



# BURIAL RIGHTS AND PROCEDURES FOR OWNERS AND HEIRS

## MOUND AND GRACELAND CEMETERIES

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The City of Racine owns and operates both Mound Cemetery and Graceland Cemetery.<sup>1</sup> Persons may purchase from the City a cemetery lot and a right to bury human remains there.<sup>2</sup> Ownership of a cemetery lot must be recorded by the City.<sup>3</sup>

A single owner of a cemetery lot can authorize burial only in his/her cemetery lot. If there exists multiple owners of a cemetery lot, then the owners can authorize by majority consent burial only in their cemetery lot.<sup>4</sup> Any person with an ownership interest in a cemetery lot may convey his/her interest to another such person, pending the City's approval.<sup>5</sup>

While any person is buried in a cemetery lot, such space is inalienable, unless the City deems otherwise.<sup>6</sup> Upon the death of the last owner of a cemetery lot, full ownership of the cemetery lot and the burial right thereto shall descend as follows:<sup>7</sup>

- To the owner's spouse or domestic partner.
- If none or deceased, ownership passes equally to the owner's children.
- If none or deceased, ownership passes equally to the owner's grandchildren.

If there is no living descendant of the last owner, then full ownership of the cemetery lot and the burial right thereto descends to the City.<sup>8</sup> However, if the cemetery lot is unoccupied, the City shall conduct a search for an owner or assignee (including an heir), and, if there is none, the City may obtain ownership of the cemetery lot by court order.<sup>9</sup>

If an owner of a cemetery lot dies with a will that contemplates the cemetery lot, a copy must be provided along with a disposition report or order from the probate court that affirms distribution of the cemetery lot in accordance with the will or that states how the cemetery lot is

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<sup>1</sup> Wis. Stat. § 157.065(1)(b)1.

<sup>2</sup> *Id.* § 157.08(1).

<sup>3</sup> *Id.* § 157.10(1).

<sup>4</sup> *Id.* § 157.10(5); *see also Ryan v. Schmit*, 1 Wis.2d 215, 83 N.W.2d 685 (1957) (stating that, in Wisconsin, ownership of cemetery lots is held by tenants in common, meaning that all heirs own equally the cemetery lot, and one heir cannot exclude the others).

<sup>5</sup> Wis. Stat. § 157.10(4).

<sup>6</sup> *Id.* § 157.10(2)(a).

<sup>7</sup> *Id.* § 157.10(2)(a).

<sup>8</sup> *Id.* § 157.10(2)(a)4.

<sup>9</sup> *Id.* § 157.10(3).

to be devised if different from the language of the will. It is incumbent upon the heirs to settle an owner's estate and provide the City with such proof.

If the owner of a cemetery lot dies without conveying his/her ownership interest in the cemetery lot to another and leaves his/her cemetery lot unoccupied, an heir may claim an ownership interest in such.<sup>10</sup> In the event such an heir desires to exercise the burial right associated with a cemetery lot, that heir must follow and complete the following procedure.

### **Procedure to Authorize a Burial by Heir**

1. Complete an Affidavit of Heirs, which shall list the names, addresses, ages, and relationships of any and all heirs to the deceased-owner for declaration and notification purposes.
2. The Affidavit of Heirs must be signed by at least one heir and notarized, and whereby the signatory assumes the responsibility of notifying the other heirs, if any, of their ownership interests.
3. A Release by Heir that authorizes the desired use and is signed and notarized must be obtained from each living heir declared in the Affidavit of Heirs.
4. An Affidavit of Heirs and any Release by Heir must be submitted to the City.
5. Only upon completion and submission of the above-listed signed and notarized documents to the City's satisfaction may the City authorize an heir to exercise his/her ownership interest.

Heirs may be required by the City to show their birth certificate along with the death certificate or obituary of the deceased-owner and/or previous heir(s) to establish succession. An accurate family tree may be useful when attempting to define the line of descent for cemetery lots that have been unoccupied for many years.

Despite this procedure, were the City presented with documentation (e.g. a will, codicil, divorce decree, or probate court order) that otherwise proves an ownership interest in the cemetery lot, the City shall adhere to such direction. Mere possession of a cemetery deed by a person not listed thereon is not by itself evidence of ownership.

Under no circumstances will the City resolve or attempt to resolve conflict among owners of and/or heirs to cemetery lots and burial rights. Additionally, the City cannot provide legal advice about these matters.

Further, any form provided by the City in relation to the conveyance of any cemetery lot and burial right thereto is meant only for organizational purposes. The City is not responsible for the accuracy of information provided by the heirs.

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<sup>10</sup> See generally Wis. Stat. § 157.115