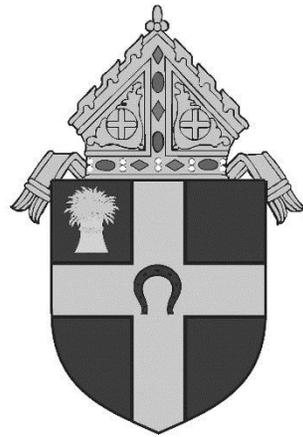


Handbook  
for  
Catholic Cemetery Operations



Diocese of Fargo

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Dear brothers and sisters in Christ,

“The resurrection of Jesus is the culminating truth of the Christian faith,” (*Ad resurgendum cum Christo* 2), and in hope of resurrection, we reverently commit the faithful departed to the earth. One of the corporal works of mercy is burying the dead, and our Catholic cemeteries serve as a sacred resting place for those who have passed before us. This handbook is a resource to those persons who are responsible for and assist with Catholic cemeteries in the Diocese of Fargo. May we approach the mystery of death with resurrection faith, and may we help others in their time of need with dignity and respect, as we would the Lord Jesus.

Sincerely yours in Christ,

✠ Most Rev. John T. Folda, D.D.  
Bishop of Fargo  
*“The Word was made flesh” - John 1:14*

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Bishop’s Delegate for Cemeteries

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**I. Excerpts from Liber Synodalis Fargensis II © 1952 [Diocese of Fargo Synodal Statutes]**

**Cemetery a Sacred Place**

**740.** To a Catholic, a cemetery is a sacred place. Next to the church, no spot on earth should be so hallowed and dear to a Parish. Ever since the Sacred Body of our Crucified Savior was reverently laid in the tomb, there to await the hour of Its glorious resurrection, the Church has been most solicitous to cast about the burial of those who hope to rise with Christ an atmosphere of deep Christian faith and profound reverence. In the cemetery are buried the mortal remains of the faithful departed, consecrated as temples of the Holy Ghost with the holy oils of the Sacraments. The cemetery speaks to a Christian of faith and hope in the resurrection of the body. Sensing the deep meaning of burial grounds, the faithful have called their cemetery significantly, "God's Acre." From His sacred soil shall come forth unto life eternal the bodies of the faithful who have departed this life in the Lord. Every Parish and Mission should be proud to possess a cemetery.

**General Regulations**

**741.** These rules shall serve as a guide in securing substantial uniformity in the administration of cemeteries in the Diocese. Efforts shall be made to put them into effect in all cemeteries. It is understood, of course, that in view of local circumstances adjustments will have to be made or other rules added to meet special situations.

**742.** *[Updated for governance changes effective 1/1/2007].* Unless otherwise provided for as separate entities, as is the case in Fargo and Grand Forks, all Catholic cemeteries in the Diocese are owned and are part of the parish as determined by parish territorial boundaries and are the responsibility of the pastor. Cemeteries are similar to other parish activities, accountable through the Parish Finance Council to the pastor under canon law, and accountable to the parish corporate board under civil law.

**753.** Cemetery authorities shall have the right to correct any errors that may be made in making interments or disinterments, or in the description, transfer, or sale of burial rights, either by canceling such sale, or by selling other burial rights of equal value, or by refunding the amount of money paid on account of such purchase.

Cemetery authorities shall have the right to adopt additional regulations, or to amend, alter, or repeal such regulations at any time and without notice.

**Care of Cemetery**

**754.** Since the cemetery is a holy place it should be preserved in good condition, be well enclosed, and be free from unsightly objects. The paths should be clean, the headstones erect, and the grounds neatly sodded. Visitors to the cemetery shall use avenues, roads, and walks only; they are not to walk across lots or graves.

**755.** Perpetual care shall be construed to mean general care, and shall comprise the cutting of grass at reasonable intervals, the raking and cleaning of grounds, the pruning of shrubs and trees, and the general preservation of grounds, roads, avenues, and fences. General care shall in no way mean the care of monuments, markers, shrubs, or plants placed on the lot by the holder of burial rights; nor shall it include the replacement of soil on individual lots, nor the reseeding, nor the sprinkling of grass.

**756.** Special care shall be construed to mean the care of flower beds, shrubbery, or other plantings on the lot or grave.

If special care is desired, arrangements therefor shall be made in writing by the holder of the burial right with the competent cemetery authorities.

**757.** Should a holder of burial rights refuse to pay the required care charges, the competent cemetery authorities shall have the right to declare the burial rights abandoned, and to remove all improvements if for five years the care charges remain unpaid or the lot or grave uncared for. The unused portion of the lot shall be sold, and the proceeds applied to the payment of the indebtedness; and the balance, if any, shall be put into the care fund for the care of the lot not sold for charges.

### **Burial Rights**

**763.** *[Updated for governance changes effective 1/1/2007].* Unless otherwise provided for as separate entities, as is the case in Fargo and Grand Forks, the title to all cemetery lands shall be vested in the parish corporation. Burial rights only shall be subject to purchase.

**764.** Right of burial is obtained by the purchase of a certificate which shall entitle the purchaser to the perpetual use of the lot for the purpose of burial only, subject to the rules and regulations of the cemetery, the discipline of the Roman Catholic Church, and the Statutes of the Diocese of Fargo in respect to funerals and burials.

**765.** No burial rights shall be sold in common or joint ownership; title shall be vested in one name only. The holder of burial rights shall notify competent cemetery authorities of any change of address; notice sent to the last address on file in the office of the cemetery shall be held to be sufficient and proper legal identification

**766.** The right to interment in a lot shall be granted only to holders of burial rights. The right shall be reserved to refuse interment of anyone who, at the time of death, was not the holder of burial rights, nor a relative of the holder by blood or marriage.

**767.** Holders of burial rights shall not subdivide their lots; sell, convey, transfer, or assign to any other person a lot or a part thereof without the consent of the competent cemetery authorities.

Upon the death of the owner of a certificate the right to such certificate passes to the heirs or next of kin.

## **Care Funds**

**768.** Monies received through the sale of burial rights shall be used for cemetery purposes only.

Monies received for perpetual, permanent, or general care shall be set aside at interest; the income thus received shall be used for the care of lots and graves, without including, however, special care. At least 50 percent of monies thus received shall be set aside at interest; the balance shall be used for the general improvement of cemetery grounds and the installation of necessary facilities for their proper care.

**769.** Monies received for special care shall be similarly invested, unless an annual charge for such care is made. If the annual charge is not paid, the burial rights shall be declared abandoned as stated above. [*See Statute 757.*]

**770.** Surplus revenues resulting from the operation of the cemetery and not subject to the provisions on investment shall be remitted to the Ordinary of the Diocese and shall be used for the support of works of education and charity in the Diocese. Any alienation of cemetery funds to purposes other than that for which they were received shall be subject to the penalties stated by Canon Law in case of alienation of ecclesiastical property.

## **II. Excerpts from Code of Canon Law, Latin-English Edition © 1983**

### **Ecclesiastical Funerals**

**CAN. 1176** §1. Deceased members of the Christian faithful must be given ecclesiastical funerals according to the norm of law.

§2. Ecclesiastical funerals, by which the Church seeks spiritual support for the deceased, honors their bodies, and at the same time brings the solace of hope to the living, must be celebrated according to the norm of the liturgical laws.

§3. The Church earnestly recommends that the pious custom of burying the bodies of the deceased be observed; nevertheless, the Church does not prohibit cremation unless it was chosen for reasons contrary to Christian doctrine.

### **Cemeteries**

**CAN. 1240** §1. Where possible, the Church is to have its own cemeteries or at least areas in civil cemeteries that are designated for the deceased members of the faithful and properly blessed.

§2. If this cannot be achieved, however, then individual graves are to be properly blessed.

**CAN. 1241** §1. Parishes and religious institutes can have their own cemetery.

§2. Other juridic persons or families can also have a special cemetery or tomb, to be blessed according to the judgment of the local ordinary.

**CAN. 1242** Bodies are not to be buried in churches unless it is a question of burying in their own church the Roman Pontiff, cardinals, or diocesan bishops, including retired ones.

**CAN. 1243** Particular law is to establish appropriate norms about the discipline to be observed in cemeteries, especially with regard to protecting and fostering their sacred character.

**III. Excerpts from North Dakota Century Code [*Emphasis has been added using bold and italics*]**

*Note: The excerpts that follow are for quick reference purposes only. When needed, the entire portions of the Century Code should be used.*

**57-02-08. Property exempt from taxation.**

All property described in this section to the extent herein limited shall be exempt from taxation:

***5. All lands used exclusively for burying grounds or cemeteries.***

**57-02-14.1. Tax exemption certificate for real property to be filed - Exceptions.**

Any person, corporations, limited liability companies, associations, or organizations owning real property located within a municipality which claims that such real property is exempt from assessment and taxation shall file with the assessor and with the county auditor a certificate setting out all facts on which the claim for exemption is based, including the names of owners, the date such property was acquired, the legal description, the use to which the property was put during the twelve months preceding the assessment date, and any other information which the assessor may request. ***This certificate shall be filed with the assessor and the county auditor each year before the assessment date.*** If the certificate is not filed as provided herein, the assessor shall regard the property as nonexempt property and shall assess it as such.

**40-23-07. Determination of *special assessments* by commission - Political**

subdivisions not exempt.

Whenever the commission makes any special assessment, the commission shall determine the particular lots and parcels of land which, in the opinion of the commission, will be especially benefited by the construction of the work for which the assessment is to be made. The commission shall determine the amount in which each of the lots and parcels of land will be especially benefited by the construction of the work for which such special assessment is to be made, and shall assess against each of such lots and parcels of land such sum, not exceeding the benefits, as is necessary to pay its just proportion of the total cost of such work, or of the part thereof which is to be paid by special assessment, including all expenses incurred in making such assessment and publishing necessary notices with reference thereto and the per diem of the commission. However, as an alternative to the procedure provided in this section, the special assessment commission may, in its discretion, determine and allocate the cost of special assessments in accordance with the method provided for in chapter 40-23.1. ***Property owned by a nonprofit entity and used exclusively as a cemetery is exempt from collection of special assessments for benefits conferred under this title and the city in which such property is located shall provide for the payment of special assessments, installments, and interest against such property by the levy of taxes according to law or by payment from other funds available to the city which are derived from sources other than special assessments.*** Benefited property

belonging to counties, cities, school districts, park districts, and townships is not exempt from such assessment, and such public corporations whose property is so assessed shall provide for the payment of such assessments, installments thereof and interest thereon, by the levy of taxes according to law. Nothing in this section may be deemed to amend other provisions of law with reference to the levy of assessments on property sold for delinquent taxes.

## CHAPTER 23-06 CARE AND CUSTODY OF DEAD

### 23-06-21. Regulation of cemeteries.

All persons, corporations, municipalities, associations, and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies **shall: 1. Provide for a sexton or secretary.**

#### 23-06-21.1. Title to burial plots reverts after sixty years - Procedure - Abandonment.

Any entity owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies may use the procedures in this section **to reinvest itself with the title to a portion of a cemetery which was conveyed by deed to a person but which has not been used for purposes of burial for more than sixty years.**

#### 23-06-22. Sexton - Term of office, records, duties.

The sexton or secretary appointed by the person, corporation, municipality, association, or organization conducting a cemetery for the burial of dead human bodies shall hold office until a successor is appointed and qualified. The sexton or secretary shall transfer all records to the successor. **The sexton or secretary shall enforce the laws of the state and the rules and regulations of the state department of health with respect to the burial of dead human bodies within the cemetery under the sexton's or secretary's charge.**

#### 23-06-30. Abandoned cemeteries to be maintained by counties.

The board of county commissioners of each county may provide for the identification, cataloguing, recording, and **shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county using revenues derived from its general fund** levy authority. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. The board of county commissioners of each county shall provide for the registration, with the state department of health, of each abandoned cemetery within such county unless such cemetery has been previously registered. Such registration must take place within one year of notification being made to the board, by any interested party of the existence of such abandoned cemetery.

NOTE: Definition of abandoned by The Free Dictionary

*The surrender, relinquishment, disclaimer, or cession of property or of rights. Voluntary relinquishment of all right, title, claim, and possession, with the intention of not reclaiming it.*

*The giving up of a thing absolutely, without reference to any particular person or purpose. For example, vacating property with the intention of not returning, so that it may be appropriated by the next comer or finder. The voluntary relinquishment of possession of a thing by its owner with the intention of terminating ownership, but without vesting it in any other person. The relinquishing of all title, possession, or claim, or a virtual, intentional throwing away of property.*

*Term includes both the intention to abandon and the external act by which the intention is carried into effect. In determining whether someone has abandoned property or rights, the intention is the first and paramount object of inquiry, for there can be no abandonment without the intention to abandon.*

*Abandonment differs from surrender in that surrender requires an agreement, and also from Forfeiture, in that forfeiture may be against the intention of the party alleged to have forfeited.*

#### Elements of Abandonment

Two things must occur for property to be abandoned: (1) an act by the owner that clearly shows that he or she has given up rights to the property; and (2) an intention that demonstrates that the owner has knowingly relinquished control over it.

Some clear action must be taken to indicate that the owner no longer wants his or her property. Any act is sufficient as long as the property is left free and open to anyone who comes along to claim it. Inaction—that is, failure to do something with the property or nonuse of it—is not enough to demonstrate that the owner has relinquished rights to the property, even if such nonuse has gone on for a number of years. A farmer's failure to cultivate his or her land or a quarry owner's failure to take stone from his or her quarry, for example, does not mean that either person has abandoned interest in the property.

A person's intention to abandon his or her property may be established by express language to that effect or it may be implied from the circumstances surrounding the owner's treatment of the property, such as leaving it unguarded in a place easily accessible to the public. The passage of time, although not an element of abandonment, may illustrate a person's intention to abandon his or her property.

## CHAPTER 23-21.1 CEMETERY ORGANIZATIONS

### 23-21.1-01. Applicability of statute.

Any person, firm, corporation, or other form of organization organized or engaging in the business under the laws of the state of North Dakota, or wheresoever organized and engaging in the business in the state of North Dakota, of the ownership, maintenance, or operation of a cemetery, providing lots or other interment space therein for the remains of human bodies, ***except such organizations which are churches or religious*** or established fraternal societies, charitable associations, or incorporated cities or other political subdivisions of the state of North Dakota owning, maintaining, or operating cemeteries, is subject to the provisions of this chapter.

Note: Although the above clearly exempts Catholic cemeteries from this Chapter [and only this chapter] of the North Dakota Century Code, the following references may provide benchmarks or guidance on specific issues.

### 23-21.1-03. Creation of perpetual care fund.

1. Any organization subject to this chapter which is organized or commences business in this state and desires to operate as a perpetual care cemetery, before selling or disposing of any interment space or lots, ***shall establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash . . .***

23-21.1-06. Nonperpetual care cemetery's qualification as perpetual care cemetery. Any nonperpetual care cemetery after the effective date of this chapter may become a perpetual care cemetery by placing in the perpetual care trust fund ***twenty-five thousand dollars or five thousand dollars per acre [.40 hectare] of all property sold, whichever is the greater***, and shall comply with the requirements for a perpetual care cemetery as provided in section 23-21.1-03.

### 23-21.1-06.1. Cemetery lot - Neglect - Resale.

Any cemetery lot, transferred to an individual owner by a cemetery organization governed by the provisions of this chapter, ***in which no interment has been made and which remains uncared for or neglected by the owner for a period of thirty or more years may, except when the owner is entitled to perpetual care of the lot, be resold by the cemetery organization*** after the publication of notice of its intent to resell the lot. The notice must be published for three successive weeks in the official newspaper of the county in which the lot is located.

#### IV. Cemetery Operating Procedures

Effective January 1, 2007, cemeteries are part of the parish as determined by parish territorial boundaries and are the responsibility of the pastor. Cemeteries are similar to other parish activities, accountable through the Parish Finance Council to the pastor under canon law, and accountable to the parish corporate board under civil law.

The Parish Finance Council Charter provides for who represents the Parish Finance Council and Corporate Board.

Prior to January 1, 2007, cemeteries were an extension of the Diocese of Fargo corporation and were managed by the parishes as agents for the Diocese of Fargo. The former setup necessitated the appointment of separate officers by the Bishop for the many cemetery associations that existed. These cemetery officers, known as Secretary and Treasurer, had authority to conduct business with the oversight of the pastor, in accord with applicable provisions of the Code of Canon Law of the Roman Catholic Church and the rules and regulations of the Diocese of Fargo promulgated from time to time by the Diocese of Fargo. As of December 31, 2006, this authority became invalid.

As part of parish life, cemetery operations are subject to the rules and regulations of the Diocese of Fargo, and especially the Parish Finance Council Charter. Pastors may choose the method and manner of operation that works best under the local situation, provided it is within the context of the laws set forth.

Since the Parish Corporate Board has the authority, if a separate operating (checking) account is maintained for cemetery purposes, the account and individuals who are to be authorized signers on the account must be approved annually at a Parish Corporate Board meeting. This should be done at the same time that parish accounts and authorized signers are approved. The pastor as Vice President, who is the canonical representative of the parish (Canon 532), and the Parish Corporate Treasurer, who is a lay director, must always be authorized, in addition to other approved individuals.

**If a separate cemetery operating account is maintained, the financial institution (i.e. bank, credit union) needs to be notified of the proper way to setup and/or list the account. Keeping in mind the legal structure of the parish, and the fact that the cemetery is part of the parish, and not a separate legal entity itself, an account needs to include the parish name first, cemetery name second (as the title of the account), parish address, and parish tax identification number. The tax identification number is for the legal entity listed first – the parish. For example:**

St. Edward's Church of Drayton  
St. Edward's Cemetery [This is the title of the account]  
PO Box 215  
Drayton, ND 58225-0215

To properly address this issue, the financial institution will need to be notified and provided with the correct cemetery name and parish information, names of authorized signers, and parish tax

identification number. A cemetery association tax identification number previously utilized can no longer be used. A bank statement is not to be mailed to private homes or businesses. The principal place of business for the parish is the address that is to be used.

While other options may be utilized, following are some options for on-going cemetery operations and accountability:

#### Financial Matters:

1. [Preferred] The cemetery operates as a department or cost center of the parish, without a separate checking account. Income and expenses are recognized on the parish chart of accounts. Excess operating income is transferred to cemetery reserves and perpetual care monies are transferred to the cemetery perpetual care account(s) at regular intervals; or expenditures exceeding income are reimbursed from operating reserves at regular intervals. The financial aspects of cemetery operations are part of the usual parish reporting to the Parish Finance Council.
2. The cemetery operates as a department or cost center of the parish, with a separate checking account. Authorized signers are approved annually by the Parish Corporate Board. Income and expenses are processed through the cemetery operating account with regular written reports to the Parish Finance Council. The income and expenses are recognized and reported on the parish annual financial report to the Diocese of Fargo. Excess operating income or expenses in the separate operating account are transferred to or from cemetery reserves as needed. Perpetual care monies received are transferred to the perpetual care account(s) at regular intervals.

Summary: Operating activity may flow through either the parish general account or a separate cemetery operating account. Operating reserves and perpetual care funds are to be maintained according to Diocesan Depository Policy, utilizing either the *Catholic Church Deposit & Loan Fund of Eastern North Dakota* or the *Catholic Development Foundation*. The Diocesan Finance Office is available to assist with determining the appropriate choice or combination.

#### Committee Structure:

- 1 [Preferred] A Parish Finance Council “Cemetery Committee” oversees cemetery operations. A Parish Finance Council member acts as the chairperson of the Cemetery Committee, with other parishioners who are not Parish Finance Council members invited to serve the Church through service to the parish cemetery. The Cemetery Committee chairperson reports on cemetery activity during Parish Finance Council meetings.
- 2 A Parish Finance Council member serves as a liaison to a separate “Cemetery Committee” of the parish. The liaison attends meetings, provides minutes for the meetings held, and reports on cemetery activity and operations during Parish Finance Council meetings.

- 3 A separate “Cemetery Committee” is formed in the parish. The chairperson of this committee is not a member of the Parish Finance Council. The Cemetery Committee takes care of cemetery matters and reports to the Parish Finance Council at regular intervals.

Summary: Regardless of the structure selected, the Parish Finance Council and Parish Corporate Board have the ultimate responsibility for cemetery operations. Cemetery Committee members cannot act contrary to the authority of canon law or civil law.

#### Multiple Cemeteries:

Through the years, many parishes have been closed or merged with other parishes. As a result, a parish may have more than one cemetery within its boundaries. The above should be adapted by the pastor and Parish Finance Council as appropriate to each situation. It may be appropriate to have a single Cemetery Committee to care for multiple cemeteries, a committee for each cemetery, or a combination thereof.

In all cases, we have a moral and legal obligation to honor the intent of donors and purchasers of burial rights and perpetual care. Money collected, received, donated, or bequeathed for a specific cemetery must be properly held, identified, and used for the particular cemetery. Reserves and perpetual care must be identified accordingly.

In order to continue to emphasize the restricted nature and use of cemetery assets, long standing Diocesan Statutes continue to apply:

*Statute 676 states: In accordance with the decree of the II Plenary Council of Baltimore, the assets and revenues of such cemeteries shall neither be held nor used for the benefit of the Parish. Whenever from such assets or revenues there remains a surplus over and above the sum needed and used for the maintenance and the ornamentation of cemetery grounds, such surplus shall be applied to such charitable and religious works as the Ordinary may direct.*

*Statute 770 states: Surplus revenues resulting from the operation of the cemetery and not subject to the provisions on investment shall be remitted to the Ordinary of the Diocese and shall be used for the support of works of education and charity in the Diocese. Any alienation of cemetery funds to purposes other than that for which they were received shall be subject to the penalties stated by Canon Law in case of alienation of ecclesiastical property.*

## V. Cemetery Fundraising

In order to meet the rising costs of general care and maintenance, parishes may want to consider ongoing fundraising efforts to build on or grow perpetual care or endowments for cemetery care. The Diocesan Development Office is available to assist, and has offered the following ideas:

- A. Consider including Cemetery endowment or general care envelopes in the offertory envelope package on a monthly, quarterly, semi-annual or annual interval. Memorial Day and All Saint's Day are two days that work well for this. If an annual or semi-annual collection, it will help if the pastor and/or a Cemetery Committee representative gives a brief pulpit talk on the need for funds to care for the cemetery.
- B. The Cemetery Committee undertakes a long-term focused approach:

### ***5 Simple steps to increase cemetery care funds in a short time***

1. A letter should be sent to everyone in the parish telling them that the Cemetery Committee is going to start building up or increasing the fund to take care of the graves, grass cutting, and other needs at the cemetery. In the letter a request should be made for any names and addresses of relatives or loved ones of people buried in the cemetery.
2. A walk through the cemetery and/or a review of burial records should take place, recording all of the names from the foot stones, markers and/or register pages. This will provide a basis for family searches for additional people to add to the mailing list.
3. A scan of the phone directories of North Dakota and Minnesota, and other states if known, will provide possible addresses to relatives and loved ones. Another (modern technology) approach is to use online searches such as [www.anywho.com](http://www.anywho.com) or [www.411.com](http://www.411.com) which allows a name to be entered with a state and/or city, to receive up-to-date address and telephone information.
4. Someone should be designated to watch the local papers and read the obituaries to see if a name and/or town of a relative or loved one is published as part of an obituary notice. This information can be cross-referenced with an online or telephone directory search to provide a proper address for mailing.
5. Every year on May 1<sup>st</sup> a card should be sent out to everyone that has been added to the list of relatives and loved ones (the mailing list) asking them for a contribution to the parish for the annual cemetery upkeep and/or for perpetual care. May 1<sup>st</sup> is the recommended mailing date as this seems to be the best time of year to receive a positive response, as people are thinking of Memorial Day and the need for the cemetery to look nice. An example of wording for the card: "A REMINDER, your contribution to the parish for 20\_\_ , in regard to the annual upkeep of the cemetery will be greatly appreciated." The parish cemetery name and address are then listed.]

## **VI. Instruction Ad resurgendum cum Christo regarding the burial of the deceased and the conservation of the ashes in the case of cremation**

1. To rise with Christ, we must die with Christ: we must “be away from the body and at home with the Lord”. With the Instruction *Piam et Constantem* of 5 July 1963, the then Holy Office established that “all necessary measures must be taken to preserve the practice of reverently burying the faithful departed”, adding however that cremation is not “opposed per se to the Christian religion” and that no longer should the sacraments and funeral rites be denied to those who have asked that they be cremated, under the condition that this choice has not been made through “a denial of Christian dogmas, the animosity of a secret society, or hatred of the Catholic religion and the Church”. Later this change in ecclesiastical discipline was incorporated into the Code of Canon Law (1983) and the Code of Canons of Oriental Churches (1990).

During the intervening years, the practice of cremation has notably increased in many countries, but simultaneously new ideas contrary to the Church’s faith have also become widespread. Having consulted the Congregation for Divine Worship and the Discipline of the Sacraments, the Pontifical Council for Legislative Texts and numerous Episcopal Conferences and Synods of Bishops of the Oriental Churches, the Congregation for the Doctrine of the Faith has deemed opportune the publication of a new Instruction, with the intention of underlining the doctrinal and pastoral reasons for the preference of the burial of the remains of the faithful and to set out norms pertaining to the conservation of ashes in the case of cremation.

2. The resurrection of Jesus is the culminating truth of the Christian faith, preached as an essential part of the Paschal Mystery from the very beginnings of Christianity: “For I handed on to you as of first importance what I also received: that Christ died for our sins in accordance with the scriptures; that he was buried; that he was raised on the third day in accordance with the scriptures; that he appeared to Cephas, then to the Twelve”.

Through his death and resurrection, Christ freed us from sin and gave us access to a new life, “so that as Christ was raised from the dead by the glory of the Father, we too might walk in newness of life”. Furthermore, the risen Christ is the principle and source of our future resurrection: “Christ has been raised from the dead, the first fruits of those who have fallen asleep [...] For as in Adam all die, so also in Christ shall all be made alive”.

It is true that Christ will raise us up on the last day; but it is also true that, in a certain way, we have already risen with Christ. In Baptism, actually, we are immersed in the death and resurrection of Christ and sacramentally assimilated to him: “You were buried with him in baptism, in which you were also raised with him through faith in the power of God, who raised him from the dead”. United with Christ by Baptism, we already truly participate in the life of the risen Christ.

Because of Christ, Christian death has a positive meaning. The Christian vision of death receives privileged expression in the liturgy of the Church: “Indeed for your faithful, Lord, life is changed not ended, and, when this earthly dwelling turns to dust, an eternal dwelling is made ready for them in heaven”. By death the soul is separated from the body, but in the resurrection God will give incorruptible life to our body, transformed by reunion with our soul. In our own day also, the Church is called to proclaim her faith in the resurrection: “The confidence of Christians is the resurrection of the dead; believing this we live”.

3. Following the most ancient Christian tradition, the Church insistently recommends that the bodies of the deceased be buried in cemeteries or other sacred places.

In memory of the death, burial and resurrection of the Lord, the mystery that illumines the Christian meaning of death, burial is above all the most fitting way to express faith and hope in the resurrection of the body.

The Church who, as Mother, has accompanied the Christian during his earthly pilgrimage, offers to the Father, in Christ, the child of her grace, and she commits to the earth, in hope, the seed of the body that will rise in glory.

By burying the bodies of the faithful, the Church confirms her faith in the resurrection of the body, and intends to show the great dignity of the human body as an integral part of the human person whose body forms part of their identity. She cannot, therefore, condone attitudes or permit rites that involve erroneous ideas about death, such as considering death as the definitive annihilation of the person, or the moment of fusion with Mother Nature or the universe, or as a stage in the cycle of regeneration, or as the definitive liberation from the “prison” of the body.

Furthermore, burial in a cemetery or another sacred place adequately corresponds to the piety and respect owed to the bodies of the faithful departed who through Baptism have become temples of the Holy Spirit and in which “as instruments and vessels the Spirit has carried out so many good works”.

Tobias, the just, was praised for the merits he acquired in the sight of God for having buried the dead, and the Church considers the burial of dead one of the corporal works of mercy.

Finally, the burial of the faithful departed in cemeteries or other sacred places encourages family members and the whole Christian community to pray for and remember the dead, while at the same time fostering the veneration of martyrs and saints.

Through the practice of burying the dead in cemeteries, in churches or their environs, Christian tradition has upheld the relationship between the living and the dead and has opposed any tendency to minimise, or relegate to the purely private sphere, the event of death and the meaning it has for Christians.

4. In circumstances when cremation is chosen because of sanitary, economic or social considerations, this choice must never violate the explicitly-stated or the reasonably inferable wishes of the deceased faithful. The Church raises no doctrinal objections to this practice, since cremation of the deceased’s body does not affect his or her soul, nor does it prevent God, in his omnipotence, from raising up the deceased body to new life. Thus cremation, in and of itself, objectively negates neither the Christian doctrine of the soul’s immortality nor that of the resurrection of the body.

The Church continues to prefer the practice of burying the bodies of the deceased, because this shows a greater esteem towards the deceased. Nevertheless, cremation is not prohibited, “unless it was chosen for reasons contrary to Christian doctrine”.

In the absence of motives contrary to Christian doctrine, the Church, after the celebration of the funeral rite, accompanies the choice of cremation, providing the relevant liturgical and pastoral directives, and taking particular care to avoid every form of scandal or the appearance of religious indifferentism.

5. When, for legitimate motives, cremation of the body has been chosen, the ashes of the faithful must be laid to rest in a sacred place, that is, in a cemetery or, in certain cases, in a church or an area, which has been set aside for this purpose, and so dedicated by the competent ecclesial authority.

From the earliest times, Christians have desired that the faithful departed become the objects of the Christian community’s prayers and remembrance. Their tombs have become places of prayer, remembrance and reflection. The faithful departed remain part of the Church who believes “in the communion of all the faithful of Christ, those who are pilgrims on earth, the dead who are being purified, and the blessed in heaven, all together forming one Church”.

The reservation of the ashes of the departed in a sacred place ensures that they are not excluded from the prayers and remembrance of their family or the Christian community. It prevents the faithful departed from being forgotten, or their remains from being shown a lack of respect, which eventuality is possible, most especially once the immediately subsequent generation has too passed away. Also it prevents any unfitting or superstitious practices.

6. For the reasons given above, the conservation of the ashes of the departed in a domestic residence is not permitted. Only in grave and exceptional cases dependent on cultural conditions of a localized nature, may the Ordinary, in agreement with the Episcopal Conference or the Synod of Bishops of the Oriental Churches, concede permission for the conservation of the ashes of the departed in a domestic residence. Nonetheless, the ashes may not be divided among various family members and due respect must be maintained regarding the circumstances of such a conservation.

7. In order that every appearance of pantheism, naturalism or nihilism be avoided, it is not permitted to scatter the ashes of the faithful departed in the air, on land, at sea or in some other way, nor may they be preserved in mementos, pieces of jewellery or other objects. These courses of action cannot be legitimised by an appeal to the sanitary, social, or economic motives that may have occasioned the choice of cremation.

8. When the deceased notoriously has requested cremation and the scattering of their ashes for reasons contrary to the Christian faith, a Christian funeral must be denied to that person according to the norms of the law.

*The Sovereign Pontiff Francis, in the Audience granted to the undersigned Cardinal Prefect on 18 March 2016, approved the present Instruction, adopted in the Ordinary Session of this Congregation on 2 March 2016, and ordered its publication. Rome, from the Offices of the Congregation for the Doctrine of the Faith, 15 August 2016, the Solemnity of the Assumption of the Blessed Virgin Mary.*

## VII. Sample Burial Rights/Rule and Regulations

Each parish and/or cemetery needs to adjust its pricing and rules to fit local circumstances. This information serves as an example:

### CEMETERY RULES AND REGULATIONS

#### General Rules and Regulations

1. *{Insert Name}* Cemetery (“Cemetery”) is a religious non-profit cemetery organized and existing under the Laws of the State of North Dakota and owned by *{insert parish name}* (“Parish”), a North Dakota Nonprofit Corporation. Parish owns and operates Cemetery in accordance with the rules and discipline of the Roman Catholic Church (“Church”), the Statutes of the Diocese of Fargo, and the laws of the State of North Dakota. Parish reserves the right to refuse admission to the Cemetery and to refuse the use of the Cemetery facilities at any time, to any person, in accord with the best interests of the Parish or Cemetery.
2. Title to the land used for burial will remain vested in Parish. Only burial rights are available to be purchased from the Parish. Those who purchase burial rights will hereinafter be referred to as the “Holder of the Burial Rights”. The Holder of Burial Rights has a permit to allow burial as long as the Rules and Regulations as set forth herein are complied with. This permit may be revoked, with no refund or compensation paid for revocation of the permit, if misused or if there is one or more breaches of the Rules and Regulations set forth herein.
3. The Christian faithful departed are to be given ecclesiastical funeral rites according to the norm of Canon Law. Through ecclesiastical funeral rites, the Church asks spiritual assistance for the departed, honors their bodies, and at the same time brings the solace of heart to the living; such rites are to be celebrated according to the norm of Liturgical Laws (Cf. Canon Law 1176, 1, 2).
4. In the event of doubt or question of possible public scandal to the faithful regarding ecclesiastical funeral rites, the local Ordinary of the Church is to be consulted (Cf. Canon Law 1184, 2).
5. Employees of the Parish shall not be permitted to do any work for Holders of Burial Rights, except upon the order of the Superintendent or his assistants. Employees shall at all times be civil and courteous to visitors. The Parish shall at all times appreciate receiving a prompt report of any lack of courtesy or proper conduct on the part of any employees.
6. All fees or charges of any kind related to burial rights in the Cemetery shall be paid to the Parish. No fee or gratuity is required to be paid to any employee. Any gratuity to an employee to show appreciation for courtesy and good work extended should be nominal in nature.
7. Vehicles shall not be driven off of roads and walkways, except at the express direction of Parish employees. Respect shall be shown by all those using the Cemetery for gravesites and grave markers located at the Cemetery.
8. Parking or leaving any motor vehicle upon any roadway or driveway within the Cemetery is only allowed during burial or committal services or while visiting gravesites. All vehicles shall be parked in a position on the roadway or in other locations as directed by Parish employees. Parking shall be done in such a manner as to allow the passing of other vehicles without injury to Cemetery property, including the lawn. Abandoned vehicles located in a Cemetery will be towed away at the expense of the vehicle owner.

9. Receptacles for trash and waste materials have been placed throughout the Cemetery. The depositing of trash on the drives, walks, or any other part of the Cemetery or in any building within the Cemetery is prohibited.

10. The placing of boxes, shelves, toys, ornaments, chairs, vases, glass, wood, and similar articles on a lot is not permitted, except as may be further set forth in Cemetery Rules and Regulations. Any object placed in violation of the Rules and Regulations will be removed by the Parish and thrown away. Watering cans or other water carrying devices shall not be left on the lots.

11. Dogs and other pets are not allowed in the Cemetery nor in any of its buildings except to the extent it is a Service Dog required to legally accompany a person at the Cemetery.

12. Special cases may arise where the literal enforcement of a rule may impose unnecessary hardship. The Parish reserves the right to make exceptions, suspensions, or modifications of any of its Rules and Regulations, without notice, whenever it appears to the Parish to be necessary or desirable. Such temporary exceptions, suspensions, or modifications shall in no way be considered to affect the general application of the Rules and Regulations or to be a permission granted to anyone other than the specific person or entity to whom the exception has been granted. An exception granted is only for a single situation application unless otherwise noted in writing by the Parish or superintendent.

13. The Parish hereby expressly reserves the right to adopt additional Rules and Regulations and to amend, alter, or repeal any rule, regulation, article, section, paragraph, or sentence of these Rules and Regulations at any time, and without notice.

14. Rules formerly adopted which are contrary to these Rules and Regulations are hereby repealed and shall be declared to be no longer effective, having been replaced with the most current Rules and Regulations.

### **Lots and Holders of Burial Rights**

15. The Rules and Regulations of the Catholic Church governing the Cemetery prescribe the title to the land used for the Cemetery purposes shall remain vested in the Parish. Title to the land in any lot of the Cemetery shall always remain in the name of the Parish. Burial Rights may be purchased for the individual lots in accordance with the terms attached hereto. Burial Rights do not convey title to the lot. Burial Rights only constitute a permit to use of the lot in accordance with the Rules and Regulations set forth herein.

16. Persons desiring to purchase Burial Rights shall contact the Parish office.

17. Burial Rights must be paid in full within 60 days of the date a contract is signed for the purchase of Burial Rights. Failure to make full payment within the 60 days will automatically constitute a breach of the terms of the Burial Rights contract, and termination of the permit granted thereby. No further action by the Parish is required to effect this termination and no refund is due or will be made for partial payments received.

18. No Burial Rights shall be sold in common or joint ownership. A Burial Right may be granted only to one named individual or entity. Upon the death of the Holder of the Burial Rights, his/her/its legal representative and if there is no legal representative then immediate heirs shall decide in whose name title to any unused Burial Rights shall thereafter be placed. Written notice must be given to the Parish of the passage of any Burial Rights from one person or the estate of a person to another person or entity. Anyone

acquiring a Burial Right by gifting, devise, or other transfer means will be obligated to comply with all of the Rules and Regulations as set forth by the Parish and as may be amended from time to time.

19. Lots of various sizes and uses may be available within the Cemetery. Information on this is available from the Parish.

20. The Parish shall have the right to enlarge, reduce, replat, or change the boundaries of a Cemetery or a section or sections of a Cemetery; to change the location of roads, gutters, drainage, pipes, and any other fixtures or improvements without notice to the Holders of Burial Rights and without it constituting any prejudice to the Burial Rights.

21. Descriptions of any of the lots shall be in accordance with the Cemetery Plots which shall be kept on file in the Parish office or at such other designated locations as may exist.

22. The Parish will take all reasonable precautions to protect the interests of the Holders of Burial Rights within the Cemetery from loss or damage. However, the Parish will not be responsible for loss or damage from causes beyond its reasonable control.

23. The Holder of Burial Rights shall notify the Cemetery office of any change of address. Any notices sent by the Parish shall be sent to the last address on file in the Parish office and shall constitute sufficient and proper legal notification of any changes in contract rights.

24. The instrument of conveyance of Burial Rights, General Care Agreement, and the Rules and Regulations shall constitute the sole and only agreements between the Parish and the Holder of Burial Rights. All rights and interests formerly held by Diocese of Fargo in the Cemetery have been assigned and transferred to the Parish.

25. The statement of any employee of the Parish, unless confirmed in writing by the Parish, shall in no way be binding upon the Parish.

26. The right to interment on a lot is granted only to the Holders of Burial Rights. The Parish reserves the right to refuse to permit the interment of anyone who is not, at the time of death, the Holder of Burial Rights, or a relative of the Holder by blood or marriage. In all other cases, written permission of the Holder of Burial Rights is required by the Parish before interment shall be made.

### **Correction of Errors**

27. The Parish shall have the right to correct any error whatsoever made by one of its employees in the interment, disinterment, or removal of a body. It shall have the right either to cancel Burial Rights or substitute Burial Rights in another lot of equal value, or to refund the money advanced for the purchase of Burial Rights, at the Parish's option, without further liability to any Holder of Burial Rights or any other person and without payment of any alleged damages.

### **Care of Lots**

28. The general care of the Cemetery is assumed by the Parish.

29. The term "general care" shall be construed to mean the cutting of grass at reasonable intervals, the cleaning of any grounds, the pruning of shrubs and trees which may be planted by the Parish, and the general preservation of the grounds and property of the Cemetery as long as it is used as a Cemetery.

30. The general care assumed by the Parish shall in no way include the care or cleaning of any monuments, the replacement of any foundations of any monuments, markers, shrubs or plantings of any kind, placed on the lot by the Holder of Burial Rights or others.

31. General care creates no obligation for the replacement of soil on individual lots, nor for the reseeding, sodding, watering, or other care of grass except for the cutting at regular intervals.

### **Special Care**

32. Holders of Burial Rights desiring additional care of the lots and graves shall arrange such care with the Parish. An estimate of the cost of desired work shall be furnished by the Parish.

33. The cost of any special care shall be borne by the Holder of Burial Rights and will not be performed or provided until full payment is received by the Parish.

### **Interments**

34. The Cemetery shall be open for interments at reasonable hours every day of the year. Whenever possible, interments on Sundays, Holy Days of Obligation, and legal holidays shall be avoided.

35. Funerals and burials shall not be admitted to the Cemetery when escorted or accompanied by regalia and banners of societies not allowed by the Rules and Regulations of the Church or the Statutes of the Diocese of Fargo.

36. Holders of Burial Rights shall not allow any interments in their lots in return for receipt of remuneration or monetary payment of any kind.

37. Only in exceptional cases, such as a mother and child, or the cremation of one party and the burial of another, may two or more bodies be placed in one gravesite. If two burials are to be allowed in one grave provided, at least one burial is a cremation.

38. The location of an interment in a lot shall be determined by the Cemetery staff employed by the Parish.

39. The Superintendent and the employees of the Cemetery shall be the only persons permitted to open graves, except by the written consent of the Superintendent.

40. All charges for interment shall be paid to the Parish at its office or through an approved entity such as a funeral home in good standing with the Parish. The Holder of Burial Rights is responsible for the payment for interment.

41. Rules and Regulations for the lot and burial shall apply to graves in the single grave section, as far as such Rules and Regulations shall be deemed applicable by the Parish.

42. In addition to the regular grave section, single graves may be procured in a preferred location by the purchase of single grave Burial Rights.

43. Arrangements for payment of any and all indebtedness due to the Parish shall be made before interment and monument installation shall be permitted in any lot or single grave.

44. "The Church earnestly recommends that the pious custom of burial be retained; but does not forbid cremation, unless this is chosen for reasons which are contrary to Christian teaching." Canon Law 1176, 3 (Cf, also OCF n.19).

45. All interments shall be made at a time and in a manner and upon charges as fixed from time to time by the Parish.

46. If, for any reason, these Rules and Regulations cannot be complied with at the time of interment, the Parish shall have the right to place the body in a receiving vault until full compliance shall have been satisfied.

47. Only such tent, artificial grass, lowering devices, and other equipment as are approved by the Parish shall be used in making interments.

### **Receiving Vaults**

48. The Parish requires the use of a burial vault.

49. The receiving vault shall be for temporary use only and under no circumstances shall a body be considered interred or buried by reason of being placed therein.

50. The Parish shall reserve the right to inter any body in a single grave in the event of failure to make arrangements for the final disposition of the body within a reasonable time.

51. The Parish shall remove, without notice, its receiving vault at once and without notice and may inter any remains not in a good state of preservation, or when the conditions of the body renders interment on a prompt basis to be necessary.

### **Removals**

52. Bodies shall not be removed from Cemetery in which the body is interred to another cemetery without the permission of the appropriate officials of the Parish.

53. All requests for removals shall be made to the Parish. All estimated costs of the removal shall be paid to the Parish prior to the removal.

54. No arrangements for removals from Cemetery shall be made without the written permission of the Parish.

55. All removals shall be made in accordance with the Laws of the Roman Catholic Church, the Statutes of the Diocese of Fargo, and the Laws of the State of North Dakota. The Holder of Burial Rights and the person making the request shall be responsible for such compliance with all such laws.

56. The Parish shall exercise reasonable care in making removals, but it assumes no liability for damage to any casket or burial vault or case in the making of the removal.

57. When a new outside box is needed at the time of removal, it shall be provided by and at the expense of the person or persons arranging for the removal. All expenses of the Parish in assisting with removals shall be paid by the person or persons arranging for the removal in advance of the removal.

### **Planting on Lots**

58. Plantings of trees shall be made by the Parish only.
59. Holders of Burial Rights shall be permitted to plant and cultivate on their lots shrubs and plants on their designated Lot with the approval of the Superintendent.
60. No trees, shrubs, or plantings growing on any lot or near the border thereof shall be cut or destroyed without the consent of the Superintendent.
61. Trees, shrubs, or plants situated on any lot which become detrimental to the proper landscaping of the Cemetery or care of the Cemetery shall be removed at the direction of the Superintendent.
62. When an interment or removal has been completed, the Parish shall instruct the Superintendent to sod the grave, unless advised otherwise by the Holder of Burial Rights. The Holder of Burial Rights does not have the authority to cause the condition of the gravesite to be maintained in a manner not complementary with the surrounding Cemetery property.
63. All grading, landscape work, and improvements or remodeling of any kind within a Cemetery shall be done under the direction of the Superintendent by Cemetery employees or contractors.
64. The Parish shall have the right to remove and discard, without notice, all plantings, emblems, floral designs, frame baskets, and any and all other objects as soon as they become unsightly, dangerous, detrimental, diseased, or an interference with proper maintenance of the Cemetery.
65. The Parish shall have the right to regulate the manner of decoration of lots so that a uniform appearance and beauty is maintained.

### **Memorial Work**

66. One central or family memorial may be allowed on any lot of two graves or more, with the approval of the Superintendent.
67. Designs of all monument works of any kind whatsoever whether horizontal, vertical or a combination shall first be submitted to the Superintendent for approval in writing before the foundation work shall be permitted.
68. All monument companies and their employees shall be required to get a permit from the Superintendent before any work shall be done by them in the Cemetery.
69. No Holder of Burial Rights shall erect or place, or cause to be erected or placed, on any of the Cemetery property, any memorial except with advance approval in writing by the Superintendent.
70. No coping, curbing, fencing, borders, or enclosures of any kind shall be allowed around any lot. The Superintendent shall be empowered to remove the same if erected. The cost of the removal shall be assessed against the person placing the item(s) or structure and/or the Holder of Burial Rights.
71. No monument work of any kind shall be placed on any lot unless the Burial Rights have been paid in full and proper provision has been made for the care of the lot.

72. All workers employed in placing and erecting monuments shall be subject to the requirements and orders of the Superintendent and shall strictly conform to the rules of the Parish governing the placing of memorials and monuments. The cost to remedy any failure to comply shall be paid by the Holder of Burial Rights or the contractor doing the installation.

73. In addition to the monument permitted by Section 66 above, one marker shall be permitted on each grave. All markers shall be in accordance with the specifications provided by the Superintendent.

74. Crosses or all other grave markers of wood, iron, bronze, cement, or any like materials shall be prohibited, except with the approval of the Superintendent.

75. The Parish reserves the right to excavate for and build all foundations and to regulate all work done in a Cemetery. Charges shall be paid by the Holder of Burial Rights.

76. An order for the building of a foundation must be received from the Holder of Burial Rights at least 10 days in advance of the date on which the setting of the monument is to be done.

77. Excavations and foundations shall be paid for in full in advance.

78. Monuments which will extend above the grade of the lot on single graves are allowed only in the areas designated for placement of such monuments. Only ground level monuments are allowed on single graves and other locations.