

Winnebago County

PLANNING AND ZONING DEPARTMENT

David E. Schmidt, Director
Leonard Leverage, Principle Planner • James Mabry, Zoning Administrator

REPORT

APPROVED BY
DEC 24 1987
L.F.L.

TO: Winnebago County Board
FROM: Planning and Zoning Committee
DATE: December 7, 1987
SUBJECT: Pioneer Cemetery Plat - City of Oshkosh

The Planning and Zoning Committee is submitting a new resolution for the above referenced cemetery plat which had been previously submitted to the County Board on October 20, 1987. The applicant has redesigned the original plan and reduced the number of burial plats from 16 to 2.

The following attached exhibits are provided for your information:

1. Site and location map
2. Copy of Chapter 157 Wisconsin Statutes Regulating Cemeteries

The Planning and Zoning Committee findings of fact for recommending approval of the cemetery plat are as follows:

1. That the Winnebago County Board has statutory authority to review and approve all cemetery plats located in the county except within a city of first class.
2. That the proposed cemetery plat meets all the locational requirements of S.S. 157.07 Wisconsin Statutes.
3. That the proposed cemetery meets the platting requirements of S.S. 157.07 Wisconsin Statutes.
4. That the proposed cemetery plat complies with all applicable county land use and zoning ordinances.

RESOLUTION:

Approval of Pioneer Cemetery
Plat (Owned by Experimental
Aircraft Association) located
in City of Oshkosh

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, sec. 157.07 Wis. Stats. requires County Board approval of all cemetery plats located in the County except within a city of first class; and

WHEREAS, the Pioneer Cemetery is not located within a city of the first class, and therefore, requires County Board approval; and

WHEREAS, your Planning and Zoning Committee has reviewed the proposed Pioneer Cemetery Plat, a copy of which is attached hereto, in accordance with the provisions of sec. 157.07 Wis. Stats. and recommends that the County Board approves the same.

NOW, THEREFORE, BE IT RESOLVED that the Winnebago County Board of Supervisors approves the Pioneer Cemetery Plat a copy of which is attached hereto.

Submitted by,

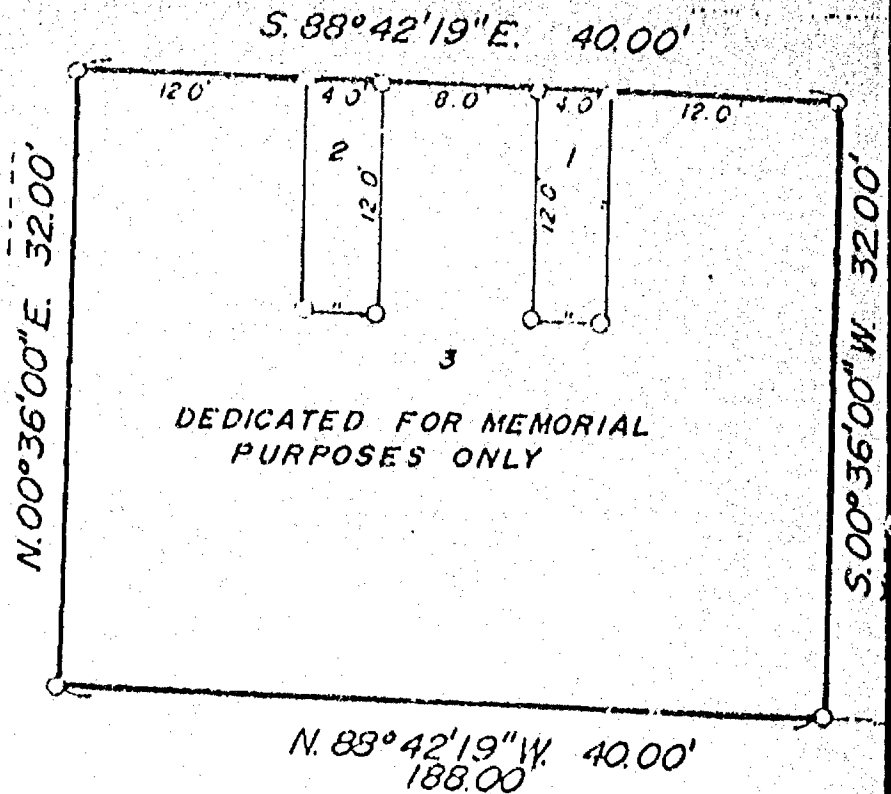
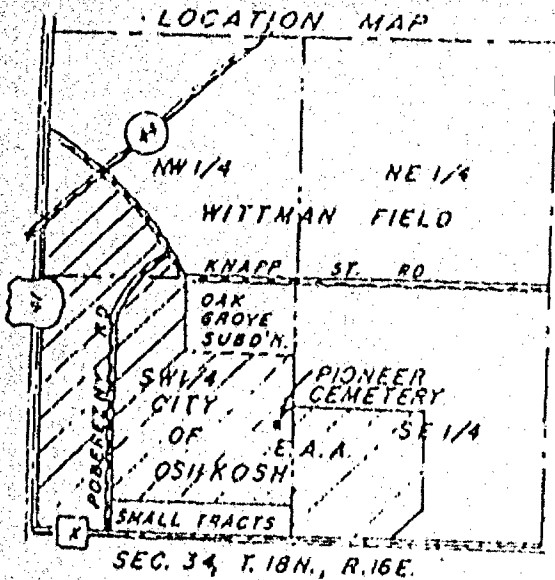
PLANNING AND ZONING COMMITTEE

Committee Vote: 5-0

Vote Required for Passage: Majority

PIONEER CEMETERY

LOCATED IN PART OF THE SE 1/4 OF THE SW 1/4
OF SEC. 34, T.18N, R.16E, CITY OF OSHKOSH,
WINNEBAGO COUNTY, WISCONSIN



SURVEYOR'S CERTIFICATE

I, Robert H. Sayler, registered land surveyor, hereby certify:
That I have surveyed, divided and mapped the parcel of land located in part of the SE 1/4 of the SW 1/4 of Section 34, T.18N, R.16E, in the City of Oshkosh, Winnebago County, Wisconsin, described as follows: Beginning at an iron pipe that is 1136.98 ft., N.00°36'00"E and 146.00 ft., N.88°42'19"W of the South 1/4 corner of said Section 34. From that point running N.88°42'19"W, 40.00 ft., thence N.00°36'00"E, 32.00 ft., thence S.88°42'19"E, 40.00 ft., thence S.00°36'00"W, 32.00 ft. to the said point of beginning. Subject to all restrictions and easements of record. Being a parcel of land of 1280.00 sq ft. in area, more or less.

That I have made such survey, land division and map by the direction of Experimental Aircraft Association Cemetery Association, Board of Trustees as follows: Chairman, Paul Pcherezny (Class 3), P.O. Box 2343, Oshkosh, WI, 54903; Secretary, Peter J. Chapman (Class 3), 6577 Woodview Rd., Winneconne, WI, 54986; James W. Barton (Class 1), 2806 Knapp St. Rd., Oshkosh, WI, 54901; Harry C. Zelstoft (Class 3), P.O. Box 2932, Oshkosh, WI, 54903; Richard J. Mott (Class 2), 2366 Wisconsin St., Oshkosh, WI, 54901; Gregory J. Anderson (Class 2), 1109 Bowen St., Oshkosh, WI, Jerome E. Strigel (Class 1), 764 Yorkshire Rd., Neenah, WI, 54956; that such map is a true and correct representation of the land surveyed, to the best of my knowledge and belief.

That I have fully complied with the provisions of Chapter 157, Sec. 157.07 of the Wisconsin Statutes in surveying, dividing and mapping the same.

Robert H. Sayler
Robert H. Sayler
Wisconsin Registered Land Surveyor
5-1894

Dated this 11 day of September, 1987.



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(7) (a) and (d) were
being the suggested doc-

Williams v. Hofmann,

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any human body or
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(a).

CHAPTER 157

CEMETERIES

157.01	Definitions.
157.02	Cemetery association.
157.04	Change of ownership.
157.05	Holding property.
157.06	Location of cemeteries.
157.07	Platting.
157.08	Conveyances.

157.09	Use of proceeds.
157.10	Alienation and use of lots.
157.11	Improvement and care.
157.12	Cemetery vaults.
157.125	Trustees for the care of cemeteries or cemetery lots.
157.50	Municipal cemeteries.
157.60	Public easement in cemetery.

157.01 Definitions. As used in this chapter:

(1) "Corporation" means the cemetery association having charge of a cemetery.

(2) "Board" means board of trustees of a cemetery association, having charge of a cemetery.

(3) "Municipality" means town, village or city.

157.03 Cemetery association. (1) ORGANIZATION. Not less than 7 persons residing in the same county may form a cemetery association. They shall meet, select a chairman and secretary, choose a name, fix the annual election date, and elect by ballot not less than 3 nor more than 9 trustees whom the chairman and secretary shall immediately divide by lot into 3 classes, who shall hold their offices for one, 2 and 3 years, respectively. Within 3 days, this time limit being directory, the chairman and secretary shall certify the corporate name, the names of the organizers and of the trustees, and their classification, and the annual election date acknowledged by them, and record it in the office of the register of deeds. The association shall then have the powers of a corporation.

(2) **AMENDMENTS.** The association may change (a) its name, (b) the number of trustees, or (c) the annual election date by resolution at an annual meeting, or special meeting called for such purpose, by majority vote of the members present, and by recording in the office where the certificate of organization is recorded, copy of the resolution, with the date of adoption, certified by the president and secretary or corresponding officers. The register of deeds shall note on the margin of the original record the volume and page where the amendment is recorded.

(3) **VALUATION.** When there shall have been a bona fide attempt to organize a cemetery association, but a failure to record a properly drawn and executed certificate of organization, and it has in good faith bought and platted

grounds and conveyed lots and carried on business for over twenty-five years, the same shall be a body corporate from the date of conveyance to it of real estate, and its transfers and other transactions are validated.

(4) **ELECTIONS.** (a) Annual election shall be held at such place in the county as the trustees direct upon such public notice as the by-laws prescribe. Trustees chosen after the first shall be proprietors of lots in the cemetery, residents of the state, and hold office for three years. Election shall be by ballot, and a plurality shall elect. Each owner of one or more lots shall be entitled to one vote, and such one of several owners of a lot as the majority of them designate shall cast the vote.

(b) If the annual election is not held on the day fixed the trustees may appoint another day, not more than 60 days thereafter, and give public notice of time and place, and if an election is not so held 5 members may apply to the judge of a court of record in the county for an order granting power to hold an election, by publishing in the county a class 2 notice, under ch. 985, of the application and the judge shall grant the application, and election shall then be held upon like notice. The terms of trustees whenever elected shall expire at the same time as though elected on the regular date.

(5) **TRUSTEES; DUTIES, REPORT.** The trustees may fill vacancies for the unexpired term. One shall be chosen president, and they shall appoint a secretary and treasurer, and may require security of the treasurer. The trustees shall manage the affairs and property of the association, control the cemetery and beautify the same, and may establish regulations respecting it. At each annual meeting the trustees shall make a written report of their transactions and the condition of the association, giving a particular account of receipts and expenditures.

(6) **DISSOLUTION; REORGANIZATION.** (a) The association is dissolved by failure to hold annual election for three successive years.

(b) If an association which has been dissolved under par. (a), or any group which was never properly organized as a cemetery association, has cemetery grounds and interments remain therein, 5 or more members, or persons interested as determined by order of the circuit judge under par. (c), may publish a class 3 notice, under ch. 985, in the municipality in which the cemetery is, of the time, place and object of the meeting, assemble and reorganize by the election of trustees, the same as the regular time, and divide them into classes as provided in sub. (1), the commencement to be computed from the next annual election date, and the proceedings of such meeting shall be entered by the secretary on the records, and thereby the association shall be reorganized. Upon such reorganization, the title to the cemetery grounds, trust funds and all other property of the association or group shall vest in the reorganized association, under the control of the trustees. The reorganized association may continue the name of the dissolved association or may adopt a new name.

(c) If an association is dissolved under par. (a) or any group has never been properly organized as cemetery association, and there are fewer than 5 members living or residing in the county where the cemetery is located, the circuit judge for the county shall upon the petition of any person interested, make an order determining who are persons interested in the cemetery. Any adult person who owns an interest in any lot in the cemetery, who is related to any person buried in the cemetery, or who is a descendant, brother, sister, nephew, niece or surviving spouse of a member of the dissolved association, is an interested person. The circuit judge may make the order upon evidence he or she deems sufficient, with or without hearing. The order need not contain the names of all persons interested, but shall contain the names of at least 5 such persons.

(7) **TAX FOR MAINTENANCE.** When a cemetery association having control of a cemetery in a town, village or city of the third or fourth class has insufficient maintenance funds it may certify in writing to the clerk of such town, city or village the amount deemed necessary during the next ensuing year, the amount the association has therefor, and the deficiency, and the governing body of such town, city or village may levy and collect a tax therefor and pay the same to the association. If the cemetery is in more than one such municipality the deficiency shall be equitably distributed. If a cemetery located wholly within a town, village or city of the third or fourth class has also buried therein decedents from an adjoining municipality, the association having insufficient funds, the association may

certify in writing to its municipal clerk and to the clerk of such other municipality, the amount deemed necessary for the ensuing year, the amount the association has therefor, the amount of the deficiency and the equitable amount that each municipality should contribute; whereupon the governing body of each such municipality may levy and collect a tax therefor and pay the same to the association.

History: 1977 c. 449 s. 735, 497.
Cemetery association voters must be lot owners under (4).
Heirs of deceased lot owner are entitled to vote in cemetery association elections. 69 Alty. Gen. 132.

157.04 Change of ownership. (1) When a cemetery association abandons or fails to manage or care for the cemetery for a period of 5 or more years, and is not reorganized in the meantime, the municipality wherein the cemetery is becomes vested with the control of the property, and shall manage and care for it, and collect and manage all trust funds connected therewith received other than by a will.

(2) Whenever a cemetery association shall vote to convey cemetery property and all trust funds pertaining thereto to a city, village, or town, the trustees of the association shall have the power to transfer such property upon the acceptance thereof by resolution of the governing body of the city, village or town.

(4) Whenever any cemetery in a town is falling into disuse, or is abandoned or neglected, and by reason of the removal or death of the persons interested in its upkeep there exists no association or group with authority to transfer such cemetery to the town, the town board, at the expense of the town, shall take charge of the cemetery and manage and care for it, and if the town board fails to do so, having notice thereof, the circuit judge may upon petition by 6 or more persons interested in the upkeep of the cemetery order its transfer to the town, including the transfer of all assets. Cemeteries so transferred shall be managed as provided for other town cemeteries.

History: 1977 c. 449 s. 497.

157.05 Holding property. (1) A cemetery or religious association authorized to hold lands for cemetery purposes may take and hold not exceeding 80 acres of land, to be used exclusively for burial of the dead, and personal property not exceeding \$250,000 in value, to promote the objects of the association; and if the cemetery is near to a city of more than 10,000 and less than 100,000 inhabitants the association may so take and hold not exceeding 160 acres of land; and if near to or within a city of 100,000 or more inhabitants not exceeding 240 acres.

(2) A cemetery or religious association incorporated in this state and having a cemetery in

or near a city having, by census, a population of 100,000 or more, may acquire by gift or purchase adjoining lands for cemetery purposes and pay for it wholly or partly out of its funds.

(3) When it is necessary to acquire land for a cemetery owned by a cemetery association, and adjoining lands can be acquired only by application, the application may be made to the circuit judge by 12 or more residents of the municipality in which the land is located, describing the land and the price asked, when the judge appoints 3 resident freeholders of such municipality, one of whom shall be a resident of each owner, not asked, but, except in cities and villages, no lands shall be taken without the written consent of the residence owned by the person. The application shall be filed upon 10 days' notice in writing with the judge for determination. Upon payment of the amount appraised, the land shall be conveyed to the cemetery. Either party may appeal a determination of the judge within 10 days. (10). The commissioners of the cemetery are not to be paid for seeking to take the land, but shall be paid for actually employed and for necessarily traveled.

History: 1977 c. 449 s. 497.

157.06 Location of cemetery. Location of cemetery may be used for:

(a) Any cemetery in use.

(b) Any cemetery organized by:

1. Any municipality;

2. Any church;

3. Any fraternal or benevolent association;

4. Any incorporated corporation;

5. Any cemetery association organized under ch. 157.03; or

6. A corporation organized under ch. 181 operating a cemetery or

(2) Except as provided in ch. 181, a cemetery may be established:

(a) Within a recorded plat of any city or village, the cemetery is within one mile of the plat;

(b) Outside a recorded plat of any city or village, the cemetery is within 200 rods of an inhabited place, unless the city or village consents; or

(c) Within 15 rods of any publicly owned building or cemetery is establishing an

to its municipal clerk and to other municipality, the amount for the ensuing year, the station has therefor, the amount and the equitable amount that y should contribute; whereupon ly of each such municipality lect a tax therefor and pay the station.

449 s. 333, 497.
on voters must be lot owners under (4).
owner is entitled to vote in cemetery
69 App. Gen. 332.

of ownership. (1) When a tion abandons or fails to main- e cemetery for a period of 5 or 1 is not reorganized in the un- cipality wherein the cem- uested with the control of the ll manage and care for it, and ge all trust funds connected 3 other than by a will.

a cemetery association shall metery property and all trust hereto to a city, village or y of the association shall have rster such property upon the f by resolution of the gov- y city, village or town.

any cemetery in a town is or is abandoned or neglected, the removal or death of the In its upkeep there exists no up with authority to transfer the town, the town board, at town, shall take charge of the age and care for it, and if the do so, having notice thereof, ay upon petition by 6 or more n the upkeep of the cemetery to the town, including the s. Cemeteries so transferred as provided for other town

2 s. 497.

property. (1) A cemetery tion authorized to hold lands ses may take and hold not of land, to be used exclu- he dead, and personal prop- 250,000 in value, to promote association; and if the ceme- of more than 10,000 and less ants the association may so exceeding 160 acres of land; n a city of 100,000 or more eding 240 acres.

or religious association in- te and having a cemetery in

or near a city having, by the last United States census, a population of over 100,000 may ac- quire by gift or purchase up to 30 acres of adjoining lands for cemetery purposes, and may pay for it wholly or partly from the lot sales.

(3) When it is necessary to enlarge a cem- etery owned by a cemetery or religious associa- tion, and adjoining lands cannot be acquired or can be acquired only at an exorbitant price, application may be made in writing to the circuit judge by 12 or more resident freeholders of the municipality in which the cemetery is located describing the land and setting forth the facts and the price asked, whereupon the judge shall appoint 3 resident freeholders of the county, but not of such municipality, to appraise the dam- ages of each owner, not to exceed the price asked, but, except in cities or incorporated vil- lages, no lands shall be taken within 20 rods of a residence owned by the occupant without his written consent. The appraisers shall hear all parties upon 10 days' notice and file report in writing with the judge within 10 days after determination. Upon payment into court of the amount appraised, the lands shall be taken. Either party may appeal as provided in s. 32.06 (10). The commissioners shall be paid by the party seeking to take the land \$3 for each day actually employed and 6 cents for each mile necessarily traveled.

History: 1977 c. 449 s. 497.

157.06 Location of cemeteries. (1) No cemetery may be used for burials except:

(a) Any cemetery in use on April 4, 1864; or
(b) Any cemetery organized and operated by:

1. Any municipality;
2. Any church;
3. Any fraternal or benevolent society;
4. Any incorporated college of a religious order;
5. Any cemetery association created under s. 157.03; or
6. A corporation organized under ch. 180 or 181 operating a cemetery on April 30, 1980.

(2) Except as provided in sub. (3), no ceme- tery may be established.

(a) Within a recorded plat or recorded addi- tion to a plat of any city or village, if the cemetery is within one mile of a building in the plat;

(b) Outside a recorded plat or recorded addi- tion to a plat of any city or village if the cemetery is within 200 rods of an inhabited dwelling that is located within a recorded plat or addition, unless the city or village consents;

(c) Within 15 rods of any habitable dwelling, publicly owned building or school, unless the cemetery is establishing an extension on prop-

erty it has owned continually since June 18, 1929; or

(d) Within 200 rods of any of the following state facilities, without the consent of the state:

1. Any institution for the deaf or the blind;
2. Any mental health institute, as defined in s. 51.01;
3. The Ethan Allen school;
4. Any center for the developmentally dis- abled; or
5. Any state reformatory.

(3) (a) Any cemetery in a village may enlarge with the consent of the village board and of the owners of each building within 15 rods of the addition.

(b) Any cemetery in a 3rd or 4th class city may enlarge with the consent of the common council.

(c) Any incorporated college of a religious order in a 4th class city may establish a private cemetery within the city on land the college owns to inter members of the religious order, if the common council consents and if each person owning a private building within 50 rods of the proposed cemetery consents.

(d) Any cemetery established before April 30, 1887, in an incorporated village and located within 100 feet of the village limits may extend to the village limits with the consent of the village board.

(e) Any cemetery established before April 30, 1887, may expand as provided in s. 157.05.

(4) If any cemetery located on property not subject to condemnation under ch. 32 is aban- doned, the circuit court for the county in which the cemetery is located may authorize the re- moval of bodies from the cemetery to another cemetery upon the petition of 6 or more res- idents of the municipality in which the cemetery is located. Prior to authorizing the removal, the court shall publish a notice to all interested parties as provided in s. 879.05 (4). The court may not authorize the removal unless suitable arrangements have been made to reinter the bodies.

(5) Any violation of this section is a public nuisance.

History: 1975 c. 37, 106; 1975 c. 189 s. 99 (2); 1975 c. 200, 422, 430; 1977 c. 83; 1977 c. 449 s. 497; 1979 c. 221; 1981 c. 20.

The restrictions on the location of cemeteries do not apply to the enlargement of cemeteries existing prior to 1933. The 2nd set of requirements under (1) (a) through (e) (1969 stats.) do apply to the extension of existing cemeteries. High- land Memorial Park, Inc. v. New Berlin, 67 W (2d) 363, 377 NW (2d) 72.

157.07 Platting. The board of trustees shall cause to be surveyed and platted such portions of the lands as may from time to time be required for burial, into lots, drives and walks, and record map thereof in the office of the register of deeds.

No such plat or map shall be recorded unless laid out and platted to the satisfaction of the county board of such county, and the town board of the town in which such land is situated, or, if such land is situated within a city of the first class, then only by the common council of such city. The plat shall show the exact location of the tract being subdivided with reference to a corner or corners established in the United States public land survey by bearings and distances, and shall show a small scale drawing of the section or government subdivision of the section in which the cemetery plat is situated with the cemetery plat indicated thereon. The plat shall be made on one or more sheets of durable white paper so pasted on muslin that they cannot be detached therefrom. To facilitate the binding of such sheets into volumes, as provided by s. 236.25, such sheets shall be of uniform width of 22 inches and length of 30 inches. When more than one sheet is used for any one plat, they shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat, and its relation to the other sheets. Such sheets may be provided by the county through the register of deeds on such terms as the county board shall determine. The surveyor shall leave a binding margin of 1 1/2 inches on the left side of the 30-inch length and a one-inch margin on all other sides. The board of trustees shall cause the same to be recorded within 30 days of the date of such approval, together with the evidence of the town and county board's or common council's approval, which shall be a copy of the resolution adopted by such county board and by such town board, or by such common council, certified by the county clerk and the town clerk, respectively, or city clerk, and affixed to such map or plat. For failure to do so, the plat shall be void and of no effect and each trustee of an association shall forfeit \$25 to the county or city.

157.08 Conveyances. (1) After the map is so recorded, the board may sell and convey platted lots, expressly restricting the use to burials, and upon such other terms, conditions and restrictions as the board directs. Conveyances shall be signed by the chief officer of the board, and the secretary or clerk, and before delivering the secretary or clerk shall enter in a book kept for that purpose, the date and consideration and the name and residence of the grantee. The conveyances may be recorded with the register of deeds.

(2) The trustees of a cemetery association may sell and convey for other than burial purposes any portion of its cemetery in which there shall have been no lots sold or conveyed and no burials made. A majority of the trustees shall

file with the circuit court their verified petition describing the portion and setting forth the facts and reasons for conveyance. The court shall fix a time for hearing and direct publication of a class 3 notice, under ch. 985, of the hearing. If the court find that the proposed sale is for the best interest of the association and that the rights of none to whom lots have been conveyed will be injured it shall enter an order reciting the jurisdictional facts and its finding and authorizing the conveyance. The order shall be effective when recorded by the register of deeds.

(3) The board may sell personal property at discretion.

(4) The board may vacate or replat any portion of its cemetery upon the filing of a verified petition by a majority of the trustees with the circuit court describing the portion and setting forth the facts and reasons therefor. The court shall fix a time for hearing and direct publication of a class 3 notice, under ch. 985, and the court shall order a copy of the notice to be mailed to at least one interested person, as to each separate parcel involved, whose post-office address is known or can be ascertained with reasonable diligence, at least 20 days before such hearing. If the court finds that the proposed vacating or replatting is for the best interest of the association and that the rights of none to whom lots have been conveyed will be injured, it shall enter an order reciting the jurisdictional facts and its findings and authorizing the vacating or replatting of the lands of the cemetery. The order shall be effective when recorded by the register of deeds.

History: 1917 c. 449 s. 497.

157.09 Use of proceeds. The proceeds of sales shall be used only to apply on the purchase of the grounds, the care and improvement of the cemetery and avenues leading thereto, and operating expenses.

157.10 Alienation and use of lots. While any person is buried therein a lot shall be inalienable without the consent of a majority of the board and on the death of the owner shall descend to his heirs; but any one or more of such heirs may convey to any other heir his interest therein. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, or the husband, or wife of such person, or his or her relative, except by the consent of all persons having an interest in the lot.

157.11 Improvement and care. (1) FENCE; FUNERAL BUILDING. The board may enclose the grounds with a suitable fence, and may erect thereon a building for funeral services.

(2) REGULATIONS. Regulations for the cemetery. No trees or structures or monuments erected in violation of the regulations may be removed or altered without the approval of the board. The board may regulate the use of the cemetery, and may cause it to be enclosed by a fence. The regulations shall be posted in the cemetery, and a copy of the regulations shall be kept in the office of the register of deeds.

(3) CONTRACTS. Any contract made by the association for the preservation of the cemetery shall be subject to the approval of the board. The board may cause the cemetery to be enclosed by a fence.

(4) ASSOCIATION. Any association having relatives of the deceased buried in the cemetery shall be entitled to a share in the care and improvement of the cemetery. Such association shall be entitled to a share in the care and improvement of the cemetery.

(5) SUM NECESSARY. The board may cause the cemetery to be enclosed by a fence.

(7) ASSESSMENTS. The board may cause the cemetery to be enclosed by a fence.

court their verified petition and setting forth the facts and reasons therefor. The court shall fix and direct publication of notice under ch. 985, of the hearing. If the proposed sale is for the association and that the lots have been conveyed to the association, the court shall enter an order reciting the facts and findings and authorizing the order shall be effective when recorded in the register of deeds.

Any person who sells personal property at a public sale or who sells any real estate upon the filing of a writ of execution, shall file a majority of the trustees describing the portion and reasons therefor. The court shall enter an order reciting the facts and findings and authorizing the order shall be effective when recorded in the register of deeds.

The proceeds of the sale shall be applied to the purchase and improvement of the cemetery, and the

and use of lots. While a lot shall be in the possession of a majority of the owners of such lots, any one or more of such owners may sell his interest in a lot to a person having an interest in the lot, or to the husband, or wife of the owner, except by the

and care. (1) FENCE. The board may enclose the cemetery with a fence, and may erect

(2) REGULATIONS. The board may make regulations for management and care of the cemetery. No person shall plant, in the cemetery, trees or shrubs, nor erect wooden fences or structures or offensive or dangerous structures or monuments, nor maintain them if planted or erected in violation of the regulations; and the board may require any person owning or controlling a lot to do anything necessary to comply with the regulations by giving reasonable personal notice in writing if he is a resident of the county, otherwise by publishing a class 3 notice, under ch. 985, in the county; and if he fails to comply within 20 days thereafter the board may cause it to be done and recover from him the expense. The board may also impose a forfeiture not exceeding \$10 for violation of the regulations posted in 3 conspicuous places in the cemetery, recoverable under ch. 778. Each member of the board and the superintendent or sexton shall have constable powers in enforcing the regulations.

(3) CONTRACTS. The trustees of a cemetery association may contract with individuals who own or are interested in a lot for its care; the contract shall be in writing, may provide that the lot shall be forever exempt from taxes, assessments or charges for its care and the care and preservation of the grounds, shall express the duty of the association, be recorded in a book kept for that purpose, and be effective when the consideration is paid or secured.

(4) ASSOCIATIONS. Persons owning a lot or having relatives buried in a cemetery may incorporate an association to hold and occupy a previously constituted cemetery, and to preserve and care for the same; s. 157.03 shall apply to such association. Nothing in this section shall give rights of burial. A municipality may lease a municipal cemetery to a cemetery association for preservation and may contract to permit the association to use cemetery funds therefor. Such leases and contracts may be revoked at will by the municipal board.

(5) SUM REQUIRED. The board shall fix the sum necessary, annually for care of lots and care and improvement of the cemetery, or to produce a sufficient income therefor.

(7) ASSESSMENTS. (a) The board may annually assess upon the lots not exceeding 4 cents per square foot excluding drives and walks, for cleaning and care of lots and care and improvement of the cemetery. Notice with a copy of this section shall be mailed forthwith to each lot owner or person having charge of a lot, at his last-known post-office address, directing payment to the treasurer within 30 days and such assessments shall be a personal liability.

(b) The board or any organization having a cemetery under its control may fix and determine the sum reasonably necessary for perpetual care of the grave or lot in reasonable and uniform amounts, which amounts shall be subject to the approval of the court, and may collect the same as part of the funeral expenses.

(c) Before ordering distribution of the estate of a deceased person, the court shall order paid any assessment under this section, or the sum so fixed for the care of the lot or grave of the deceased.

(d) When uniform care of a lot has been given for two consecutive years or more, for which assessments are unpaid, after notice as provided in sub. (2), right to interment is forfeited until delinquent assessments are paid. When uniform care has been given for five consecutive years or more and the assessments are unpaid, upon like notice, title to all unoccupied part of the lot shall pass to the association or municipality and may be sold, the proceeds to be a fund for perpetual care of the occupied portion.

(8) GIFTS. The corporation shall take, hold and use such gifts, or the income and proceeds thereof as may be made in trust or otherwise for the improvement, maintenance, repair, preservation or ornamentation of any lot or structure in the cemetery, according to the terms of the gift, and regulations by the board.

(9) HANDLING OF PROPERTY. (a) Before the trustees of an association receive a gift, the surety bonds of the secretary and treasurer shall be increased to cover such amount if it does not then do so. If the bonds are not filed, or any officer fails to do anything required by this subsection, the judge may appoint a trustee, and all property and money so given and evidences of title and securities shall be delivered to him.

(b) Except as hereinafter provided in respect of funds for the perpetual care of public mausoleums and columbariums, money received by an association for perpetual care shall be invested as provided in ch. 881, or in such other manner as may be approved either by the circuit judge of the county in which the principal office of the association is located, or the circuit judge of the county in which the cemetery is located, or it may be deposited with the treasurer of the county or city in which such cemetery is located, and the governing body of such county or city may determine to accept such deposits. In the case of all deposits hitherto or hereafter deposited with a city or county, or previously deposited with a village, there shall be paid to said association annually interest on sums so deposited of not less than 2 per cent per year. The governing body of any city or county, or any village or town in the case of previous

deposits, may determine to return all or a part of any sum deposited by an association, and such association shall accept such sum within 30 days after receiving written notice of such action. If such association is dissolved or becomes inoperative such county or city shall see the interest on such fund for the care and upkeep of such cemetery. Deposit shall be made and the income paid over from time to time, not less frequently than once each year, and receipts in triplicate shall be given, one filed with the county clerk, one with the association and one given to the person making the deposit. Deposits shall be of \$5 or multiple thereof. Records and receipts shall specify the lot for the care of which the deposit is made. Reports of money received for perpetual care shall be made annually by the trustees of such association to the circuit judge of the county in which the principal office of the association is located, or the circuit judge of the county in which the cemetery is located on July 1 of each year. All funds received by an association for perpetual care and now held by the treasurer or trustees of such association may be transferred to said county or city treasurer. Failure to file such report for 60 days shall subject such trustees to a forfeiture of not less than \$10 nor more than \$20, to be enforced as provided in ch. 778. Such trustees may also be cited to file such report by such judge and the expense of serving the citation shall be paid by such trustees and disobedience of such citation may be enforced as a contempt. This paragraph shall apply to all organizations that maintain cemeteries except municipalities but shall not be effective in counties having a population of 100,000 or more, except as to cemeteries wholly within fourth class cities.

(d) The officer in charge of the gifts shall on the first secular day in January of each year make written report to the county treasurer showing in detail the amount of money and value of property received and its disposition. The treasurer shall audit the accounts and examine investments and securities. Whenever, from his or her examination or audit of any report required by this section, the county treasurer has reason to believe that any officer or trustee of any association or perpetual care fund failed to comply with the laws of this state or misappropriated or improperly invested any perpetual care funds, the treasurer shall transmit the information and the reports of the cemetery association to the district attorney who shall conduct an investigation and take appropriate action.

(e) Anyone having in custody or control any cemetery care trust fund received other than by testament, shall upon demand deliver it to the

cemetery corporation to be handled as provided in this section.

(f) If any money or property is not turned over when required by this section, or default occurs under a bond, the district attorney, when directed by the circuit judge, shall bring action to recover.

(g) Gifts and trusts hereunder shall be exempt from taxation and the law against perpetuities, accumulations and mortmain.

History: 1971 c. 41 s. 12; 1977 c. 449 ss. 234, 497; 1979 c. 32 s. 92 (8); 1979 c. 110 s. 60 (13).

Cross References: See 863.09 (2) for court order concerning perpetual care of graves.

See 701.11 (3) for authorization to distribute small trusts to cemeteries.

157.12 Cemetery vaults. (1) DEFINITIONS. In this section:

(a) "Department" means the department of industry, labor and human relations.

(b) "Vault" includes any cemetery vault, columbarium, crematorium, mausoleum or other structure wholly or partly above ground and used to store or dispose of corpses.

(2) CONSTRUCTION OF VAULTS. (a) Any person who constructs a vault or converts a building to a vault shall comply with the rules of the department and shall receive department approval in writing of the plans and specifications prior to construction or conversion. The department may adopt rules governing the location, material and construction of any vault. Any municipality may enact ordinances governing vaults at least as stringent as this section.

(b) The department shall supervise construction of any public or community vault and conversion of any building to a public or community vault. No person may modify departmental construction requirements without written approval of the department. No person may operate a public or community vault unless the department certifies in writing that construction or conversion complied with approved plans and that a maintenance fund under sub. (3) exists.

(c) No person may establish or use a public or community vault unless the vault is located inside a cemetery of 20 acres or more that has been in existence for 10 years or more.

(d) The underground portion of any vault shall be waterproof, weatherproof, airtight, of permanent construction and capable of being sealed permanently. The aboveground portion of any vault shall be weatherproof and of permanent construction.

(3) MAINTENANCE FUND. (a) Any person who operates a public or community vault shall establish a fund for the perpetual maintenance of the vault, in compliance with either subd. 1 or 2.

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2. Except of the vault proceeds rooms or the fund of the vault. located Ma

(b) The of the fund cemetery, a sureties appa nify the ce fails to ma required if the purcha in the state custodian o vested as p investment vault.

(4) PENALTY. A person who violates this section, who violates this section, and shall be fined not more than \$500 or imprisoned not more than 6 months. History: 1977 c. 221; 1981 c. 20.

157.125 TRUSTS. A trust created for the care of a grave but not for the administration of the jurisdiction of the cemetery is situated to the terms of the trust. A person may contract for a burial place or person the income of such part of the fund for such purpose charge of the income shall be paid in which the body of the person and for the person body of duty of such person for such purpose annually rendered as provided in c

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property is not turned
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district attorney, when
lge, shall bring action

ereunder shall be ex-
e law against perpetu-
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e. 449 s. 234, 497; 1979 c.
3).

(2) for court order concern-
on to distribute small trusts

§. (1) DEFINITIONS.

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relations.

any cemetery vault,
in, mausoleum or
partly above ground
e of corpses.

VAULTS. (a) Any
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or conversion. The
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i. (a) Any person
community vault shall
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1. If the vault has been in existence since June 15, 1933, and is covered by the perpetual care fund of the cemetery in which the vault is located, the cemetery shall deposit at least 15% of the proceeds received by sale of cemetery lots into the fund, until the fund equals 10% of the cost of constructing the vault.

2. Except as provided in subd. 1, the operator of the vault shall apply at least 25% of all proceeds received from sales of mausoleum rooms or crypts and columbarium niches, until the fund equals 25% of the cost of constructing the vault. The municipality in which the vault is located may require a larger fund.

(b) The cemetery's treasurer is the custodian of the fund. The treasurer shall file with the cemetery, at the cemetery's expense, a bond plus sureties approved by the county clerk to indemnify the cemetery against loss if the treasurer fails to maintain the fund. No indemnity is required if the terms of sale of the vault require the purchaser to pay directly to a trust company in the state, designated by the cemetery as custodian of the fund. The fund shall be invested as provided in ch. 881. Income from investment may be used only to maintain the vault.

(4) PENALTY. Any person, including a member of a firm or officer or director of a corporation, who violates this section is personally liable and shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 10 days nor more than 6 months or both.

History: 1971 c. 41 s. 12; 1971 c. 164; 1977 c. 449; 1979 c. 221; 1981 c. 20.

157.125 Trustees for the care of cemeteries or cemetery lots. Where a trust is created for the perpetual care of a burial place or grave but no trustee is named in the will to administer the trust, the circuit court having jurisdiction thereof may name the county treasurer of the county in which the burial place or grave is situated as such trustee. If not contrary to the terms of the trust the county treasurer may contract with the person in charge of the burial place or grave for its care and pay to such person the income from the trust property or such part of the income that may be necessary for such purpose, and if there is no person in charge of the burial place or grave then such income shall be paid to the city, village or town, in which the burial place or grave is situated, and for the purposes of this section the governing body of such municipality shall have the duty of such care to the extent of money received for such purpose. The county treasurer shall annually render an account to the circuit court as provided in ch. 701 and the person or municipi-

ality receiving money for such care shall also render an annual accounting to the circuit court showing the amount received and in detail the purposes for which expended.

History: 1971 c. 41 s. 11; 1979 c. 175 s. 30.

157.50 Municipal cemeteries. (1) Municipalities may acquire by gift, purchase or condemnation land for cemeteries within or without their boundaries. In the case of towns acquisition and price must be authorized by the town meeting.

(2) The governing body of every municipality acquiring a cemetery shall by ordinance determine the system of management and operation. Any municipality may proceed under s. 157.07, 157.08 or 157.11 (7), or otherwise as provided by ordinance.

(3) Upon organization of a cemetery association to take over a municipal cemetery, the municipality may convey real property and all funds and other personal property to the association. In towns the conveyance must be authorized by the town meeting.

(4) When a town cemetery becomes embraced within a city or village, it shall be managed as though acquired thereby.

(5) An annual town meeting, after notice as provided by s. 60.13, may vote a special tax of not more than \$500 in any one year for the improvement of the town cemetery under supervision of the board.

(6) Any municipality having created a perpetual care fund shall invest the money received for perpetual care as provided by ch. 881. The municipality may terminate the perpetual care fund, transferring the money to its general fund, if the municipality owns the cemetery and provides all maintenance expenses in perpetuity for those grave sites in the cemetery at the time of termination.

History: 1971 c. 41 s. 12; 1979 c. 254.

157.60 Public easement in cemetery. Any person who shall open or make any highway, town way or private way or shall construct any railroad, turnpike or canal or anything in the nature of a public easement over, through, in or upon such part of any enclosure, being the property of any town, city, village or religious society or of private proprietors, as may be used for the burial of the dead, unless an authority for that purpose shall be specially granted by law or unless the consent of such town, city, village, religious society or private proprietors, respectively, shall be first obtained, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding \$300.



WINNEBAGO COUNTY COURTHOUSE

November 5, 1987

Mr. Feta Chapman
E.A.A.
3000 Poberenzy Rd.
Oshkosh, WI 54901

Mr. Robert Sayler
Sayler Survey Inc.
139-A Main Street
Winneconne, WI 54986

Gentlemen:

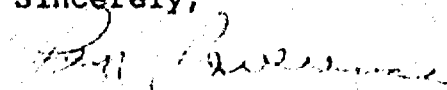
The purpose of this letter is to confirm my discussion with each of you on Wednesday, October 28, 1987 concerning the above referenced cemetery plat. As discussed, the County Board denied approval of the plat at there October 20, 1987 Board meeting with the following vote tally of 14 Ayes, 26 Nays, and 5 excused.

As you are aware Supervisor Mike Utech is in the process of organizing political support in an effort to request that the County Board reconsider its action at one of its future meetings.

I will retain the original document until such action is completed unless you request otherwise.

If I can be of any further assistance to you, please contact my office.

Sincerely,


Leonard Leverence
Principal Planner

LL/hc

Planned up 11/9/87
[Signature]

REPORT

TO: Winnebago County Board
FROM: Planning and Zoning Committee
DATE: November 9, 1987
SUBJECT: Pioneer Cemetery Plat

The Planning and Zoning Committee's original resolution of October 20, 1987 is supplemented with the following attached exhibits for your review:

1. Site and location map
2. Copy of Chapter 157 Wisconsin Statutes Regulating Cemeteries

The Planning and Zoning Committees findings of fact for recommending approval of the original resolution of October 20, 1987 is as follows:

1. That the Winnebago County Board has statutory authority to review and approve all cemetery plats located in the county except within a city of first class.
2. That the proposed cemetery plat meets all the locational requirements of S.S. 157.06 Wisconsin Statutes.
3. That the proposed cemetery meets the platting requirements of S.S. 157.07 Wisconsin Statutes.
4. That the proposed cemetery plat complies with all applicable county land use and zoning ordinances.

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FROM: Planning and Zoning Committee
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2. That the proposed cemetery plat meets all the locational requirements of S.S. 157.06 Wisconsin Statutes.
3. That the proposed cemetery meets the platting requirements of S.S. 157.07 Wisconsin Statutes.
4. That the proposed cemetery plat complies with all applicable county land use and zoning ordinances.

RESOLUTION:

Approval of Pioneer Cemetery
Plat (Owned by Experimental
Aircraft Association) located
in City of Oshkosh

TO THE WINNEBAGO COUNTY BOARD OF SUPERVISORS:

WHEREAS, sec. 157.07 Wis. Stats. requires County Board approval of all cemetery plats located in the County except within a city of first class; and

WHEREAS, the Pioneer Cemetery is not located within a city of the first class, and therefore, requires County Board approval; and

WHEREAS, your Planning and Zoning Committee has reviewed the proposed Pioneer Cemetery Plat, a copy of which is attached hereto, in accordance with the provisions of sec. 157.07 Wis. Stats. and recommends that the County Board approves the same.

NOW, THEREFORE, BE IT RESOLVED that the Winnebago County Board of Supervisors approves the Pioneer Cemetery Plat a copy of which is attached hereto.

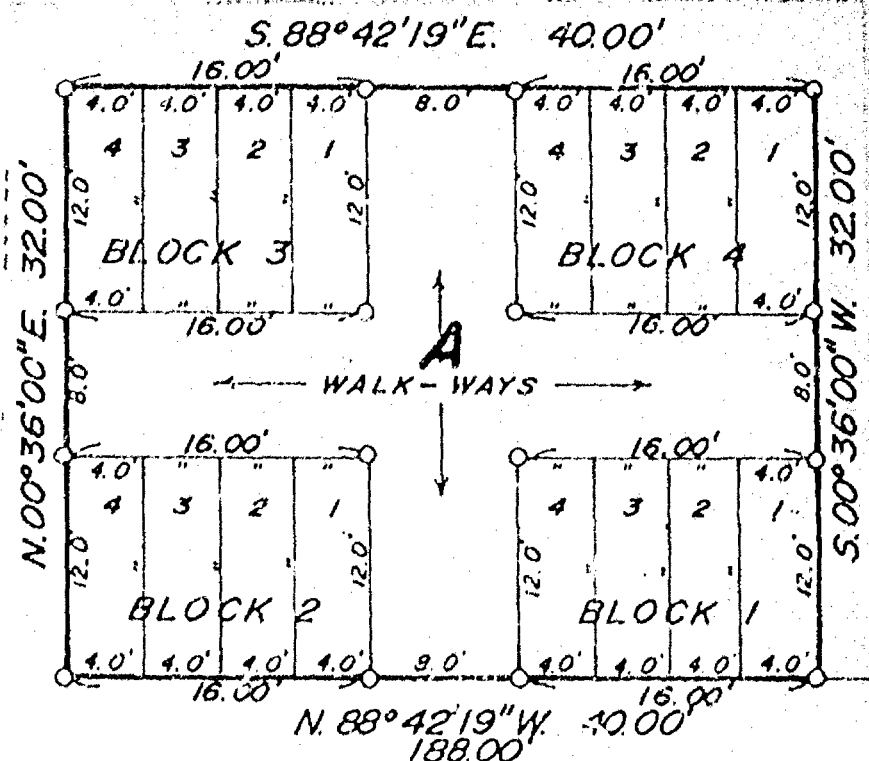
Submitted by,

PLANNING AND ZONING COMMITTEE

Committee Vote: 3-1

Vote Required for Passage: Majority

LOCATED IN PART OF THE SE 1/4 OF THE SW 1/4
OF SEC. 34, T.18N., R.16E., CITY OF OSHKOSH,
WINNEBAGO COUNTY, WISCONSIN



I, Robert H. Saylor, registered land surveyor, hereby certify:
That I have surveyed, divided and mapped the parcel of land located in part of the SE 1/4 of the SW 1/4 of Section 34, T18N, R.16E. in the City of Oshkosh, Winnebago County, Wisconsin, described as follows: Beginning at an iron pipe that is 1136.98 ft., N.00°35'00"E. and 148.00 ft., N.86°42'19"W. of the South 1/4 corner of said Section 34. From that point running N.86°42'19"W., 40.00 ft., thence N.00°36'00"E., 32.00 ft., thence S.86°42'19"E., 40.00 ft., thence S.00°36'00"W., 32.00 ft. to the said point of beginning. Subject to all restrictions and easements of record. Being a parcel of land of 1280.00 sq ft. in area, more or less.

That I have made such survey, 2nd division and map by the direction of Experimental Aircraft Association Cemetery Association, Board of Trustees as follows: Chairman, Paul Poberezny (Class 3), P.O. Box 2343, Oshkosh, Wl., 54903; Secretary, Peter J. Chapman (Class 3), 6577 Woodview Rd, Winneconne, Wl., 54986; James W. Barton (Class 1), 2906 Knapp St. Rd, Oshkosh, Wl., 54901; Harry C. Zetsler (Class 3), P.O. Box 2252, Oshkosh, Wl., 54903; Richard J. Noll (Class 2), 2366 Wisconsin St, Oshkosh, Wl., 54901; Gregory J. Anderson (Class 2), 109 Bowen St, Oshkosh, Wl., Jerome E. Strick (Class 1), 764 Yorkshire Rd, Neenah, Wl., 54956; That such map is a true and correct representation of the land surveyed, to the best of my knowledge and belief.

That I have fully complied with the provisions of Chapter 157, Sec. 157.07 of the Wisconsin Statutes in surveying, dividing and mapping the same.

Robert H. Saylor
Robert H. Saylor 5-1894
Wisconsin Registered Land Surveyor

Dated this 11 day of September, 1987.



CHAPTER 157

CEMETERIES

157.01	Definitions.
157.03	Cemetery association.
157.04	Change of ownership.
157.05	Holding property.
157.06	Location of cemeteries.
157.07	Platting.
157.08	Conveyances.

157.09	Use of proceeds.
157.10	Alienation and use of lots.
157.11	Improvement and care.
157.12	Cemetery vaults.
157.125	Trustees for the care of cemeteries or cemetery lots.
157.50	Municipal cemeteries.
157.60	Public easement in cemetery.

157.01 Definitions. As used in this chapter:

(1) "Corporation" means the cemetery association having charge of a cemetery.

(2) "Board" means board of trustees of a cemetery association, having charge of a cemetery.

(3) "Municipality" means town, village or city.

157.03 Cemetery association. (1) **ORGANIZATION.** Not less than 7 persons residing in the same county may form a cemetery association. They shall meet, select a chairman and secretary, choose a name, fix the annual election date, and elect by ballot not less than 3 nor more than 9 trustees whom the chairman and secretary shall immediately divide by lot into 3 classes, who shall hold their offices for one, 2 and 3 years, respectively. Within 3 days, this time limit being directory, the chairman and secretary shall certify the corporate name, the names of the organizers and of the trustees, and their classification, and the annual election date acknowledged by them, and record it in the office of the register of deeds. The association shall then have the powers of a corporation.

(2) **AMENDMENTS.** The association may change (a) its name, (b) the number of trustees, or (c) the annual election date by resolution at an annual meeting, or special meeting called for such purpose, by majority vote of the members present, and by recording in the office where the certificate of organization is recorded, copy of the resolution, with the date of adoption, certified by the president and secretary or corresponding officers. The register of deeds shall note on the margin of the original record the volume and page where the amendment is recorded.

(3) **VALIDATION.** When there shall have been a bona fide attempt to organize a cemetery association, but a failure to record a properly drawn and executed certificate of organization, and it has in good faith bought and platted

grounds and conveyed lots and carried on business for over twenty-five years, the same shall be a body corporate from the date of conveyance to it of real estate, and its transfers and other transactions are validated.

(1) **ELECTIONS.** (a) Annual election shall be held at such place in the county as the trustees direct upon such public notice as the by-laws prescribe. Trustees chosen after the first shall be proprietors of lots in the cemetery, residents of the state, and hold office for three years. Election shall be by ballot, and a plurality shall elect. Each owner of one or more lots shall be entitled to one vote, and such one of several owners of a lot as the majority of them designate shall cast the vote.

(b) If the annual election is not held on the day fixed the trustees may appoint another day, not more than 60 days thereafter, and give public notice of time and place, and if an election is not so held 5 members may apply to the judge of a court of record in the county for an order granting power to hold an election, by publishing in the county a class 2 notice, under ch. 985, of the application and the judge shall grant the application, and election shall then be held upon like notice. The terms of trustees whenever elected shall expire at the same time as though elected on the regular date.

(5) **TRUSTEES; DUTIES; REPORT.** The trustees may fill vacancies for the unexpired term. One shall be chosen president, and they shall appoint a secretary and treasurer, and may require security of the treasurer. The trustees shall manage the affairs and property of the association, control the cemetery and beautify the same, and may establish regulations respecting it. At each annual meeting the trustees shall make a written report of their transactions and the condition of the association, giving a particular account of receipts and expenditures.

(6) **DISSOLUTION; REORGANIZATION.** (a) The association is dissolved by failure to hold annual election for three successive years.

(b) If an association which has been dissolved under par. (a), or any group which was never properly organized as a cemetery association, has cemetery grounds and interments remain therein, 5 or more members, or persons interested as determined by order of the circuit judge under par. (c), may publish a class 3 notice, under ch. 985, in the municipality in which the cemetery is, of the time, place and object of the meeting, assemble and reorganize by the election of trustees, the same as the regular time, and divide them into classes as provided in sub. (1), the commencement to be computed from the next annual election date, and the proceedings of such meeting shall be entered by the secretary on the records, and thereby the association shall be reorganized. Upon such reorganization, the title to the cemetery grounds, trust funds and all other property of the association or group shall vest in the reorganized association, under the control of the trustees. The reorganized association may continue the name of the dissolved association or may adopt a new name.

(c) If an association is dissolved under par. (a) or any group has never been properly organized as cemetery association, and there are fewer than 5 members living or residing in the county where the cemetery is located, the circuit judge for the county shall upon the petition of any person interested, make an order determining who are persons interested in the cemetery. Any adult person who owns an interest in any lot in the cemetery, who is related to any person buried in the cemetery, or who is a descendant, brother, sister, nephew, niece or surviving spouse of a member of the dissolved association, is an interested person. The circuit judge may make the order upon evidence he or she deems sufficient, with or without hearing. The order need not contain the names of all persons interested, but shall contain the names of at least 5 such persons.

(7) TAX FOR MAINTENANCE. When a cemetery association having control of a cemetery in a town, village or city of the third or fourth class has insufficient maintenance funds it may certify in writing to the clerk of such town, city or village the amount deemed necessary during the next ensuing year, the amount the association has therefor, and the deficiency, and the governing body of such town, city or village may levy and collect a tax therefor and pay the same to the association. If the cemetery is in more than one such municipality the deficiency shall be equitably distributed. If a cemetery located wholly within a town, village or city of the third or fourth class has also buried therein decedents from an adjoining municipality, the association having insufficient funds, the association may

certify in writing to its municipal clerk and to the clerk of such other municipality, the amount deemed necessary for the ensuing year, the amount the association has therefor, the amount of the deficiency and the equitable amount that each municipality should contribute; whereupon the governing body of each such municipality may levy and collect a tax therefor and pay the same to the association.

History: 1977 c. 449 ss. 233, 491.

Cemetery association voters must be lot owners under (4). Heirs of deceased lot owner are entitled to vote in cemetery association elections. 69 Atty. Gen. 132.

157.04 Change of ownership. (1) When a cemetery association abandons or fails to manage or care for the cemetery for a period of 5 or more years, and is not reorganized in the meantime, the municipality wherein the cemetery is becomes vested with the control of the property, and shall manage and care for it, and collect and manage all trust funds connected therewith received other than by a will.

(2) Whenever a cemetery association shall vote to convey cemetery property and all trust funds pertaining thereto to a city, village or town, the trustees of the association shall have the power to transfer such property upon the acceptance thereof by resolution of the governing body of the city, village or town.

(4) Whenever any cemetery in a town is falling into disuse, or is abandoned or neglected, and by reason of the removal or death of the persons interested in its upkeep there exists no association or group with authority to transfer such cemetery to the town, the town board, at the expense of the town, shall take charge of the cemetery and manage and care for it, and if the town board fails to do so, having notice thereof, the circuit judge may upon petition by 6 or more persons interested in the upkeep of the cemetery order its transfer to the town, including the transfer of all assets. Cemeteries so transferred shall be managed as provided for other town cemeteries.

History: 1977 c. 449 & 497.

157.05 Holding property. (1) A cemetery or religious association authorized to hold lands for cemetery purposes may take and hold not exceeding 80 acres of land, to be used exclusively for burial of the dead, and personal property not exceeding \$250,000 in value, to promote the objects of the association; and if the cemetery is near to a city of more than 10,000 and less than 100,000 inhabitants the association may so take and hold not exceeding 160 acres of land; and if near to or within a city of 100,000 or more inhabitants not exceeding 240 acres.

(2) A cemetery or religious association incorporated in this state and having a cemetery in

3113

or near a city having, by the
census, a population of 50,000
quatre by gift or purchase
adjoining lands for concrete
pay for it wholly or partly

(3) When it is necessary owned by a cemetery tion, and adjoining lands c can be acquired only at application may be made in judge by 12 or more reside municipality in which the describing the land and se and the price asked, where appoint 3 resident freehold not of such municipality, t ages of each owner, not asked, but, except in cities lages, no lands shall be take residence owned by the ex written consent. The app parties upon 10 days' notic writing with the judge wi determination. Upon paym amount appraised, the lan Either party may appeal as (10). The commissioners s party seeking to take the la actually employed and 6 c necessarily traveled.

History: 1977 c. 449 s. 497.

157.06 Location of cemetery may be used for burial

(a) Any cemetery in use c

(b) Any cemetery organ
by:

1. Any municipality;
2. Any church;
3. Any fraternal or benevolent order;
4. Any incorporated college or university;

5. Any cemetery association
157.03; or

6. A corporation organizes
181 operating a cemetery on

(2) Except as provided in the bylaws, no cemetery may be established:

(a) Within a recorded plat
tion to a plat of any city
cemetery is within one mile o
plat;

(b) Outside a recorded plat to a plat of any city or village within 200 rods of an inhabited place is located within a recorded plat, unless the city or village consists of a single lot.

(c) Within 15 rods of any building or publicly owned building or cemetery is establishing an open

ing to its municipal clerk and to the other municipality, the amount necessary for the ensuing year, the association has therefor, the amount by and the equitable amount that it should contribute; whereupon the body of each such municipality collect a tax therefor and pay the association.

c. 449 ss. 233, 497.
 Election voters must be lot owners under (4).
 Lot owner are entitled to vote in cemetery
 s. 69 Atty. Gen. 132.

Change of ownership. (1) When a municipality abandons or fails to maintain the cemetery for a period of 5 or more years and is not reorganized in the municipality wherein the cemetery is vested with the control of the cemetery, the town shall manage and care for it, and manage all trust funds connected therewith other than by a will.

When a cemetery association shall acquire cemetery property and all trust funds thereto to a city, village or town, the association shall have the right to transfer such property upon the approval by resolution of the governing body of the city, village or town.

When any cemetery in a town is abandoned, or is abandoned or neglected, or the removal or death of the owner of the cemetery, if there exists no group with authority to transfer the cemetery to the town, the town board, at the request of the town, shall take charge of the cemetery and care for it, and if the town fails to do so, having notice thereof, the town may, upon petition by 6 or more residents of the township, including the cemetery, transfer the cemetery to the town. Cemeteries so transferred shall be maintained as provided for other town

c. 449 s. 497.

Acquisition of property. (1) A cemetery association authorized to hold lands for cemetery purposes may take and hold not more than 30 acres of land, to be used exclusively for the burial of the dead, and personal property of \$250,000 in value, to promote the purposes of the association; and if the cemetery is within one mile of a building in the town, the association may so acquire not exceeding 160 acres of land, within a city of 100,000 or more population, or not exceeding 240 acres.

(2) A cemetery association in any town or village having a cemetery in

or near a city having, by the last United States census, a population of over 100,000 may acquire by gift or purchase up to 30 acres of adjoining lands for cemetery purposes, and may pay for it wholly or partly from the lot sales.

(3) When it is necessary to enlarge a cemetery owned by a cemetery or religious association, and adjoining lands cannot be acquired or can be acquired only at an exorbitant price, application may be made in writing to the circuit judge by 12 or more resident freeholders of the municipality in which the cemetery is located describing the land and setting forth the facts and the price asked, whereupon the judge shall appoint 3 resident freeholders of the county, but not of such municipality, to appraise the damages of each owner, not to exceed the price asked, but, except in cities or incorporated villages, no lands shall be taken within 20 rods of a residence owned by the occupant without his written consent. The appraisers shall hear all parties upon 10 days' notice and file report in writing with the judge within 10 days after determination. Upon payment into court of the amount appraised, the lands shall be taken. Either party may appeal as provided in s. 32.06 (10). The commissioners shall be paid by the party seeking to take the land \$3 for each day actually employed and 6 cents for each mile necessarily traveled.

History: 1977 c. 449 s. 497.

157.06 Location of cemeteries. (1) No cemetery may be used for burials except:

(a) Any cemetery in use on April 4, 1864; or
 (b) Any cemetery organized and operated by:

1. Any municipality;
2. Any church;
3. Any fraternal or benevolent society;
4. Any incorporated college of a religious order;

5. Any cemetery association created under s. 157.03; or

6. A corporation organized under ch. 180 or 181 operating a cemetery on April 30, 1980.

(2) Except as provided in sub. (3), no cemetery may be established:

(a) Within a recorded plat or recorded addition to a plat of any city or village, if the cemetery is within one mile of a building in the plat;

(b) Outside a recorded plat or recorded addition to a plat of any city or village if the cemetery is within 200 rods of an inhabited dwelling that is located within a recorded plat or addition, unless the city or village consents;

(c) Within 15 rods of any habitable dwelling, publicly owned building or school, unless the cemetery is establishing an extension on prop-

erty it has owned continually since June 18, 1929; or

(d) Within 200 rods of any of the following state facilities, without the consent of the state:

1. Any institution for the deaf or the blind;
2. Any mental health institute, as defined in s. 51.01;
3. The Ethan Allen school;
4. Any center for the developmentally disabled; or
5. Any state reformatory.

(3) (a) Any cemetery in a village may enlarge with the consent of the village board and of the owners of each building within 15 rods of the addition.

(b) Any cemetery in a 3rd or 4th class city may enlarge with the consent of the common council.

(c) Any incorporated college of a religious order in a 4th class city may establish a private cemetery within the city on land the college owns to inter members of the religious order, if the common council consents and if each person owning a private building within 50 rods of the proposed cemetery consents.

(d) Any cemetery established before April 30, 1887, in an incorporated village and located within 100 feet of the village limits may extend to the village limits with the consent of the village board.

(e) Any cemetery established before April 30, 1887, may expand as provided in s. 157.05.

(4) If any cemetery located on property not subject to condemnation under ch. 32 is abandoned, the circuit court for the county in which the cemetery is located may authorize the removal of bodies from the cemetery to another cemetery upon the petition of 6 or more residents of the municipality in which the cemetery is located. Prior to authorizing the removal, the court shall publish a notice to all interested parties as provided in s. 879.05 (4). The court may not authorize the removal unless suitable arrangements have been made to reinter the bodies.

(5) Any violation of this section is a public nuisance.

History: 1975 c. 39, 106; 1975 c. 189 s. 29 (2); 1975 c. 200, 422, 430; 1977 c. 83; 1977 c. 449 s. 497; 1979 c. 221; 1981 c. 20.

The restrictions on the location of cemeteries do not apply to the enlargement of cemeteries existing prior to 1933. The 2nd set of requirements under (1) (a) through (e) (1969 status) do apply to the extension of existing cemeteries. *Highland Memorial Park, Inc. v. New Berlin*, 67 W (2d) 363, 227 NW (2d) 72.

157.07 Platting. The board of trustees shall cause to be surveyed and platted such portions of the lands as may from time to time be required for burial, into lots, drives and walks, and record map thereof in the office of the register of deeds.

court their verified petition and setting forth the facts and reasons therefor. The court shall fix and direct publication of a copy of the petition in a newspaper of general circulation, under ch. 985, of the hearing. If the proposed sale is for the benefit of the association and that the lots have been conveyed to the association, the court shall enter an order reciting the facts and its finding and authorizing the sale. The order shall be effective when recorded in the register of deeds.

The court may sell personal property at any time. The court may vacate or replat any lot upon the filing of a petition by a majority of the trustees describing the portion and the reasons therefor. The court may order a copy of the notice to be published in a newspaper of general circulation, under ch. 985, of the hearing. The order shall be effective when recorded in the register of deeds.

Proceeds. The proceeds of the sale shall be applied to the purchase of land and improvement of the land leading thereto, and oper-

Transfer and use of lots. While the lot is in a lot shall be transferred to another person without the consent of a majority of the trustees. The death of the owner shall not affect the interest of any other heir his interest shall be transferred in a lot to any one having an interest in the lot, or the husband, or wife of the owner, or her relative, except by the trustees having an interest in the lot.

Transfer and care. (1) FENCE; The board may enclose the lot with a suitable fence, and may erect a fence for funeral services.

(2) REGULATIONS. The board may make regulations for management and care of the cemetery. No person shall plant, in the cemetery, trees or shrubs, nor erect wooden fences or structures or offensive or dangerous structures or monuments, nor maintain them if planted or erected in violation of the regulations; and the board may require any person owning or controlling a lot to do anything necessary to comply with the regulations by giving reasonable personal notice in writing if he is a resident of the county, otherwise by publishing a class 3 notice, under ch. 985, in the county; and if he fails to comply within 20 days thereafter the board may cause it to be done and recover from him the expense. The board may also impose a forfeiture not exceeding \$10 for violation of the regulations posted in 3 conspicuous places in the cemetery, recoverable under ch. 778. Each member of the board and the superintendent or sexton shall have constable powers in enforcing the regulations.

(3) CONTRACTS. The trustees of a cemetery association may contract with individuals who own or are interested in a lot for its care; the contract shall be in writing, may provide that the lot shall be forever exempt from taxes, assessments or charges for its care and the care and preservation of the grounds, shall express the duty of the association, be recorded in a book kept for that purpose, and be effective when the consideration is paid or secured.

(4) ASSOCIATIONS. Persons owning a lot or having relatives buried in a cemetery may incorporate an association to hold and occupy a previously constituted cemetery, and to preserve and care for the same; s. 157.03 shall apply to such association. Nothing in this section shall give rights of burial. A municipality may lease a municipal cemetery to a cemetery association for preservation and may contract to permit the association to use cemetery funds therefor. Such leases and contracts may be revoked at will by the municipal board.

(5) SUM REQUIRED. The board shall fix the sum necessary, annually for care of lots and care and improvement of the cemetery, or to produce a sufficient income therefor.

(7) ASSESSMENTS. (a) The board may annually assess upon the lots not exceeding 4 cents per square foot excluding drives and walks, for cleaning and care of lots and care and improvement of the cemetery. Notice with a copy of this section shall be mailed forthwith to each lot owner or person having charge of a lot, at his last-known post-office address, directing payment to the treasurer within 30 days and such assessments shall be a personal liability.

(b) The board or any organization having a cemetery under its control may fix and determine the sum reasonably necessary for perpetual care of the grave or lot in reasonable and uniform amounts, which amounts shall be subject to the approval of the court, and may collect the same as part of the funeral expenses.

(c) Before ordering distribution of the estate of a deceased person, the court shall order paid any assessment under this section, or the sum so fixed for the care of the lot or grave of the deceased.

(d) When uniform care of a lot has been given for two consecutive years or more, for which assessments are unpaid, after notice as provided in sub. (2), right to interment is forfeited until delinquent assessments are paid. When uniform care has been given for five consecutive years or more and the assessments are unpaid, upon like notice, title to all unoccupied part of the lot shall pass to the association or municipality and may be sold, the proceeds to be a fund for perpetual care of the occupied portion.

(8) GIFTS. The corporation shall take, hold and use such gifts, or the income and proceeds thereof as may be made in trust or otherwise for the improvement, maintenance, repair, preservation or ornamentation of any lot or structure in the cemetery, according to the terms of the gift, and regulations by the board.

(9) HANDLING OF PROPERTY. (a) Before the trustees of an association receive a gift, the surety bonds of the secretary and treasurer shall be increased to cover such amount if it does not then do so. If the bonds are not filed, or any officer fails to do anything required by this subsection, the judge may appoint a trustee, and all property and money so given and evidences of title and securities shall be delivered to him.

(b) Except as hereinafter provided in respect of funds for the perpetual care of public mausoleums and columbariums, money received by an association for perpetual care shall be invested as provided in ch. 881, or in such other manner as may be approved either by the circuit judge of the county in which the principal office of the association is located, or the circuit judge of the county in which the cemetery is located, or it may be deposited with the treasurer of the county or city in which such cemetery is located, and the governing body of such county or city may determine to accept such deposits. In the case of all deposits hitherto or hereafter deposited with a city or county, or previously deposited with a village, there shall be paid to said association annually interest on sums so deposited of not less than 2 per cent per year. The governing body of any city or county, or any village or town in the case of previous

deposits, may determine to return all or a part of any sum deposited by an association, and such association shall accept such sum within 30 days after receiving written notice of such action. If such association is dissolved or becomes inoperative such county or city shall use the interest on such fund for the care and upkeep of such cemetery. Deposit shall be made and the income paid over from time to time, not less frequently than once each year, and receipts in triplicate shall be given, one filed with the county clerk, one with the association and one given to the person making the deposit. Deposits shall be of \$5 or multiple thereof. Records and receipts shall specify the lot for the care of which the deposit is made. Reports of money received for perpetual care shall be made annually by the trustees of such association to the circuit judge of the county in which the principal office of the association is located, or the circuit judge of the county in which the cemetery is located on July 1 of each year. All funds received by an association for perpetual care and now held by the treasurer or trustees of such association may be transferred to said county or city treasurer. Failure to file such report for 60 days shall subject such trustees to a forfeiture of not less than \$10 nor more than \$20, to be enforced as provided in ch. 778. Such trustees may also be cited to file such report by such judge and the expense of serving the citation shall be paid by such trustees and disobedience of such citation may be enforced as a contempt. This paragraph shall apply to all organizations that maintain cemeteries except municipalities but shall not be effective in counties having a population of 100,000 or more, except as to cemeteries wholly within fourth class cities.

(d) The officer in charge of the gifts shall on the first secular day in January of each year make written report to the county treasurer showing in detail the amount of money and value of property received and its disposition. The treasurer shall audit the accounts and examine investments and securities. Whenever, from his or her examination or audit of any report required by this section, the county treasurer has reason to believe that any officer or trustee of any association or perpetual care fund failed to comply with the laws of this state or misappropriated or improperly invested any perpetual care funds, the treasurer shall transmit the information and the reports of the cemetery association to the district attorney who shall conduct an investigation and take appropriate action.

(e) Anyone having in custody or control any cemetery care trust fund received other than by testament, shall upon demand deliver it to the

cemetery corporation to be handled as provided in this section.

(f) If any money or property is not turned over when required by this section, or default occurs under a bond, the district attorney, when directed by the circuit judge, shall bring action to recover.

(g) Gifts and trusts hereunder shall be exempt from taxation and the law against perpetuities, accumulations and mortmain.

History: 1871 c. 41 s. 12; 1977 c. 449 ss. 234, 497; 1979 c. 32 s. 92 (8); 1979 c. 110 s. 65 (13).

Cross References: See 863.09 (2) for court order concerning perpetual care of graves.

See 701.11 (3) for authorization to distribute small trusts to cemeteries.

157.12 Cemetery vaults. (1) DEFINITIONS. In this section:

(a) "Department" means the department of industry, labor and human relations.

(b) "Vault" includes any cemetery vault, columbarium, crematorium, mausoleum or other structure wholly or partly above ground and used to store or dispose of corpses.

(2) CONSTRUCTION OF VAULTS. (a) Any person who constructs a vault or converts a building to a vault shall comply with the rules of the department and shall receive department approval in writing of the plans and specifications prior to construction or conversion. The department may adopt rules governing the location, material and construction of any vault. Any municipality may enact ordinances governing vaults at least as stringent as this section.

(b) The department shall supervise construction of any public or community vault and conversion of any building to a public or community vault. No person may modify departmental construction requirements without written approval of the department. No person may operate a public or community vault unless the department certifies in writing that construction or conversion complied with approved plans and that a maintenance fund under sub. (3) exists.

(c) No person may establish or use a public or community vault unless the vault is located inside a cemetery of 20 acres or more that has been in existence for 10 years or more.

(d) The underground portion of any vault shall be waterproof, weatherproof, airtight, of permanent construction and capable of being sealed permanently. The aboveground portion of any vault shall be weatherproof and of permanent construction.

(3) MAINTENANCE FUND. (a) Any person who operates a public or community vault shall establish a fund for the perpetual maintenance of the vault, in compliance with either subd. 1 or 2.

1. If the vault is located, the proceeds of the fund of the proceeds into the fund of cost of construction.

2. Except of the vault proceeds rooms or cry the fund equal the vault. The located may

(b) The of the fund, cemetery, at sureties appraise the cemetery fails to maintain required if the the purchaser in the state, custodian of vested as pro investment in vault.

(4) PENALTY. Any member of a firm or corporation, who violates this section and shall be fined not more than \$500 or imprisoned not more than 6 months. History: 1977 c. 221; 1981 c. 20.

157.125 Trustees or corporations created for the care of a grave but not for the administration of the jurisdiction the trustee of the corporation of the grave is situated to the terms of the contract or may contract with a person the income of such part of the fund for such purposes charge of the burial income shall be in which the body and for the purposes of such care duty of such care for such purposes annually rendered as provided in ch.

1. If the vault has been in existence since June 15, 1933, and is covered by the perpetual care fund of the cemetery in which the vault is located, the cemetery shall deposit at least 15% of the proceeds received by sale of cemetery lots into the fund, until the fund equals 10% of the cost of constructing the vault.

2. Except as provided in subd. 1, the operator of the vault shall apply at least 25% of all proceeds received from sales of mausoleum rooms or crypts and columbarium niches, until the fund equals 25% of the cost of constructing the vault. The municipality in which the vault is located may require a larger fund.

(b) The cemetery's treasurer is the custodian of the fund. The treasurer shall file with the cemetery, at the cemetery's expense, a bond plus sureties approved by the county clerk to indemnify the cemetery against loss if the treasurer fails to maintain the fund. No indemnity is required if the terms of sale of the vault require the purchaser to pay directly to a trust company in the state, designated by the cemetery as custodian of the fund. The fund shall be invested as provided in ch. 881. Income from investment may be used only to maintain the vault.

(4) PENALTY. Any person, including a member of a firm or officer or director of a corporation, who violates this section is personally liable and shall be fined not less than \$100 nor more than \$500 or imprisoned not less than 10 days nor more than 6 months or both.

History: 1971 c. 41 s. 12; 1971 c. 164, 1977 c. 449; 1979 c. 221; 1981 c. 20.

157.125 Trustees for the care of cemeteries or cemetery lots. Where a trust is created for the perpetual care of a burial place or grave but no trustee is named in the will to administer the trust, the circuit court having jurisdiction thereof may name the county treasurer of the county in which the burial place or grave is situated as such trustee. If not contrary to the terms of the trust the county treasurer may contract with the person in charge of the burial place or grave for its care and pay to such person the income from the trust property or such part of the income that may be necessary for such purpose, and if there is no person in charge of the burial place or grave then such income shall be paid to the city, village or town, in which the burial place or grave is situated, and for the purposes of this section the governing body of such municipality shall have the duty of such care to the extent of money received for such purpose. The county treasurer shall annually render an account to the circuit court as provided in ch. 701 and the person or municipi-

ality receiving money for such care shall also render an annual accounting to the circuit court showing the amount received and in detail the purposes for which expended.

History: 1971 c. 41 s. 11; 1979 c. 175 s. 50.

157.60 Municipal cemeteries. (1) Municipalities may acquire by gift, purchase or condemnation land for cemeteries within or without their boundaries. In the case of towns acquisition and price must be authorized by the town meeting.

(2) The governing body of every municipality acquiring a cemetery shall by ordinance determine the system of management and operation. Any municipality may proceed under s. 157.07, 157.08 or 157.11 (7), or otherwise as provided by ordinance.

(3) Upon organization of a cemetery association to take over a municipal cemetery, the municipality may convey real property and all funds and other personal property to the association. In towns the conveyance must be authorized by the town meeting.

(4) When a town cemetery becomes embraced within a city or village, it shall be managed as though acquired thereby.

(5) An annual town meeting, after notice as provided by s. 60.13, may vote a special tax of not more than \$500 in any one year for the improvement of the town cemetery under supervision of the board.

(6) Any municipality having created a perpetual care fund shall invest the money received for perpetual care as provided by ch. 881. The municipality may terminate the perpetual care fund, transferring the money to its general fund, if the municipality owns the cemetery and provides all maintenance expenses in perpetuity for those grave sites in the cemetery at the time of termination.

History: 1971 c. 41 s. 12; 1979 c. 254.

157.60 Public easement in cemetery. Any person who shall open or make any highway, town way or private way or shall construct any railroad, turnpike or canal or anything in the nature of a public easement over, through, in or upon such part of any enclosure, being the property of any town, city, village or religious society or of private proprietors, as may be used for the burial of the dead, unless an authority for that purpose shall be specially granted by law or unless the consent of such town, city, village, religious society or private proprietors, respectively, shall be first obtained, shall be punished by imprisonment in the county jail not more than one year or by fine not exceeding \$300.



Winnebago County

PLANNING AND ZONING DEPARTMENT

David E. Schmidt, Director
Leonard Leverence, Principle Planner • James Mabry, Zoning Administrator

September 22, 1987

Mr. Robert Sayler
Sayler Survey Inc.
139A Main Street
Box 252
Winneconne, WI 54986

RE: EAA - Pioneer Cemetery Plat, City of Oshkosh

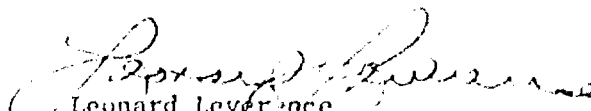
Dear Mr. Sayler:

The purpose of this letter is to inform you that at its September 21, 1987 meeting the Winnebago County Planning and Zoning Committee voted 5-0 to hold over its review and decision concerning the above referenced cemetery to its October 5, 1987 Planning Meeting at 4:00 P.M. in the Winnebago County Courthouse. Therefore, the committee will be rescheduling County Board action sometime during its week long budget session of October 19, 1987.

It is recommended that you or a representative of E.A.A. be present at the committee's October 5, 1987 meeting to clarify or answer any questions that the committee may have at its meeting.

If you have any questions concerning this matter, please contact me.

Sincerely,


Leonard Leverence
Principal Planner

LL/hc

pc: Carol Owens, Chairman - Planning & Zoning Committee
Gerald Engeldinger, Corporation Counsel



Winnebago County

PLANNING AND ZONING DEPARTMENT

David E. Schmidt, *Director*
Leonard Leverence, *Principle Planner* • James Mabry, *Zoning Administrator*

September 15, 1987

Mr. Robert Sayler
Sayler Survey Inc.
139A W. Main Street
Box 252
Winneconne, WI 54986

RE: EAA - Pioneer Cemetery Plat, City of Oshkosh

Dear Mr. Sayler:

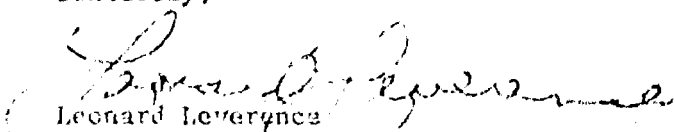
The purpose of this letter is to inform you that I am in receipt of your August 27, 1987 correspondence concerning the County's review and approval procedures for the above referenced.

Under authority of Wisconsin State Statute 157.07 Platting, Winnebago County Board approval is required prior to recording the above referenced plat with the County Register of Deeds. In order to proceed Winnebago County Board review, a \$50.00 plat application fee will be required. Upon receipt of this fee the Winnebago County Planning and Zoning Committee will review the plat at it's September 21, 1987 meeting and forward it for final County Board action on September 22, 1987.

It's advised that you contact both the City of Oshkosh and Town of Algoma to ascertain what review and approval procedures that may be required within their jurisdiction.

If you have any other questions concerning the County's approval, please feel free to contact me.

Sincerely,


Leonard Leverence
Principal Planner

LL/hc

Enclosure: Application Form

cc: Jeanette Diakoff, Chairman - Town of Algoma
Bruce Roskum, Principal Planner - City of Oshkosh

WINNEBAGO COUNTY
COUNTY PLANNING OFFICE
Wisconsin

No 7614

Oshkosh, WI 54901

Sept. 18 1987

RECEIVED OF

Sayler Survey
Fifty and no. 100

\$ 50.00

DOLLARS

FOR

Preliminary Plat EAA Cemetery Assoc.

City of Oshkosh

Shirley Nitke

AUTHORIZED SIGNATURE

IF PAYMENT IS MADE BY CHECK, THIS RECEIPT IS NOT VALID UNTIL CHECK HAS CLEARED ALL BANKS
STANDARD FORM SYSTEM - FORM 1750 H.C. MILLER COMPANY

Fee: ~~Preliminary Plat \$50.~~
~~Final Plat \$50.~~ ON

FEE FOR CEMETARY PLAT

Date Sept. 18, 1987

WINNEBAGO COUNTY

11/10/87

APPLICATION FOR SUBMITTAL OF A PRELIMINARY PLAT
FOR PIONEER CEMETERY
(Name of Plat)

Applicant's:

Name: EAA CEMETERY ASSOCIATION

Address: 3000 Poberezny Rd.

Oshkosh, WI 54901

Phone: 426-4800

Owner's:

Name: EAA CEMETERY ASSOCIATION

Address: 3000 Poberezny Rd.

Oshkosh, WI 54901

Phone: 426-4800

Engineer's or Consultant's:

SAYLER SURVEY, INC.

Name: ROBERT H. SAYLER

Address: 139A W. Main St.

Winneconne, WI 54986

Phone: 582-4234

SE 1/4, SW 1/4, Section 34, T 18, R 16

Township of City of Oshkosh

Tax Parcel # _____

Area in acres: 0.0293 ac.

Existing Zoning of Site: P-1

Proposed Zoning of Site: P-1

Number of Lots to be Developed: 16

Proposed Use: Cemetery

Type of Sewer: None required

County Use Only

Floodplain/Shoreland: _____

Surface Water Drainageway: _____

Wetland: _____

Planning & Zoning Department Comments: _____

of Preliminary Consultation: _____

of Application: _____

9/15/87

STAFF ERM.

PIONEER CEMETARY PLOT

WJ STAFFS 157.07

REQUIRES COUNTY BOARD RESOLUTION
OF APPROVAL PRIOR TO RECORDING w/ REG. OF DEEDS.

157.07 REVIEW CHECK LIST

- O.K. — MINIMUM 15 FEET (2.47 $\frac{1}{2}$ FT) TO
ANY DWELLING
- O.K. — CORRECT LEGAL DESCRIPTION AND LOCATION
- FINAL PLAN MUST BE MUSLIM
BACKED w/ 1 $\frac{1}{2}$ " MARGIN ON
LEFT SIDE OF LENGTH for Binding
purposes.

municipal clerk and to municipality, the amount the ensuing year, the as therefor, the amount equitable amount that contribute; whereupon each such municipality therefor and pay the

3, 497.
just to the owners under (4).
entitled to vote in cemetery
tra. 133.

nership. (1) When a ndons or fails to man- try for a period of 5 or reorganized in the ty wherein the cem- uth the control of the e and care for it, and rust funds connected han by a will.

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us association in- ving a cemetery in

or near a city having, by the last United States census, a population of over 100,000 may acquire by gift or purchase up to 30 acres of adjoining lands for cemetery purposes, and may pay for it wholly or partly from the lot sales.

(3) When it is necessary to enlarge a cemetery owned by a cemetery or religious association, and adjoining lands cannot be acquired or can be acquired only at an exorbitant price, application may be made in writing to the circuit judge by 12 or more resident freeholders of the municipality in which the cemetery is located describing the land and setting forth the facts and the price asked, whereupon the judge shall appoint 3 resident freeholders of the county, but not of such municipality, to appraise the damages of each owner, not to exceed the price asked, but, except in cities or incorporated villages, no lands shall be taken within 20 rods of a residence owned by the occupant without his written consent. The appraisers shall hear all parties upon 10 days' notice and file report in writing with the judge within 10 days after determination. Upon payment into court of the amount appraised, the lands shall be taken. Either party may appeal as provided in s. 32.06 (10). The commissioners shall be paid by the party seeking to take the land \$3 for each day actually employed and 5 cents for each mile necessarily traveled.

History: 1977 c. 449 s. 497.

✓ **157.06 Location of cemeteries.** (1) No cemetery may be used for burials except:

(a) Any cemetery in use on April 4, 1864; or
(b) Any cemetery organized and operated by:

1. Any municipality;
2. Any church;
- ✓ 3. Any fraternal or benevolent society;
4. Any incorporated college of a religious order;

5. Any cemetery association created under s. 157.03; or

6. A corporation organized under ch. 120 or 181 operating a cemetery on April 30, 1980.

(2) Except as provided in sub. (3), no cemetery may be established:

(a) Within a recorded plat or recorded addition to a plat of any city or village, if the cemetery is within one mile of a building in the plat;

✓ (b) Outside a recorded plat or recorded addition to a plat of any city or village if the cemetery is within 200 rods of an inhabited dwelling that is located within a recorded plat or addition, unless the city or village consents;

✓ (c) Within 15 rods of any habitable dwelling, publicly owned building or school, unless the cemetery is establishing an extension on prop-

erty it has owned continually since June 18, 1929; or

(d) Within 200 rods of any of the following state facilities, without the consent of the state:

1. Any institution for the deaf or the blind;
2. Any mental health institute, as defined in s. 51.01;
3. The Ethan Allen school;
4. Any center for the developmentally disabled; or
5. Any state reformatory.

(3) (a) Any cemetery in a village may enlarge with the consent of the village board and of the owners of each building within 15 rods of the addition.

(b) Any cemetery in a 3rd or 4th class city may enlarge with the consent of the common council.

(c) Any incorporated college of a religious order in a 4th class city may establish a private cemetery within the city on land the college owns or inter members of the religious order, if the common council consents and if each person owning a private building within 50 rods of the proposed cemetery consents.

(d) Any cemetery established before April 30, 1887, in an incorporated village and located within 100 feet of the village limits may extend to the village limits with the consent of the village board.

(e) Any cemetery established before April 30, 1887, may expand as provided in s. 157.05.

(4) If any cemetery located on property not subject to condemnation under ch. 32 is abandoned, the circuit court for the county in which the cemetery is located may authorize the removal of bodies from the cemetery to another cemetery upon the petition of 6 or more residents of the municipality in which the cemetery is located. Prior to authorizing the removal, the court shall publish a notice to all interested parties as provided in s. 879.05 (4). The court may not authorize the removal unless suitable arrangements have been made to reinter the bodies.

(5) Any violation of this section is a public nuisance.

History: 1975 c. 39, 106; 1975 c. 189 s. 99 (2); 1975 c. 200, 422, 430; 1977 c. 83; 1977 c. 449 s. 497; 1979 c. 221; 1981 c. 10.

The restrictions on the location of cemeteries do not apply to the enlargement of cemeteries existing prior to 1933. The 2nd set of requirements under (1) (a) through (e) (1969 stats.) do apply to the extension of existing cemeteries. *Highland Memorial Park, Inc. v. New Berlin*, 61 W (2d) 363, 227 NW (2d) 72.

157.07 Platting. The board of trustees shall cause to be surveyed and platted such portions of the lands as may from time to time be required for burial, into lots, drives and walks, and record map thereof in the office of the register of deeds.

No such plat or map shall be recorded unless laid out and platted to the satisfaction of the county board of such county, and the town board of the town in which such land is situated, or, if such land is situated within a city of the first class, then only by the common council of such city. The plat shall show the exact location of the tract being subdivided with reference to a corner or corners established in the United States public land survey by bearings and distances, and shall show a small scale drawing of the section or government subdivision of the section in which the cemetery plat is situated with the cemetery plat indicated thereon. The plat shall be made on one or more sheets of durable white paper or pasted on muslin that they cannot be detached therefrom. To facilitate the binding of such sheets into volumes, as provided by s. 236.25, such sheets shall be of uniform width of 22 inches and length of 30 inches. When more than one sheet is used for any one plat, they shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat, and its relation to the other sheets. Such sheets may be provided by the county through the register of deeds on such terms as the county board shall determine. The surveyor shall leave a binding margin of $1\frac{1}{2}$ inches on the left side of the 30-inch length and a one-inch margin on all other sides. The board of trustees shall cause the same to be recorded within 30 days of the date of such approval, together with the evidence of the town and county board's or common council's approval, which shall be a copy of the resolution adopted by such county board and by such town board, or by such common council, certified by the county clerk and the town clerk, respectively, or city clerk, and affixed to such map or plat. For failure to do so, the plat shall be void and of no effect and each trustee of an association shall forfeit \$25 to the county or city.

157.08 Conveyances. (1) After the map is so recorded, the board may sell and convey platted lots, expressly restricting the use to burials, and upon such other terms, conditions, and restrictions as the board directs. Conveyances shall be signed by the chief officer of the board, and the secretary or clerk, and before delivering the secretary or clerk shall enter in a book kept for that purpose, the date and consideration and the name and residence of the grantee. The conveyances may be recorded with the register of deeds.

(2) The trustees of a cemetery association may sell and convey for other than burial purposes any portion of its cemetery in which there shall have been no lots sold or conveyed and no burials made. A majority of the trustees shall

file with the circuit court their verified petition describing the portion and setting forth the facts and reasons for conveyance. The court shall fix a time for hearing and direct publication of a class 3 notice, under ch. 985, of the hearing. If the court find that the proposed sale is for the best interest of the association and that the rights of none to whom lots have been conveyed will be injured it shall enter an order reciting the jurisdictional facts and its finding and authorizing the conveyance. The order shall be effective when recorded by the register of deeds.

(3) The board may sell personal property at discretion.

(4) The board may vacate or replat any portion of its cemetery upon the filing of a verified petition by a majority of the trustees with the circuit court describing the portion and setting forth the facts and reasons therefor. The court shall fix a time for hearing and direct publication of a class 3 notice, under ch. 985, and the court shall order a copy of the notice to be mailed to at least one interested person, as to each separate parcel involved, whose post-office address is known or can be ascertained with reasonable diligence, at least 20 days before such hearing. If the court finds that the proposed vacating or replatting is for the best interest of the association and that the rights of none to whom lots have been conveyed will be injured, it shall enter an order reciting the jurisdictional facts and its findings and authorizing the vacating or replatting of the lands of the cemetery. The order shall be effective when recorded by the register of deeds.

History: 1977 c. 449 s. 497.

157.09 Use of proceeds. The proceeds of sales shall be used only to apply on the purchase of the grounds, the care and improvement of the cemetery and avenues leading thereto, and operating expenses.

157.10 Alienation and use of lots. While any person is buried therein a lot shall be inalienable without the consent of a majority of the board and on the death of the owner shall descend to his heirs; but any one or more of such heirs may convey to any other heir his interest therein. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, or the husband, or wife of such person, or his or her relative, except by the consent of all persons having an interest in the lot.

157.11 Improvement and care. (1) FENCE; FUNERAL BUILDING. The board may enclose the grounds with a suitable fence, and may erect thereon a building for funeral services.

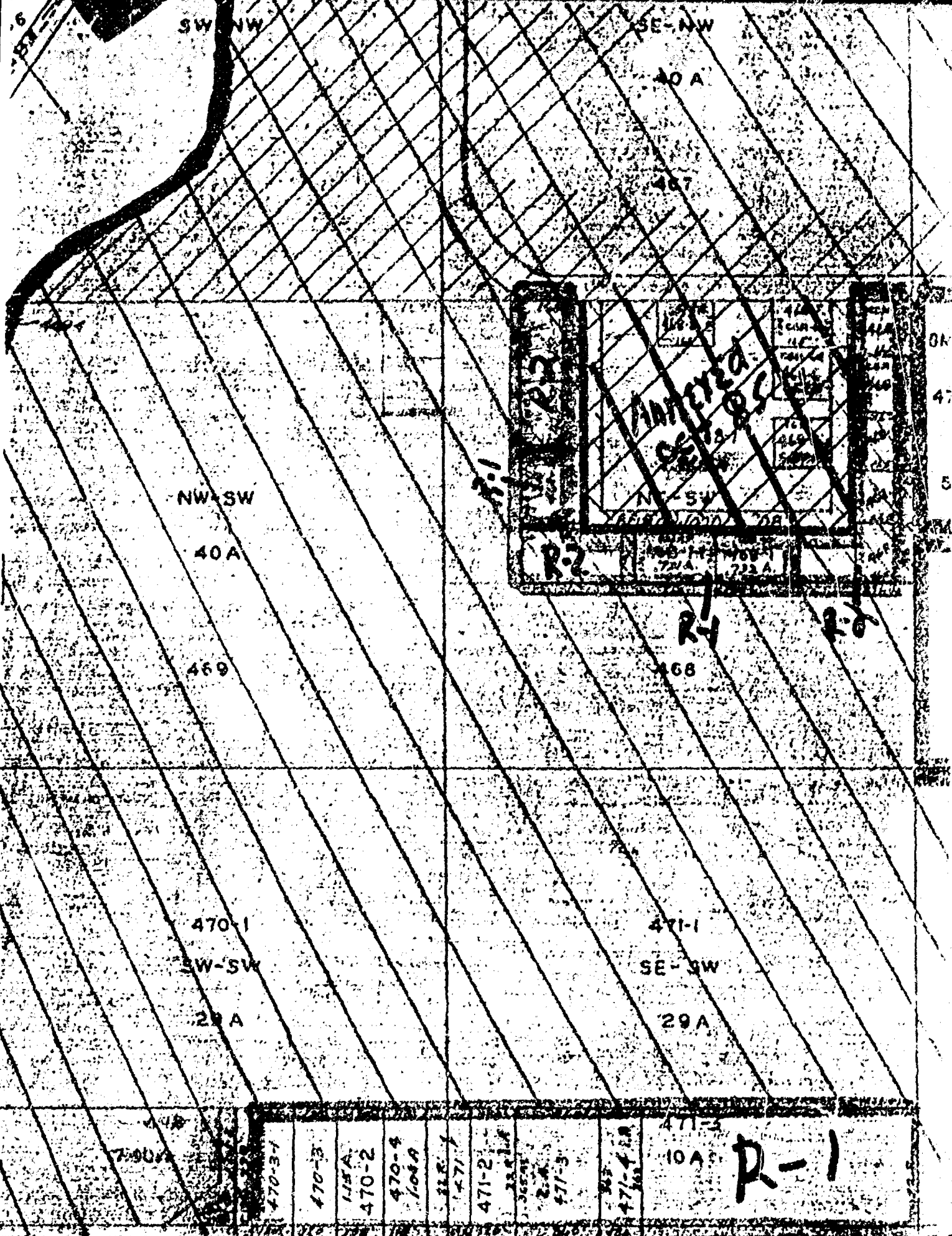
(2) **REGULATIONS.** Regulations for maintenance of the cemetery. No person shall erect any structures or monuments, nor erect in violation of the regulations. The board may require a person to do any work on the regulations with the regulations. The board may require a person to do any work on the regulations with the regulations. The board may require a person to do any work on the regulations with the regulations.

(3) **CONTRACTS.** The association may contract with any person who owns or are interested in the cemetery. The contract shall be in writing and shall be forever binding on the association and its successors. The association shall be responsible for the preservation of the grounds and the duty of the association shall be to keep for that purpose, a record of the association. The association shall be responsible for the preservation of the grounds and the duty of the association shall be to keep for that purpose, a record of the association.

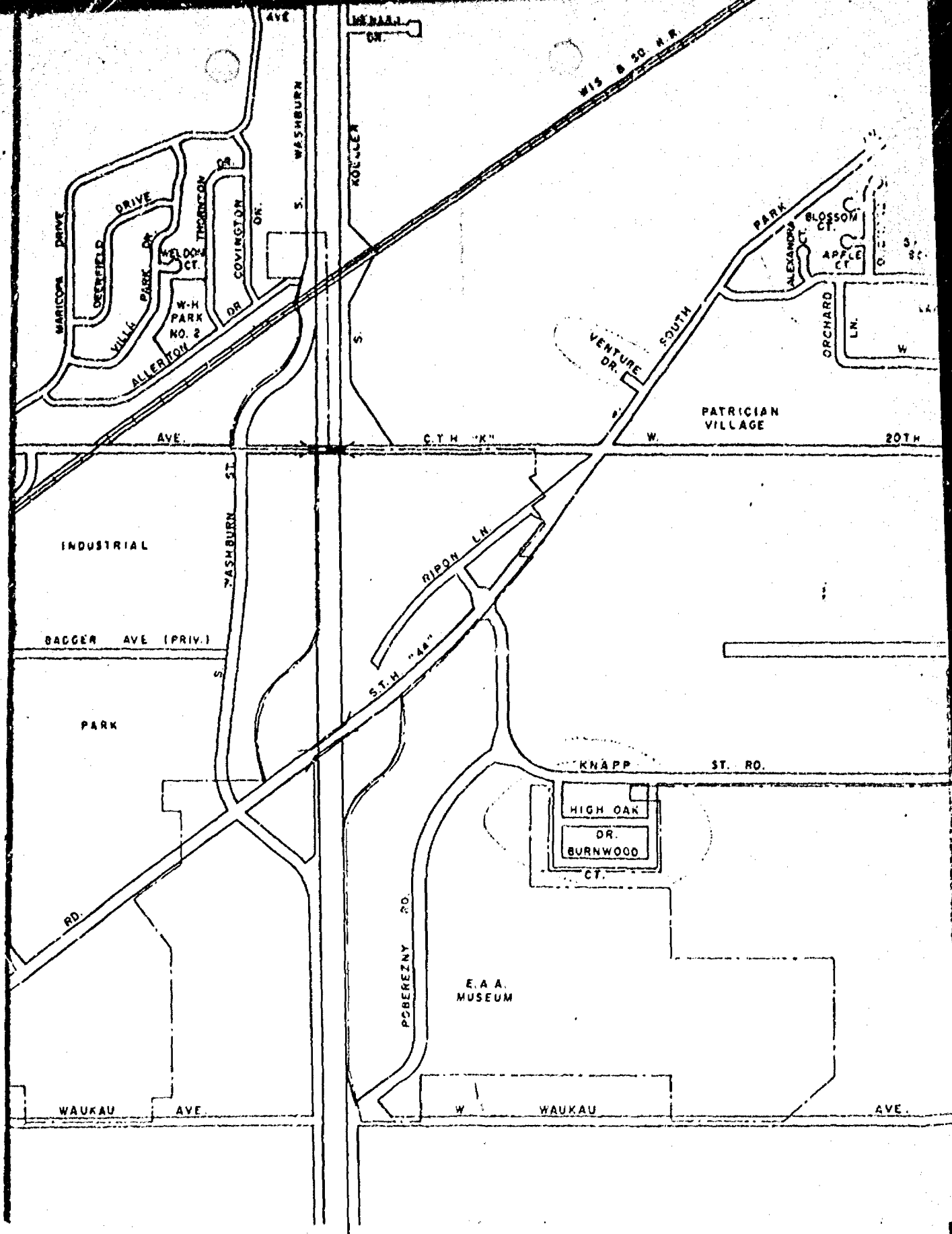
(4) **ASSOCIATIONS.** The association shall have relatives buried in the cemetery. The association shall have relatives buried in the cemetery. The association shall have relatives buried in the cemetery. The association shall have relatives buried in the cemetery. The association shall have relatives buried in the cemetery.

(5) **SUM REQUIRED.** The association shall have a sum necessary, annually, for the improvement of the cemetery and a sufficient income therefrom.

(7) **ASSESSMENTS.** (a) The association shall assess upon the lots in the cemetery a sum per square foot excluding cleaning and care of lots in the cemetery. The association shall assess upon the lots in the cemetery a sum per square foot excluding cleaning and care of lots in the cemetery. The association shall assess upon the lots in the cemetery a sum per square foot excluding cleaning and care of lots in the cemetery.



NEKII



Sayler
Survey, inc.

AUG 28 1987

August 27, 1987

Winnebago County
Leonard Levernece
Planning & Zoning
P.O. Box 2808
Oshkosh, WI 54903

Dear Len:

As per our phone conversation, enclosed are
3 copies of the proposed Pioneer Cemetery
for EAA.

Please advise as soon as possible to the
County's approval or objection.

Thank you,

Bob

Bob Sayler

land surveyors

LEONARD LEVERNECE, Surveyor, Box 2808, Oshkosh, WI 54903
414-458-0022-414-541

Wed., September 30, 1987

Oshkosh Northwestern 3

Corrections & clarifications

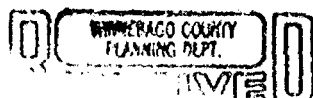
A typographical error was made in Friday's Northwestern, resulting in an incorrect statement.

Peter Chapman, vice president of administration for the Experimental Aircraft Association, said there are no plans to expand the size of the proposed EAA cemetery beyond 16 plots.

The Northwestern

OSHKOSH, WISCONSIN 54903

MARY L. MARTIN
Executive Editor



OCT 2 1987

Thursday, 10/1

Mr. Peter Chapman
Vice President-Administration
Experimental Aircraft Assn.
Wittman Field,
Oshkosh, WI. 54903-3086

Dear Peter:

I apologize for the error in the EAA article
that appeared on Sept. 25 in the Northwestern.

A typographical error in the copy changed your
'no' to 'not.'

Speaking for all of us here at the newspaper
I regret the error.

Sincerely,

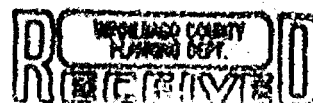
Handwritten signature of Mary L. Martin.

CC: Paul Poberezny
Len Leverence



EXPERIMENTAL AIRCRAFT ASSOCIATION

WITTMAN AIRFIELD, OSHKOSH, WI 54903-3000
PHONE: 414/426-4800



SEP 30 1987

September 28, 1987

Mr. Ian Leverence
WINNEBAGO COUNTY COURTHOUSE
415 Jackson
Oshkosh, Wisconsin 54901

Dear Mr. Leverence:

I wish to clarify that EAA has no plans to expand the size of our proposed cemetery, currently in committee for consideration. Sixteen lots are proposed and the EAA Cemetery Association goes on record that there is no expansion planned.

Please convey this message to those board and other members who may have read the article appearing in Friday's (9/25/87) Northwestern. I was misquoted, and I am informing their management by copying this letter to their Ms. Mary Martin.

Thank you.

Respectfully,

EXPERIMENTAL AIRCRAFT ASSOCIATION

Peter J. Chapman
Vice President - Administration
Executive Director, Convention & Events

1

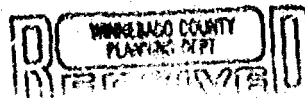
cc Mary Martin, Oshkosh Northwestern
Paul Pohorezny

EAA® ...the sport aviation association



**EXPERIMENTAL
AIRCRAFT
ASSOCIATION**

WITTMAN AIRFIELD, OSHKOSH, WI 54903-3088
PHONE: 414/426-4800



OCT 13 1987

October 12, 1987

Mr. Len Leverage
Winnebago County Courthouse
Planning Department
P.O. Box 2808
Oshkosh, Wisconsin 54903

RE: EAA CEMETERY ASSOCIATION
CERTIFICATE REGISTRATION

Dear Len:

I just wanted to inform you that the \$25.00 certificate fee is "in the mail", as well as to ask that you arrange to have a couple of signed certificates be copied, for our files. Of course, we'll pay the costs for this reproduction.

Thanks for all your help in walking this project through. For the record, I tell all that your department is very public oriented and offers help for all such projects.

Regards,

EXPERIMENTAL AIRCRAFT ASSOCIATION

Peter J. Chapin
Vice President - Administration

STATE OF WISCONSIN)

COUNTY OF WINNEBAGO) SS

CITY OF OSHKOSH)

I, Donna C. Serwas, Clerk for the City of Oshkosh, Winnebago County, Wisconsin, do hereby certify that the annexed resolution is a true and correct copy of the original on file in my office, adopted by the Common Council of the City of Oshkosh, Wisconsin, at a regular meeting held on December 3, 19 87.

Witness my hand and the Corporation seal of the City of Oshkosh, Wisconsin, this 4th day of December, 19 87.

Donna C. Serwas
City Clerk of the City of Oshkosh
Winnebago County, Wisconsin

DECEMBER 3 1987

#364

RESOLUTION

(APPROVED _____ LOST _____ LAID OVER _____ WITHDRAWN _____)

PURPOSE: APPROVE CEMETERY PLAT; GRANT VARIANCE

INITIATED BY: EXPERIMENTAL AIRCRAFT ASSOCIATION

WHEREAS, on September 17, 1987 the City of Oshkosh Common Council approved the cemetery plat known as Pioneer Cemetery, containing 16 lots, with the condition that all requirements of Chapter 157, Subchapter II Cemeteries, of the Wis. Stats. be met, and granted a variance for distance requirements from the nearest dwelling; and

WHEREAS, EAA has submitted a revised cemetery plat which responds to the rejection of the original plat by Winnebago County; and

WHEREAS, the revised cemetery plat conforms with all State requirements.

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oshkosh that the revised cemetery plat known as Pioneer Cemetery, containing 2 lots, is hereby approved with the condition that all requirements of Chapter 157, Subchapter II Cemeteries, of the Wisconsin Statutes, be met.

BE IT FURTHER RESOLVED that a variance for distance requirements from the nearest dwelling is hereby granted, pursuant to Section 157.065(2)(b), Wisconsin Statutes.