

STATEMENT OF SCOPE

Cemetery Board

Rule No.: CB 6

Relating to: Mausoleums

Rule Type: Permanent

1. Finding/nature of emergency (Emergency Rule only):

N/A

2. Detailed description of the objective of the proposed rule:

The objective of the proposed rule is to revise ch. CB 6, relating to mausoleums, to clarify the rule to specify the length of the temporary certification period, and to bring the administrative rules into conformance with statute by allowing for the sale of mausoleum space while a mausoleum is in temporary certification status per s. 157.12 (2) (b), Stats. The Cemetery Board will also consider promulgating rules under s. 157.12 (3) (a) 3., Stats. to establish uniform standards for approval of municipality proposed requirements that mausoleums deposit more than the statutorily required principal payments into the mausoleum's care fund. The Cemetery Board will also review and possibly revise the rule to bring it into conformity with current drafting standards.

3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

2017 Wisconsin Act 108 created s. 227.29, Stats., requiring that each agency submit a report to the joint committee for review of administrative rules by March 31 of each odd-numbered year identifying any promulgated rules which are unauthorized, obsolete, unnecessary, duplicative, superseded, in conflict with another rule, statute, or court decision, or that are economically burdensome. The agency must also include in its report a description of any actions it is taking to address these issues.

This rule project is necessary to remedy issues the Cemetery Board has identified as a result of its review of the CB chapters under 2017 Wisconsin Act 108, as well as to make other revisions deemed to improve the usability of the chapter by licensees.

If the administrative code is not revised to correct these issues, it will leave the code out of compliance with state law. Current rules do not allow a mausoleum with temporary certification from the Cemetery Board to sell space within the mausoleum, while state statute does allow for such sales under s. 157.12 (2) (b), Stats.

The Cemetery Board plans to also consider and possibly promulgate rules under s. 157.12 (3) (a) 3., Stats. to establish uniform standards for approval of municipality proposed requirements that mausoleums deposit more than the statutorily required principal payments into the mausoleum's care fund.

4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Section 440.905 (2), Stats., provides "[t]he board has rule-making authority and may promulgate rules relating to the regulation of cemetery authorities, cemetery salespersons, and cemetery preneed sellers..."

Section 157.12 (3) (a) 3., Stats., provides "...The municipality in which mausoleum is located may, by ordinance, require a larger fund, but only if the cemetery board notifies the municipality in writing that the cemetery board approves of the requirement. The cemetery board may promulgate rules establishing uniform standards for approvals under this subdivision."

5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule :

The staff time needed to develop the rules is expected to be about 80 hours, depending on the complexity. The agency will utilize existing staff. There are no other resources necessary to develop the rules.

6. List with description of all entities that may be affected by the proposed rule :

Cemetery authorities, cemetery salespersons, cemetery preneed sellers, any person who constructs a mausoleum or converts a building or other structure to a mausoleum, and municipal authorities.

7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule :

None.

8. Anticipated economic impact of implementing the rule (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rule will have minimal to no economic impact on small businesses and the state's economy as a whole.

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