

# EVERGREEN CEMETERY ASSOCIATION

## BYLAWS

Approved March 7, 1998  
Amended March 3, 2001  
Amended March 2, 2002  
Amended March 1, 2003  
Amended March 6, 2004  
Amended March 4, 2006  
Amended March 5, 2011

### ARTICLE I HISTORY OF THE ASSOCIATION

The Evergreen Cemetery Association was formed on January 24, 1863 at the School House district No. 2 Jefferson, Jefferson County by a group of citizens to form an association for the purpose of procuring and holding land to be used exclusively for a cemetery in Fort Atkinson. The Articles of Organization was recorded on January 26, 1863, in Volume 28 of Meetings on page 271 at the Register of Deeds Office for Jefferson County, WI.

### ARTICLE II PURPOSE OF THE ASSOCIATION

The Evergreen Cemetery Association (hereinafter the Association) is a non-profit association dedicated to the purpose of providing a dignified final resting place for deceased persons. Lot ownership and burial are open to any one who abides by the Rules and Regulations, and the Bylaws of the Association.

### ARTICLE III PURPOSE OF THE BYLAWS

These Bylaws are written by the Association to act as a guideline for the Board of Trustees and the membership in general. As the needs of the Association change, these

Bylaws can be changed or amended in order that the Association, through its Board of Trustees, may continue to perform its duties in an effective manner. The Annual Meeting or a Special Meeting called for that purpose shall be the time and place for amending the Bylaws.

Once adopted by the membership, these Bylaws replace and supersede those Bylaws originally adopted in 1863 and amended thereafter.

ARTICLE IV                      MEMBERSHIP

Membership in the Association shall consist of all persons who own fully paid grave space(s) or single or double niche space(s). For purposes of membership, a grave space or niche space shall be defined as an unoccupied burial space that has the potential to receive another interment that is in compliance with the Rules and Regulations of the Evergreen Cemetery Association, and which is located within the boundaries of Evergreen Cemetery. All living persons named on the original deed shall be deemed to be members and each entitled to vote at all Annual or Special Meetings at which they are physically present, subject to the provisions herein.

Upon the death of the original owner(s) of a grave space or niche, the beneficiary(s) in the owner's Will or Trust, or if the owner dies intestate, the heirs of the deceased as determined by Wisconsin law shall determine ownership (and therefore membership) of all unoccupied grave spaces or unoccupied niche spaces located in the Evergreen Cemetery unless there is a valid Court Order to the contrary. Written notification of a change of ownership by beneficiaries or heirs, and any written agreements between them as to ownership of an unoccupied grave space or niche, together with a copy of the Deed that

confirms the change of ownership, must be delivered to the Sexton at the Cemetery office of the Association at least 24 hours before such members may vote at any Annual or Special Meeting, unless waived by a majority of the Trustees at the Annual Meeting.

There shall be no more than one vote per grave containing unoccupied spaces or niche containing an unoccupied space, and no more than one vote per member regardless of how many unoccupied grave spaces or niche spaces the member owns in the Cemetery. In the event of a disagreement between Co-owners of an unoccupied grave space or niche space at any meeting as to the casting of their votes, no vote from said owners shall be received.

ARTICLE V                      BOARD OF TRUSTEES

The Board of Trustees (hereinafter the Board), shall consist of five (5) members of the Association. They shall be chosen by a simple majority vote (51%) of the members present at an Annual Meeting. The Board has the duty to generally oversee the operation of the Association and its financial affairs.

Trustees shall be elected to staggered 3-year terms and shall serve without pay. Trustees may be removed only by a simple majority vote (51%) of the membership present at an Annual Meeting or a Special Meeting called for that purpose. In the event of the death or resignation of a trustee, a successor trustee may be elected by a simple majority vote (51%) of the Board of Trustees present at a meeting to serve for the balance of the elected term. Any successor trustee so chosen must be a member of the Association. No person may serve more than three (3) consecutive terms as trustee; except that after the end of three consecutive

terms, said person may continue to serve as Trustee for one year terms if re-elected at an Annual Meeting prior to each one year term.

Any person who is a member in the Association can be nominated to sit on the Board of Trustees with two exceptions. One: No paid employee of the Association can be a Board member. Two: There can only be one member of a family sitting on the Board at a time.

The Board shall meet at least once per month. A simple majority (51%) of the elected trustees shall be deemed to be a quorum. A quorum is necessary for the Board to conduct any business or vote on any matter.

Once a year, immediately following the Annual Meeting, the Board shall meet and elect by simple majority vote (51%), the officers for the Board. Officers shall serve for one year. However, an officer may serve more than one year if reelected by the Board. The officers shall consist of a President, Secretary, and Treasurer.

Only trustees may attend monthly or Special Meetings of the Board unless the Board agrees that others may attend for a specific purpose. Special Meetings of the Board may be held at the written request of at least three members of the Board or at the discretion of the President.

An insurance policy may be obtained to protect all trustees from any errors or omissions that occur during their service on the Board. The form and amount of such policy shall be at the discretion of the Board.

## ARTICLE VI

## OFFICERS

A. The officers must be members of the Board of Trustees. The president shall be responsible for calling to order meetings of the Board. This includes naming the time and place of all such meetings which shall be communicated to all Trustees. The president shall follow the guidelines set forth in the most recent version of "Robert's Rules of Order". The president shall be responsible for making the agenda for any meeting of the Board except for Special Meetings. The only business transacted at a Special Meeting shall be the specific purpose for which the meeting was called. The president shall be entitled to vote at all meetings of the Board and meetings of the Association Members.

B. The secretary shall record the minutes of the meetings of the Board and submit same to each Trustee at the next monthly meeting. All minutes from the last monthly meeting must be approved or disapproved at the next regularly scheduled monthly meeting. The secretary shall also record the minutes of the Annual Meeting and submit the same to each Trustee at the next monthly meeting and to the members at the next Annual Meeting. In the event of the absence of the president at any meeting, the secretary shall perform such duties as set forth above. In the absence of the secretary then the treasurer shall perform such duties.

C. The treasurer shall keep or oversee the keeping of the financial records of the Association. The treasurer will insure that all monies received and all monies paid out are properly recorded. The treasurer shall report to the Board the financial status of the Association on at least a monthly basis. The treasurer shall perform such other duties as directed by the Board. The Board may impose dollar limits over which the treasurer may not spend on any item without the specific approval of the Board.

D. A Sexton shall be hired by the Board to oversee the upkeep and management of all cemetery property and give a report to the Board each month. The Sexton shall perform the duties of the office under the guidance and direction of the Board. The Sexton is not a member of the Board and has no voting privileges. The Sexton cannot be a Board member. On a day-by-day basis, the Sexton shall seek the advice of the president.

E. Any officer may be relieved of his or her duties by the majority vote of the Board at any meeting.

#### ARTICLE VII            ANNUAL MEETING

The Annual Meeting of the Association shall be held on the first Saturday in March of every year or at such other time if deemed necessary by the Board. The time and place shall be determined by the Board. The secretary shall be responsible for announcing this meeting twice in the local newspaper, and any other means designed to inform the membership of the Annual Meeting. This procedure shall also be used for any Special Meetings of the membership. A Special Meeting of the membership shall be called in the same manner as a Special Meeting of the Board of Trustees.

The Annual or any Special Meeting may be attended by any member as defined herein. The Annual Meeting is the forum in which trustees are elected or re-elected. Amendments to these Bylaws may also be considered at any Annual Meeting or Special Meeting called for that purpose. The treasurer shall give a report at the Annual Meeting of the Association's financial status. The secretary shall read the minutes of the last Annual Meeting.

The Annual or Special Meeting shall be presided over by the president. In the absence of the president, the secretary shall preside. In the absence of the secretary, the treasurer shall preside. The secretary shall also take minutes of the Annual or any Special Meeting. "Robert's Rules of Order" shall govern the conduct of all such meetings.

All members physically present at any such meetings shall be entitled to vote upon any business properly brought before the membership. The vote shall be by written ballot unless the membership decides on other means.

All members physically present at any such meetings shall have the right to address the president or other members of the Board about concerns they have on the affairs of the Association.

ARTICLE VIII            FINANCIAL INVESTMENTS

The custodian, or Trust Officer of a bank, handling the financial investments of the Perpetual Care Fund, the Perpetual Flower Fund, other investments, and the general operating fund of the cemetery shall be bonded to protect the funds from misappropriation or malfeasance of the custodian or trust officer of a bank. Also the custodian or trust officer of a bank shall report to the Board if his or her bond is revoked or not renewed. The Custodian or trust officer of a bank shall turn over all records and documents of the funds as directed by the Board.

ARTICLE IX            RULES AND REGULATIONS

The Board may set the price of cemetery grave space and niches in the cemetery that remain unsold, perpetual care, perpetual flower and urn service, and also the cost of opening and closing the graves or niches for a burial. Grave spaces or niches shall be sold to whoever desires to purchase them, and shall be used only for the purpose of burying a deceased person (or their cremains). The grave space or niche becomes the property of the purchaser subject to the Bylaws, Rules and Regulations of the Association. A deed or Certificate of Right of Inurnment signifying ownership and Perpetual Care Certificate will be issued to the purchaser and signed by the President, and any other Trustee or the Sexton. Grave spaces or niches may not be resold by the purchaser for any reason whatsoever. The Association may buy back the grave space or niche from the purchaser or his or her family in the event the space is no longer needed. The Association will pay only the amount of money originally paid by the purchaser less all incidental costs which may have been incurred as a result of the buy-back. Also no interest money of any kind shall be paid to the purchaser for any reason.

It is the responsibility of the Board to establish rules and regulations to control and manage the operation of the cemetery; the conveyance of grave spaces or niches; and controlling the over-all appearance of the cemetery including the authority to define what will be acceptable or unacceptable when decorating individual graves and grave spaces. Only the Board has the authority to decorate any niches at the Bellman Carillon Tower. It is important to think of the proper decorum of the cemetery as a whole, and not just some individual graves. Consideration for the feelings of owners of other grave spaces is necessary. The Board shall make these Rules and Regulations available to the public. The Sexton shall enforce them.

ARTICLE X

APPLICABLE LAWS

In interpreting these Bylaws, Wisconsin law shall apply. These Bylaws do not become effective until adopted by a simple majority vote (51%) of the membership present at an Annual Meeting.

THESE Bylaws were duly approved by the membership of the Evergreen Cemetery Association on the 7<sup>th</sup> day of March, 1998. These Bylaws were amended by the membership present at the Annual Meeting on the 3<sup>rd</sup> day of March 2001, the 2<sup>nd</sup> day of March 2002, the 1<sup>st</sup> day of March, 2003, the 6<sup>th</sup> day of March 2004, the 4<sup>th</sup> day of March, 2006, and the 5<sup>th</sup> day of March 2011.

ATTEST:

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Bradford W. Wilcox - President

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Joanne Nordeen - Secretary