful departed is carried out with dignity and respect and that the remains of the deceased will always be treated with reverence and respect.

Please use the module to examine your cemetery operation and, if needed, make the necessary changes to bring the operation into compliance with diocesan regulations and procedures.

Thank you for your work in this important ministry of the church.

Sincerely yours in Christ,

The Most Reverend David L. Ricken, DD, JCL
Bishop of Green Bay

DIOCESAN CEMETERY ADVISORS

The diocesan cemetery advisors shall be resources to the pastor/administrator/pastoral leader and the cemetery committee, but are not members of the committee.

They shall be available to attend cemetery committee meetings as practical.

They shall keep pastors, parish directors and cemetery committees advised as to changes in state and local laws and any changes in diocesan policy regarding cemeteries.

Allouez Catholic Cemetery & Chapel Mausoleum
2121 Riverside Drive
Green Bay WI 54301
Phone: 920-432-7585
E-mail: diocesecemetery@gbdioc.org

Green Bay Diocese Cemetery Corporation
1825 Riverside Drive
Green Bay, WI 54301
Phone: 920-272-8314

For questions pertaining to St. Francis Xavier Investments contact.

St. Francis Xavier Investment Corp.
1825 Riverside Drive
Green Bay, WI 54301
Phone: 920-272-8223

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THE PARISH CEMETERY COMMITTEE

Organization

Each parish (or conjoined group of parishes) operating a cemetery shall have a committee. The cemetery committee shall act in an advisory capacity to the pastor/administrator/pastoral leader for cemetery matters. The parish cemetery committee shall be a sub-committee of the parish finance council.

It is recommended that the committee consist of no more than five persons. One of the members will be the pastor/administrator/pastoral leader or his/her designee. The cemetery committee shall have a chairperson, appointed by the pastor/administrator/pastoral leader, a secretary and a treasurer, elected by the members. They shall meet as often as needed, but at least annually. It is recommended that once per year, representatives of the cemetery committee provide a report or meet with members of the Pastoral Council to outline accomplishments, review finances, revenues received and expenditures of the past year and discuss any plans for the upcoming year. The finance council may want to appoint one of its own members to be liaison to the cemetery committee.

Members

The pastor/administrator/pastoral leader, after consultation with the parish finance council, shall appoint other committee members. Parish cemetery committee members should be practicing Catholics and active members of the parish. They should be informed, involved and concerned about the operation of the parish cemetery. It is recommended that cemetery committee members own burial rights in the parish cemetery.

The pastor/administrator/pastoral leader or delegate is a member of the parish cemetery committee, but parish staff and deacons may not be members of the cemetery committee. They may, however, attend meetings and act as resource persons for the committee. Persons who have a conflict of interest, such as, contractors doing work for the cemetery, and persons involved in any aspect of the funeral industry (i.e.: Funeral Directors, Vault & Monument Dealers) are not eligible to serve on the cemetery committee. The pastor/administrator/pastoral leader may remove committee members who fail to attend three consecutive meetings and appoint a new member as a replacement.

Treasurer

The parish cemetery committee treasurer assists the pastor/administrator/pastoral leader in making sure that there are accurate and detailed accounts of all receipts and disbursements for the cemetery operation. Many parishes have paid staff who carries out these responsibilities. The treasurer shall ensure that there is a separate perpetual care endowment fund for the cemetery. The treasurer shall have the responsibility to see that the proper amounts/percentage of sales that are to be deposited in the funds, are placed in the perpetual care endowment fund and accounted for. The treasurer shall maintain good communication with the parish finance council. One method is to provide the parish finance council with an accounting of receipts and disbursements of the cemetery on a regular basis.

Secretary

The secretary of the cemetery committee assists the pastor/administrator/pastoral leader in the tracking and reviewing of the cemetery record keeping. This is to include maps, burial records, and all historical materials relating to the cemetery operation. Many parishes have paid staff who maintain the records in the parish office. The committee secretary is also responsible for ensuring that the minutes from

committee meetings are captured, dispersed to parish cemetery committee and maintained for later review as needed

Terms

Each cemetery committee member shall be appointed for a term of three years, and may be reappointed for one additional three-year term. Terms will run concurrent with the parish fiscal year and be staggered so that no more than two committee members are appointed each year. Members may be reappointed after being off of the committee for a minimum of one year. The pastor/administrator/pastoral leader may waive this term limit after consultation with the Diocesan cemetery advisors. The pastor/administrator/pastoral leader may appoint members to fill positions vacated with unexpired terms.

Relationship Between the Committee and Parish Employees

Parish employees who do not work for the parish cemetery, such as grounds work, record keeping, or accounting, shall be accountable to the pastor/administrator/pastoral leader.

Anyone who does work in a parish cemetery, either an employee of the parish or a private contractor, shall be compensated in accordance with parish policies and be issued the appropriate tax forms at the end of the calendar year. Private contractors must have the required insurance in order to work on parish property. Proof of insurance must be received from private contractors prior to any work being performed on cemetery property. This includes companies performing interments/entombments; grounds keeping and landscaping; road work; setting of markers/monuments/foundations; etc.

THE BURIAL PLACE

Burials

1. Burial rights shall be permitted in Catholic cemeteries for all the Catholic faithful departed, catechumen and others in accordance with canon law. Subject to the approval of the pastor/administrator/pastoral leader, those of other Christian faith traditions or certain non-Christian traditions may be permitted in the cemetery. The cemetery committee may recommend to the pastor/administrator/pastoral leader rules and regulations governing specific ethnic practices.
2. Even though state and federal laws do not require it, the embalming of remains is strongly encouraged prior to interment/entombment in the cemetery/mausoleum.
3. Burial vaults are a requirement for full casket ground interments. This is a diocesan regulation and not a state or federal law. Burial vaults serve the purpose of protecting the caskets and mortal remains within, as well as maintaining integrity of the cemetery ground (prevent collapsing and cave-ins). People are able to purchase burial vaults from a number of sources, with local funeral homes being the most common. There is a wide variety of vault styles, sizes and materials; it is recommended the cemetery representative find out the vault specifics prior to each burial.
4. There should be at least 18" of ground above the burial vault (or the vessel containing cremated remains) to allow for appropriate turf maintenance and minimal surface care.

5. It is becoming common practice to bury multiple urns containing cremated remains in a traditional single burial space and one or more urns containing cremated remains in a grave which already holds a full casket/vault. The same scenarios are now being seen in mausoleum crypts as well. The cemetery committee should determine what is best for its operation and publish a “Burial Right Policy” in the official rules and regulations of the cemetery. Special attention must be given to both burial recordkeeping and the placing of memorials when multiple deceased persons occupy one burial space.
6. The cemetery committee may choose to incorporate multi-niche columbarium units (above ground structures specifically designed for the entombment of urns containing cremated remains) to increase capacity in the cemetery. For more information on these units, contact the diocesan cemetery advisors.
7. Urns containing cremated remains buried in the ground should be made of durable materials that can withstand ground pressure and moisture. The use of urns for ground burial which are breakable (glass or wood) or biodegradable should be discouraged. If such vessels are requested by a decedent’s family or other person in charge, a waiver should be signed holding the cemetery harmless for any damage or degradation which may occur once interred. Urn vaults of recommended materials are readily attainable from a number of sources including our diocesan cemetery, Allouez Catholic Cemetery and Chapel Mausoleum.
8. The cemetery manager or representative should verify the name on the final disposition form at the time of the burial.
9. The cemetery manager or representative shall collect the burial service fee from the person in charge prior to the burial, and deposit it with the parish office. Payment to the contractor performing the burial will be paid by check from the cemetery accounts of the parish. For accounting integrity, if a contractor performs the burial, the family is to not have any financial dealings with said contractor.
10. Burial records must be maintained in the parish office, and burials should be so indicated on cemetery maps, lot cards and preferably a computerized database/mapping program. Back-up copies of physical and digital records should be stored off-site.
11. Disinterment/Disentombments are allowed, if all requirements of the respective county coroner or medical examiner are fulfilled. In most cases, a notarized “Request for Permit” signed by the person in charge (spouse, next of kin) and a resulting “Disinterment Permit” signed by the county coroner or medical examiner are mandatory. Involvement of a funeral director is typically required as well.
12. Burial arrangements will be made through the parish office.

Winter Burials

See appendix E

Relinquishment of Burial Rights

See appendix F

Monuments and Markers

1. The cemetery committee shall create and enforce rules and regulations governing memorials (monuments, markers, statues, etc.) in the parish cemetery. More specifically, materials, sizes, cement foundation use and location on lots should be clearly outlined for each area of the cemetery.
2. An overall plan should be established which minimizes cemetery maintenance but enhances beauty and sensitivity for memorializing the bereaved. If space allows, development of cemetery sections with different regulations is suggested, as this provides options for families.
3. Monuments and markers belong to lot owners, though the cemetery does have an obligation to observe reasonable care while working around the stones. If damage to markers or monuments is due to vandalism or acts of God, the homeowner's insurance policy of the lot owner should cover repair or replacement costs, subject to the policy deductible. If damage to markers or monuments is due to actions of cemetery employees or contractors working on behalf of the cemetery, the parish insurance policy should cover repair or replacement costs, subject to policy deductible.
4. Setting of memorials is done in accordance with cemetery rules. Placing all upright monuments on foundations of concrete (slabs) larger than the monuments is encouraged, as this will facilitate grass trimming and enhance the appearance of the lots. Flush (flat/grass) markers may be set with or without concrete foundations.

Decorations

1. Each parish cemetery committee establishes its own rules on natural and artificial flowers and dates for placement and removal. These are to be posted in the parish and should also be posted at the cemetery for clear communication to lot owners and visitors.
2. The cemetery committee or parish building and grounds committee may permit the addition of trees, shrubs and decorations (statuary, shepherd's hooks and similar items) on lots, but it is suggested to review and alter policies as needed, keeping in mind cemetery aesthetics, grounds maintenance and the safety of all who enter the cemetery.
3. While cemetery policy may permit vigil lighting or solar lighting, caution is recommended, as these items are subject to vandalism and entice people to be in the cemetery after sundown.

Selling of Burial Rights (Graves/Crypts/Niches)

1. Anyone wishing to purchase burial rights in a parish cemetery/mausoleum/columbarium shall contact the parish office, which in turn, will contact the employee or the cemetery committee member who is in charge of selling burial rights.

2. It is important to note that the cemetery/parish does not sell physical property. The purchaser does not take ownership of the land on which the lot(s) are located, but rather the purchaser becomes a holder of burial right(s) in that space. A clear explanation should be included in each cemetery's own "Burial Rights Policy."
3. All monies paid for burial rights shall be paid to the parish office. The monies will be credited to the specific cemetery accounts, and a receipt will be given to the purchaser, with a certificate of easement, which is a document that confirms the right(s) of burial. For an example, see appendix B.
4. No person shall have burial rights in any space or lot unless his/her name appears on the cemetery records for that space. A burial right owner may designate a lot to another party (family or otherwise), but this is not a transfer of burial right ownership.
5. Cemetery lots should be limited to one family. Should two related families own one large lot with several burial spaces; two names may be placed on the monument. Individual cemetery rules must be very clear as misunderstandings about ownership and descendancy are common!
6. Upon the death of the holder of rights on a given space or lot, direct legal heirs should assure that the cemetery records show the proof of transfer of burial rights. According to Wisconsin State Statutes 157.10, when the original owner(s) of a burial space(s) or lot die and is/are buried there, any remaining burial spaces (burial rights) pass equally to all direct heirs. No burials or designations/assignments for future use of the remaining burial rights may be made without the written permission of all heirs; or if all heirs have agreed to transfer ownership to a single heir. See Appendix F for example of a "Relinquishment of Burial Rights" form.

ADMINISTRATIVE PROCEDURES

Funding, Accounting and Investing

1. The most current diocesan chart of accounts is to be used for parish accounting.
2. Parish cemetery accounting records are to be retained in the parish office. Records for all cemeteries entrusted to the parish are to be retained in the parish office.
3. Surplus general funds and perpetual care funds shall be invested in accord with current diocesan investment policies. It is recommended that investments be made with the diocesan investment program, as administered through St. Francis Xavier Investment Corp.
4. Every cemetery must have a perpetual care fund. This is a requirement of Wisconsin Civil Law. According to Wisconsin Civil Law, this fund is made up of 15% (25% for mausoleum) or more of the revenue from any sale of burial space but not less than \$25. However, diocesan policy mandates 25% or more of the revenue from any sale of burial space but not less than \$25.
5. The fund's principal is invested and may not be spent under Wisconsin State Statute (see Appendix C).

6. The purpose of the perpetual care fund is to assure resources are available for the maintenance and upkeep of the cemetery/mausoleum at which point no other sources of revenue are available to support it.
 - a. Perpetual care covers overall maintenance of the grounds, roads, buildings, walkways, fencing, and any other possessions of the cemetery.
 - b. Perpetual care does not cover markers, monuments, or any other articles which are not the property of the cemetery.
7. The earnings of the perpetual care fund can be added to the cemetery general (or working) fund and used for on-going operations.
8. The general fund of the cemetery should contain enough money for the current year's operations plus an amount of any anticipated capital improvements. In addition, another full year of operating funds should be in this account. If the amount in the general fund is sufficient, and enough has been set aside for anticipated capital improvements, surplus funds may be used for other parish needs, with permission of the Bishop.
9. If there is more money in the general working fund than is needed for current operating expenses, it is recommended that these funds be appropriately invested.
10. No mausoleum (with indoor and/or outdoor crypts) may be built in a cemetery of less than 20 Acres, in accordance with Wisconsin State Statutes (see Appendix C).
11. Every mausoleum owned and built by a catholic cemetery shall have at least 25% of the cost of the building deposited in a perpetual care fund; such principal is invested and cannot be spent. The fund earnings are used to maintain the mausoleum building.
12. General operating funds are derived from the following:
 - a. Income from burial service fees (graves/crypts/niches: "opening and closing fees")
 - b. Sale of burial rights (graves/crypts/niches)
 - c. Earnings from investments of the perpetual care fund
 - d. Earnings from the investment of general funds
 - e. Sale of cemetery merchandise (i.e., monuments, markers, urns/urn vaults,...)
 - f. Revenue from fees for the location and inspection of markers
 - g. Other sources, as applicable

RULES AND REGULATIONS FOR INDIVIDUAL CEMETERIES

All parish cemetery committees must create a set of written rules and regulations for each cemetery that is under their supervision. These rules and regulations must be made available to all who own burial rights and other interested parties. These rules and regulations must be approved by the pastor/administrator/pastoral leader after consultation with the parish council.

The following is an outline of what should be the content of the cemetery rules and regulations. The cemetery committee is not limited to this list. See Appendix A.

- a) Mission Statement
- b) Name of the parish
- c) Name of person to contact for scheduling burials, etc.
- d) The procedure for the sale of burial rights and who sells them
- e) The hours that the cemetery/mausoleum is open for visitation
- f) The types of decorations allowed/not allowed
- g) The dates decorations may be placed and must be removed
- h) The types of memorials allowed/not allowed
- i) Explanation of memorial markers not being owned by parish/cemetery (it would be beneficial to suggest owners of monuments/markers include them in a homeowner's policy)
- j) Requirement of burial vaults
- k) Requirements concerning vessels used for interment of cremated remains
- l) Amount of notice needed to open a burial space
- m) Payment for burial service fees to the parish office
- n) Responsible party making payments to parish office
- o) "Burial Right Policy"... explanation
- p) If applicable, guidelines for selling of second rights
- q) If applicable, rules/protocol pertaining to the return of burial rights
- r) If applicable, rules/protocol pertaining to the private party sale of burial rights
- s) Any other specific allowances/restrictions that the committee may establish
- t) Statement that these rules and regulations may change from time to time

APPENDIX A

SAMPLE OF RULES AND REGULATIONS

The following is an example of a basic Cemetery Rules and Regulations document:

Holy Redeemer Cemetery
Route B, Box 729
Anytown, WI 55555

Holy Redeemer Cemetery was created as a final resting-place for the faithful departed of our parish and others of the Catholic faith community. It is our sacred duty to preserve this resting place in perpetuity until that time when Jesus comes again to bring all of us home to be with him. Holy Redeemer Cemetery is part and parcel of the corporate structure of Holy Redeemer Parish, Anytown, WI. The Parish Committee, as a subcommittee of the Parish Finance Council, is immediately responsible for the operation and management of the cemetery. Any questions regarding the operation of the cemetery, for arranging burials, or purchasing burial rights shall be directed to the Parish offices (555) 555-1234.

Burial Rights

Burial rights (gravesites) are only sold by a representative of the Parish/Cemetery.

When burial rights are paid in full, the Parish/Cemetery office shall issue a Certificate of Easement.

No person shall have burial rights in any grave or lot unless his/her name appears on the cemetery records for that burial space. A burial right owner may designate a gravesite to another party (family member or otherwise), but this is not a transfer of burial right ownership, rather a designation allowing that person to be interred in that gravesite

Burials

Burial vaults are a requirement for full casket ground interments. Burial vaults serve the purpose of protecting the caskets and mortal remains within, and maintain the integrity of the cemetery ground (prevent collapsing and cave-ins). This is a diocesan regulation and not a state or federal law. People are able to purchase burial vaults from a number of sources, with local funeral homes being the most common.

Urns containing cremated remains buried in the ground should be made of durable materials that can withstand ground pressure and moisture. The use of urns which are breakable (glass or wood) or biodegradable are not permissible for ground burial. If such vessels are requested by a decedent's family or other person in charge, a waiver must be signed holding the cemetery harmless for any damage or degradation which may occur once interred. Urn vaults of recommended materials are readily attainable from a number of sources including our diocesan cemetery (Allouez Catholic Cemetery and Chapel Mausoleum).

APPENDIX A cont.

Monuments/Markers

Memorials for gravesites may be placed in Holy Redeemer Cemetery as follows:

- a) All burial rights must be paid for in full before any markers may be placed. Only one marker is allowed for each grave.
- b) An above ground monument is allowed only with the purchase of two or more adjacent (in same row) graves
- c) If an above ground monument is placed, only flush/flat markers may be used on the individual graves.
- d) Upright monuments shall not exceed 50” in width or 36” in height.
- e) Cemetery management must be contacted by family or the memorial dealer prior to any monument or marker being placed. Cemetery management will verify the correct location, and will then issue approval to the respective memorial dealer.
- f) Monuments and markers are property of the burial right owners. Damage which occurs through acts of God or vandalism is the responsibility of the owners. It is recommended monuments and markers are added to homeowner insurance policies.

Decorations

Decorations may be placed on burial sites as follows:

- a) No additions may be made to the burial space (i.e., shrubs, decorations) until the burial rights are paid in full.
- b) Any floral arrangements must be placed in rigid containers (no glass or wood).
- c) Any floral arrangements must be placed directly in line with the monument, not in front or in back of it.
- d) Any in-ground planting of shrubs must be pre-approved by cemetery management.
- e) April 1st thru September 30th – Artificial decorations not allowed.
- f) October 1st thru March 31st - Artificial decorations allowed.
- g) “Fall/Winter” decorations must be removed by March 31st to facilitate spring clean-up.
- h) “Spring/Summer” decorations must be removed by September 30th to facilitate fall clean-up.
- i) Decorations not removed by designated dates will be removed by cemetery staff.
- j) Funeral flowers must be removed from graves 5 days after the burial or they will be discarded.
- k) Shepherd’s hooks are not permitted in the cemetery.

Holy Redeemer Cemetery is open for visitation from dawn to dusk.

The Parish office requires a minimum 72 hour notice for an interment. The person in charge of the funeral will present a check in the amount of the burial service fee to the cemetery manager or other cemetery representative at the time of the interment. These monies will be deposited with the Parish office.

The cemetery committee will advise, as needed from time to time, what the charges for burial rights and burial services will be. The parish finance council shall set the appropriate fees upon the advice of the cemetery committee and post said fees for the parish members.

Burial service fees may be pre-paid at the current price for future interments.

These rules and regulations become effective upon recommendation of the parish cemetery committee and final approval by the pastor/administrator/pastoral leader. Please consult the parish office for the latest version.

APPENDIX B

SAMPLE CERTIFICATE OF EASEMENT

No. _____

Certificate of Easement

Holy Redeemer Catholic Cemetery
Route B, Box 729
Anytown, WI 55555

This certifies that _____ has paid the sum of _____ Dollars, which Payment entitles _____ and/or assigns to the exclusive right and privilege of _____ *burials for _____ persons with a guarantee of perpetual care, on Lot _____ Block _____ Section _____ Grave(s) _____ in the Holy Redeemer Catholic Cemetery, Town of Glorious, Anytown, Wisconsin.

This easement is subject to the rules and regulations which have been or will be adopted from time to time by Holy Redeemer Parish or the Diocese of Green Bay.

It being understood that no deed or conveyance of any title or interest in the said land is to be executed, but that the whole title thereto and the legal possession thereof, remain in the said Cemetery which is the property of Holy Redeemer Parish.

This certificate is void if held by any other than the person herein named, or his heir(s) at law.

(If applicable, any pre-paid burial service fees may be listed as well).

Chair, Cemetery Committee

_____ 20____

By
Pastor/administrator/pastoral leader

**Note: The total number of burial rights must be listed. If 2nd or 3rd Burial Rights are included in the cost of the burial space(s), or if purchased in addition to the Primary Burial Right(s) of the burial space(s), this is to be noted on the certificate. The number of burial rights which must be of cremated remains should be clearly defined. For example, if one grave space and a 2nd Right is purchased for that space, the total number of burial rights is 2 (two). At least 1 (one) of the burials must be of cremated remains.*

APPENDIX C

STATE LAWS AND REGULATIONS

Note: Cemetery oversight, in large part, emanates from the state level. Federal law refers primarily to national and historic cemeteries, burial of military veterans, Native Americans, Congressman, and government dignitaries.

Wisconsin Statutes Section 187.19(2) Permits the Roman Catholic Church to purchase, own, hold, regulate, control, manage or dispose of any eleemosynary, educational, cemetery, religious or other property which it may acquire in connection with said church and the congregation thereof or be assigned to it by the bishop or other person or persons.

Wisconsin Act 307 refers to formal certification of Catholic cemeteries care funds, mausoleum care funds and a variety of regulations on acreage, sales of rights, mausoleums and locations of burial grounds.

Cemeteries are regulated under Chapter 157 of the statutes, Subchapter II, and ss.440.90-440.95. Subchapter II of Chapter 157 pertains to all cemeteries, including cemeteries that are organized and operated by any religious association, any fraternal or benevolent society, or any incorporated college of religious order. However, religious associations or societies and their affiliated cemeteries are exempt from a number of the law's provisions. For example, if the cemetery authority of a cemetery is affiliated with a religious society organized under Chapter 187, and that religious society files an annual certification with the DSPS, neither the cemetery authority nor any employee of the cemetery is required to be licensed as a cemetery preneed seller.

In some cases the exemptions are dependent on the proper and timely filing of an annual certification of compliance, verified by the cemetery or religious authority with which it is affiliated. It is important to note that the authority that verifies the certification is liable for any damages that result from a failure by the cemetery to fully comply with the designated statutes (i.e., improperly certified).

The Department of Safety and Professional Services (DSPS) has broad administrative power over cemeteries and cemetery authorities. DSPS authority is aided by various reporting and recordkeeping requirements applicable to cemetery authorities.

Cemetery authorities must file an annual report with the cemetery board containing certain statutorily specified information regarding trust funds. A cemetery authority must maintain a copy of the annual report at its principal place of business. Cemetery authorities are required to maintain records needed to prepare the annual report; records indicating the name of the purchaser or beneficiary of a contract relating to the deposit of money in a trust fund or account and the item purchased, and a copy of each contract for the sale of a cemetery lot, mausoleum space, or cemetery merchandise. Reporting requirements, as well as exemptions to those requirements, may be found at s.157.62.

APPENDIX C Cont.

Wis. Stats. Published and certified under s.35.18. January 29, 2014.

CHAPTER 157

DISPOSITION OF HUMAN REMAINS

SUBCHAPTER I		157.111	Opening and closing of burial places.
CORPSES		157.112	Reburial of human remains by a cemetery authority.
157.01	Rules for preparation, transportation and disposition.	157.114	Duty to provide for burials.
157.02	Disposal of unclaimed corpses.	157.115	Abandonment of cemeteries and cemetery lots.
157.03	Restrictions on use of bodies for anatomical purposes; embalming such bodies; delivery of bodies to relatives.	157.12	Mausoleums and crematoriums.
157.04	Penalty.	157.125	Trustees for the care of cemeteries or cemetery lots.
157.05	Autopsy.	157.128	Minimum acreage requirement for cemetery established on or after November 1, 1991.
157.055	Disposal of human remains during state of emergency relating to public health.	157.129	Minimum acreage of cemeteries; local ordinance.
157.06	Anatomical gifts.	157.19	Deposit and investment of care funds and preneed trust funds.
SUBCHAPTER II		157.50	Municipal cemeteries.
CEMETERIES		157.60	Public easement in cemetery.
157.061	Definitions.	157.62	Reporting; record keeping; audits.
157.062	Cemetery associations; creation; powers and duties.	157.625	Reporting exemption for certain cemeteries.
157.064	Cemetery associations and religious associations; holding property; change of ownership.	157.63	Reporting and auditing exemptions; certification of compliance of cemetery affiliated with religious society.
157.065	Location and ownership of cemeteries.	157.635	Regulations of cemetery affiliated with religious society.
157.067	Connection with funeral establishment prohibited.	157.637	Veteran burials.
157.07	Platting.	157.64	Penalties.
157.08	Conveyances.	157.65	Enforcement.
157.10	Alienation and use of cemetery lots.	SUBCHAPTER III	
157.11	Improvement and care of cemetery lots and grounds.	BURIAL SITES PRESERVATION	
		157.70	Burial sites preservation.

To view the complete Statute, go to: <http://docs.legis.wisconsin.gov/statutes/statutes/157.pdf>

APPENDIX D

CANON LAW OF THE ROMAN CATHOLIC CHURCH

Canon 1176

1. Deceased members of the Christian faithful must be given ecclesiastical funerals according to the norm of law.
2. Ecclesiastical funerals, by which the Church seeks spiritual support for the deceased, honors their bodies, and at the same time brings the solace of hope to the living, must be celebrated according to the norm of the liturgical laws.
3. The Church earnestly recommends that the pious custom of burying the bodies of the deceased be observed; nevertheless, the Church does not prohibit cremation unless it was chosen for reasons contrary to Christian doctrine.

Canon 1180

1. If a parish has its own cemetery, the deceased members of the faithful must be buried in it unless the deceased or those competent to take care of the burial of the deceased have chosen another cemetery legitimately.
2. Everyone, however, is permitted to choose the cemetery of burial unless prohibited by law.

Canon 1208

When the blessing of a cemetery has been completed, a document is to be drawn up, one copy of which is to be kept in the diocesan curia and another in the archive of the church.

Canon 1240

1. Where possible, the Church is to have its own cemeteries or at least areas in civil cemeteries that are designated for the deceased members of the faithful and properly blessed.
2. If this cannot be achieved, however, then individual graves are to be properly blessed.

Canon 1241

1. Parishes and religious institutes can have their own cemetery.
2. Other juridic persons or families can also have a special cemetery or tomb, to be blessed according to the judgment of the local ordinary.

Canon 1242

Bodies are not to be buried in churches unless it is a question of burying in their own church the Roman Pontiff, cardinals, or diocesan bishops, including retired ones.

Canon 1243

Particular law is to establish appropriate norms about the discipline to be observed in cemeteries, especially with regard to protecting and fostering their sacred character.

APPENDIX E

STATE STATUTE ON WINTER BURIALS

1. State law requires cemeteries to do burials in all seasons. The law reads as follows:

“Wisconsin Statutes Section 157.114” Duty to provide for burials.

1. In this section “cemetery authority” does not include a municipality that takes control of a cemetery under s.157.155 (1) (b) or a town board that takes charge of a cemetery under s.157.115 (1) (c).
 2. A cemetery authority shall, insofar as practicable, provide for burials during each season, including winter. Nothing in this subsection may be construed to prohibit a cemetery authority from charging a reasonable fee to recover the costs related to providing for a burial during difficult weather conditions.
2. Cemeteries are now required to perform burials in all seasons, including winter.
3. The family is not required to choose a winter burial. The family does have the option of a burial at a later date. If a family elects to have the burial at a later date, the “Waiver of Right to Winter Burial” form must be signed by the family at the cemetery or parish office and kept on file in the cemetery or parish office. An example of the form is provided later in this Appendix.
4. A fair additional charge for a winter burial must be justified. Items to take into consideration for an additional charge include, but are not limited to:
- Snow removal into cemetery and to the grave site
 - Defrosting the grave (to include the cost of a thawing device, fuel, jackhammer or any other means by which the grave is to be dug)
 - Repairing the gravesite (topsoil and sod or seed) and any damage done to the surrounding grounds in order to access the burial site
5. When a family chooses a winter burial, they must sign the “Hold Harmless” document (an example is provided later in this Appendix). This document will protect the cemetery in case of an error when locating the grave or performing the winter burial. It will also shield the cemetery from any liability for damage which might occur while performing the burial. This form must be signed by the family in the cemetery or parish office and kept on file in that office.
6. A key word in the law is “practicable”. This is not defined in the law, and the Department of Safety and Professional Services was not charged with promulgating rules on this issue. Therefore, there will be times when a judgment is necessary as to whether a given burial is “practicable;” such judgment will be predicated on:
- Weather Conditions and Soil Conditions
 - Inability to locate the specific burial space

APPENDIX E Cont.

- Hazards (i.e., ice, sloping ground)
7. When doing a winter burial, we must also be mindful of the adverse conditions which might exist for those who would be attending the burial service. Since cemetery authorities are in charge of the procession once it enters the cemetery, a decision must be made as to whether or not conditions are safe enough for people to get out of their cars and walk to the grave. Care must be taken to ensure that there are no injuries due to slippery conditions in the cemetery.
 8. A burial may be refused if the cemetery authority and the pastor/administrator/pastoral leader agree on the impracticability of the burial. It is important that a written record be made, stating the reason(s) for the refusal and signed by both the person in charge of the cemetery and the pastor/administrator/pastoral leader. An example of an “Impracticability Agreement” is provided later in this Appendix. A copy of this signed document should be placed with the cemetery records in the parish office. As soon as possible, please contact the President of the Green Bay Diocese Cemetery Corporation to inform the Diocese of the decision.

The following three pages illustrate examples of:

1. “Hold Harmless Document”
2. “Waiver of Right to Winter Burial”
3. “Impracticability Agreement”



Diocese of
Green Bay

Sample Hold Harmless Document

Parish: _____

Cemetery: _____

Date: _____

I/We, _____, representing the family of _____, the decedent, hereby acknowledge that a winter burial could possibly result in an error in locating the exact grave site due to excessive snow and frost.

I/We will hold the cemetery, its owners and operators and those working on their behalf, harmless from any and all claims, demands, costs, or causes of action of whatever nature arising from the work to be performed by the cemetery, and further give permission for the cemetery to make any necessary correction(s) when weather and ground conditions permit, at the convenience of the cemetery authority. This hold harmless is given freely and knowingly, and in consideration for the mutual promises between me/us and the cemetery.

I, the cemetery authority, promise to act with the utmost care and due diligence in the performance of the winter burial and all work we have agreed to perform under this service agreement, considering the adverse conditions.

I/We, the undersigned member(s) of the deceased family understand what we assume financial responsibility to correct any errors or damages incurred by the winter burial.

Signature of Family Representative(s): _____ Date: _____

_____ Date: _____

Signature of Cemetery Authority: _____ Date: _____

Signature of Witness: _____ Date: _____

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Diocese of
Green Bay

Sample Waiver of Right to Winter Burial

Parish: _____

Cemetery: _____

Date: _____

I/We, _____, representing the family of _____, the decedent, who died on _____, hereby acknowledge receiving notice from the cemetery authority of the availability of a winter burial, and having declined that option, forever waive any right to a winter burial as prescribed in Section 157.114, of the Wisconsin Statutes. We instead elect to have the burial take place at a later date, to be determined by the cemetery authority. The undersigned state that this Waiver is made voluntarily and knowingly. The undersigned further agree(s) to indemnify and hold the cemetery harmless against any claims, demands or costs brought against the cemetery arising from the effect of this Waiver. The undersigned states that they are authorized to sign this Waiver.

Signature of Family Representative(s): _____ Date: _____

_____ Date: _____

Signature of Cemetery Authority: _____ Date: _____

Signature of Witness: _____ Date: _____



Diocese of
Green Bay

Sample Impracticability Agreement

We, _____ (Pastor/administrator/pastoral leader), and

_____ (Cemetery Authority), agree that the burial of
_____ on this date is not practicable for the following reason(s):

Date: _____

Signature of Pastor/administrator/pastoral leader

Signature of Cemetery Authority

APPENDIX F

SAMPLE RELINQUISHMENT OF BURIAL RIGHTS

The following is an example of a document used for one or more legal heirs to relinquish their claim to burial rights to one or more like legal heirs.

Holy Redeemer Cemetery
Route B, Box 729
Anytown, WI 55555

Burial Right Relinquishment

By my signature, I assert to be a direct heir at law to _____, purchaser(s) and owner(s) – now deceased and interred – of the burial rights associated with the graves listed on this document, located in Holy Redeemer Cemetery.

Furthermore, I hereby relinquish any and all claims to remaining burial rights, and provide consent for _____ and _____ to assume rightful ownership of the burial rights, for his/her/their use or designation as he/she/they see fit.

Section/Block _____ Lot _____ Grave(s) _____

Name

Signature

Relationship to Owner(s) of Burial Rights

Name

Signature

Relationship to Owner(s) of Burial Rights