

## CHAPTER 27

### CEMETERY BOARD OF TRUSTEES

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**27.01 BOARD CREATED.** There is hereby created within the City a Cemetery Board of Trustees.

**27.02 BOARD ORGANIZATION.** The Board shall consist of seven members (the Mayor, five individuals that are residents of the City and one that is a resident of Davis County), appointed by the Mayor with the approval of the City Council. Such trustees shall be appointed for a term of six years, one member's term expiring each year. The trustees shall choose from its membership a chairperson and a vice chairperson every two years. The City Clerk shall serve as the secretary of the Board of Cemetery Trustees.

Members shall serve without compensation, but may receive reimbursement for expenses incurred in the performance of their duties. Vacancies shall be filled in the same manner as the original appointment for the balance of the term.

**27.03 BOARD CONTROL OF CEMETERIES.** There is hereby conferred upon the Cemetery Board of Trustees the duty of general management of I.O.O.F. Cemetery and Bloomfield Cemetery and any other cemeteries that may in the future be deeded to and come under the jurisdiction and control of the City. They shall have and exercise in connection therewith all of the powers and duties imposed by law upon cities and towns in connection with the management of cemeteries except the power and authority to levy and impose taxes. The Board is empowered to accept gifts of real property, personal property and bequests, including trust funds; and to expend the funds received from such gifts or bequests as may be given by the donor or as determined by the Board.

The Board has the power to make rules related to the operation of the cemeteries under its control, subject to the approval of the rules by the Council. Such rules shall be either posted at the cemeteries or otherwise publicized in a manner to provide adequate notice to the using public.

The City Council shall establish rules that specify the cemetery's obligations in the event that internment spaces, memorials or memorializations are damaged

or defaced by acts of vandalism. Such rules shall be given to the owner when lots are purchased and posted at the facility in a manner to provide adequate notice to the using public.

**27.04 BUDGET AND ACCOUNTING.** The Board shall annually prepare a budget for the next fiscal year, July 1 to June 30. The budget shall be subject to City Council approval. The procedures for preparation and submission shall be in accord with the rules and guidelines established by the City Administrator.

The revenue and expenditures shall be reported by the City Clerk or Fiscal Officer in the manner of other departmental expenditures and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

**27.05 RECORDS.** It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

1. Sales or Transfers of Interment Rights.

- A. The name and last known address of each owner or previous owner of interment rights.
- B. The date of each purchase or transfer of interment rights.
- C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.

- A. The date the remains are interred.
- B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
- C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

*(Code of Iowa, Sec. 523I.311)*

**27.06 EMPLOYEES.** The Board shall cooperate with the City Administrator in the allotment of time of City employees for cemetery purposes.

**27.07 CEMETERY FUNDS.**

- 1. The Board shall place in the treasury of the City all monies received other than those referred to in Subsection 2 of this section in a fund known as the "cemetery fund," and such monies shall be paid out upon the order of the Cemetery Board only.

2. Pursuant to Iowa Code Chapter 523I, a perpetual trust is established for I.O.O.F. Cemetery and Bloomfield Cemetery. As specified in Section 523I.502, the City has consented to be the trustee for the perpetual maintenance of interment spaces at I.O.O.F. and Bloomfield Cemeteries.

A. A perpetual trust with restricted funds is created, to be known and designated as the “perpetual care cemetery fund,” which shall be funded by the deposit of an amount equal to or greater than 20 percent of the gross selling price of \$50.00, whichever is more, for each sale of interment rights within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Iowa Code Chapter 523I.

B. The perpetual care cemetery fund shall be maintained separate from all operating funds of the cemetery and the City and the principal of the fund shall not be reduced voluntarily except as specifically permitted by the Iowa Cemetery Act and applicable administrative regulations.

C. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by the Iowa Cemetery Act including the amount or percentage of money to be placed in the perpetual care cemetery fund.

D. The cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amounts deposited in the perpetual care cemetery fund.

**27.08 SALE OF INTERMENT RIGHTS.** The sale of interment rights in the cemetery shall be evidenced by a certificate of ownership or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the City Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Board.

*(Code of Iowa, Sec. 523I.310)*

**27.09 TRANSFER OF INTERMENT RIGHTS.** The transfer of ownership of exclusive interment rights in the cemetery shall be conducted by the Clerk’s

office. Proof of ownership, and a notarized statement from owner(s) authorizing transfer will be provided prior to transfer being conducted. Applicable fees and charges shall be based upon the charges as established by the Board.

**27.10 UNOCCUPIED LOTS.** Any unoccupied lot will be presumed abandoned under the conditions set out in State law for reversions, and the City may sell such reverted lot, the proceeds from which shall be deposited in the perpetual care fund to provide for the care of any occupied area of the reverted property or there be no occupied portion, the proceeds from the sale portion may be invested, and the interest thereon be used wherever deemed useful for the care of cemetery.

**27.11 FEES AND CHARGES.** The Board shall, from time to time as conditions require, set prices for conveyance of a deed for lots, based on the size and location of each. The price shall include a portion for the perpetual care charge. The proceeds from the sale portion shall be deposited in the cemetery fund. The prices may be increased and the proportion for perpetual care changed when the Board finds that the needs of the cemetery require it. The Board shall also set charges for grave opening/closing, locating, or other services. A locate fee will not be assessed for individual government issued markers.

**27.12 CORRECTIONS.** The Board reserves and shall have the right to correct any errors that may be made in making either interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the Board or in the sole discretion of the Board, by refunding the amount of money paid on account of the purchase. In the event such error shall involve the interment of the remains of any person in such property, the Board reserves the right to remove and transfer such remains to such other property of equal value and similar location as far as reasonably possible may be substituted and conveyed in lieu thereof.

**27.13 PERPETUAL CARE.** The Board shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Board shall provide for the payment of interest annually to the Cemetery Board of Trustees, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in

accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

*(Code of Iowa, Sec. 523I.503, 523I.507, and 523I.508)*

**27.14 PERPETUAL CARE CHARGE.** The purchase price of a lot shall include a portion to be called the perpetual care charge, to be set as a percentage of the full price, and the Clerk shall deposit such amount to a cemetery perpetual care fund. The Board may accept gifts or donations of land, money, or investment assets to be placed on the credit of the perpetual care fund. The assets of the perpetual care fund shall be invested by the treasurer as permitted by state law for municipal cemetery investments. The Board shall use the income from such investments in caring for the property of the donor, or as provided in the terms of such gift or donation, or as agreed in the instrument for sale and purchase of cemetery lot. Nothing herein required shall be construed as destroying any vested right as to investments heretofore made prior to the date that the City acquired title to the cemetery or the fund, but such investments may be continued until their maturity, then reinvested according to the provisions of this section.

**27.15 EXCLUSIONS.** Perpetual care does not include marker upkeep.

**27.16 LIABILITY.** The City shall take reasonable precautions to protect plot owners and the property rights of plot owners within the cemetery from loss or damage, but it expressly shall not be liable for loss or damage beyond its control, and in particular, from damage caused by elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable civil disorder, whether the damage be direct or consequential.

**27.17 VIOLATIONS - PENALTIES.** The violation of any provision of this chapter or the rules posted or publicized as provided in this chapter shall constitute a simple misdemeanor.

*(Ch. 27 – Ord. 711 – Aug. 21 Supp.)*

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