

Chapter 10. Cemeteries

[HISTORY: Adopted by the City Commission of the City of Kalamazoo 7-25-1977 by Ord. No. 1120.^[1] Amendments noted where applicable.]

STATUTORY AUTHORITY

Cemeteries — See MSA § 5.3165; MCLA § 128.1 et seq.

[1] *Editor's Note: This ordinance also repealed §§ PS604 to PS604.21 of the Public Service Code, from which Ch. 10, relative to cemeteries, was formerly derived.*

Article I. In General

§ 10-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

CEMETERY

Any cemetery owned or operated by the City and, where appropriate to the context, the word shall include the officials in charge of the cemetery.

GRAVE SITE

Any area designated for the interment of a single body and shall include a crypt, vault, niche or any other burial space.

INTERMENT

Includes the permanent disposition of the remains of a deceased person by cremation and interment, entombment or burial.

LOT

Any area shown on the map of the cemetery as a single unit. It may contain any number of grave sites as designated by the cemetery.

MEMORIAL

Includes a monument, marker, tablet, headstone, tombstone, coping, lot enclosure, or like devices.

PRIVATE BURIAL STRUCTURE

Any tomb, sarcophagus, mausoleum, columbarium, or like structure erected by the owner of a lot or burial unit. Each burial space in the structure shall be considered a grave site.

§ 10-2. Application of chapter; effect of reference to chapter in documents.

All owners and visitors within a cemetery, and all grave sites sold, shall be subject to the provisions of this chapter, and any reference to this chapter in any document shall have the same force and effect as if set forth in full therein.

§ 10-3. To be operated and maintained by Director of Department of Public Services.

[Amended 9-7-1982 by Ord. No. 1268]

It shall be the duty of the Director of the Department of Public Services to maintain and operate all municipally owned and operated cemeteries. An employee of the Department shall be designated the Superintendent of Cemeteries.

§ 10-4. Rules and regulations of City Manager.

The City Manager is hereby authorized to promulgate rules and regulations, consistent with the provisions of this chapter, governing conduct, work and other activities in City cemeteries and governing the operation, maintenance and management of such cemeteries, including fees to be charged. Such rules and regulations shall be subject to approval by the City Commission. When so approved, it shall be unlawful for any person to violate any provision of such rules and regulations.

§ 10-5. Sale of lots and grave sites.

All lots and grave sites shall be sold according to the map of the respective cemeteries adopted by the City Commission and full payment must be made before the purchaser thereof shall receive the certificate of ownership from the City Clerk. Fractions of lots may be sold, in the discretion of the cemetery.

§ 10-6. Grave site owners to give notice of change of address.

It shall be the duty of the grave site owner to notify the cemetery of any change in his or her post office address. Notice sent to a grave site owner at the last address on file in the office of the Superintendent of Cemeteries shall be considered sufficient and proper legal notification.

§ 10-7. General rights of grave site owner.

- A. All cemetery grave sites conveyed shall be presumed to be the sole and separate property of the person named as grantee in the instrument of conveyance; provided, however, that a surviving spouse shall have a right of interment in a lot or grave site when there is sufficient space.
- B. In all conveyances to two or more persons as joint tenants, each joint tenant shall have a right of interment of his or her remains in the grave sites so conveyed. Upon the death of a joint tenant, the grave sites theretofore held in joint tenancy immediately vest in the survivor or survivors, subject to the right of interment for the remains of the deceased joint tenant.
- C. A right of interment as in this section provided may be waived and shall be terminated upon the interment elsewhere of the remains of a person entitled thereto.

§ 10-8. Burial unit inalienable by interment; right of owner's family to interment.

Whenever an interment is made in a lot that has been conveyed to an individual owner by the cemetery, the whole of such lot thereby becomes inalienable and shall be held as the family lot of the owner, in which one grave site may be used for the owner's interment, one for the interment of the surviving husband or wife of the owner and in those remaining, the parents and children of such deceased owner may be interred, in the order of need, without the consent of any person claiming any interest therein. In the event there shall be no parent or child surviving such deceased, the right of interment therein shall go the next heirs at law of the deceased owner, as

specified by the statutes of descent. Any surviving husband or wife and any parent, child or heir of such deceased owner may waive his or her right to interment in said lot in favor of any other relative of such deceased owner, and upon such waiver, the body of the person in whose favor the waiver is made may be interred therein.

§ 10-9. Descent of rights in empty lot or grave site.

If no interment has been made in a lot or grave site which has been conveyed to an individual owner by the cemetery, or if all bodies have been lawfully removed therefrom, in the absence of the specific disposition thereof by the owner's last will and testament, the whole of said lot or grave site, except the one grave site which must be reserved to the surviving husband or wife of the owner, shall, upon the death of the owner, descend in regular line of succession to the heirs at law or the owner.

§ 10-10. Transfer of lots or grave sites.

- A. No transfer or assignment of any cemetery lot or grave site shall be valid without the consent, in writing, of the Superintendent of Cemeteries.
- B. The transfer of title shall be made by the City Clerk upon receipt of a quitclaim deed to the City by the title holder, together with the letter of approval issued by the Superintendent of Cemeteries.
- C. The cemetery may act as agent for owners of lots or grave sites who wish to resell them. The purchaser of such lots or grave sites shall pay the current price for the sections in which they are located. Upon receipt of the purchase price, the cemetery shall refund to the original owner the amount paid at the time of purchase, the balance to be retained by the City.

§ 10-11. Subdivision of grave sites not allowed; burial of persons not having an interest in the grave site.

[Amended 12-10-1979 by Ord. No. 1180]

The subdivision of grave sites is not allowed, and no one shall be interred in any grave site in which he does not have an interest, except by written consent of all parties interested in such grave and of the Superintendent of Cemeteries; or as otherwise provided by this chapter or state law. Except as provided by ordinance or rule, there shall be only one burial per grave site. With the approval of the cemetery, given at the time of the first interment, two bodies may be buried in a single grave. A container containing the cremated remains of a single body may be placed on a grave site in which a previous interment has been made, if done under the supervision of the cemetery.

§ 10-12. Private burial structure; approval of plans.

Before any private burial structure is erected, its plan must be approved in writing by the Superintendent of Cemeteries.

§ 10-13. (Reserved)

§ 10-14. (Reserved)

§ 10-15. (Reserved)

§ 10-16. (Reserved)

§ 10-17. (Reserved)

§ 10-18. (Reserved)

§ 10-19. (Reserved)

§ 10-20. (Reserved)

§ 10-21. (Reserved)

§ 10-22. (Reserved)

§ 10-23. (Reserved)

§ 10-24. (Reserved)

Article II. Perpetual Care

§ 10-25. Care of lots and grave sites.

[Amended 11-15-2004 by Ord. No. 1778]

- A. Owners of lots and grave sites will secure perpetual care of the same upon payment of the charges prescribed by the cemetery rules. If the lot or grave site is not in proper condition, as determined by the Superintendent, the owner shall pay such additional charges as are necessary to put it in condition for perpetual care. Charges for such work will be based on a price to be furnished in advance by the Superintendent. No lots or grave sites shall be sold unless provision is made for perpetual care.
- B. The term "perpetual care" shall mean cutting grass, raking and cleaning, pruning of shrubs and trees, and the making of capital improvements to the cemetery, such as constructing or repairing roads or sidewalks within the cemetery, or replacing foundations for existing grave sites.

§ 10-26. Care of private burial structures.

- A. Before any private burial structure is erected in the cemetery, the proprietor must deposit with the cemetery a sum of money estimated by the Superintendent to be sufficient to yield an income for proper care of such structure in perpetuity.
- B. The term "perpetual care," as applied to a private burial structure, shall mean the cleaning and sweeping of the building at reasonable intervals, the replacement of broken glass, the keeping of the roof in repair, proper provision of locks and doors to prevent the entrance of prowlers or undesirable persons.

§ 10-27. Exceptions.

[Amended 11-15-2004 by Ord. No. 1778]

Unless stated to the contrary within this article, the term "perpetual care" shall in no case be construed as meaning the maintenance, repair or replacement of any private burial structures or memorials; nor the planting or cost of flowers or ornamental plants; nor sprinkling water; nor the maintenance or doing of any special or unusual work in the cemetery; nor does it mean the reconstruction of any memorial or private burial structure or other buildings or structures, made necessary by injuries caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, riots, insurrection, or by the order of any military or civil authority, whether the damage be direct or collateral.

§ 10-28. Perpetual care fund.

All funds paid for perpetual care shall be placed by the Director of Finance to the credit of a fund known as the "perpetual care fund" to be administered by the City Commission, and to be held in trust and invested by the City Commission, as provided by law, and the interest thereon shall be used for the care and maintenance of lots and grave sites entitled to perpetual care.

§ 10-29. Special care.

A lot or grave site owner may enter into an agreement with the cemetery for special care, which shall include only those specific services set forth in the agreement. Special care funds shall be invested with and in the same manner as perpetual care funds.

§ 10-30. Perpetual Care Investment Committee and management of funds.

[Added 11-15-2004 by Ord. No. 1778]

There is hereby created a Perpetual Care Investment Committee (PCIC) that shall manage the assets of the system and have full power to invest and reinvest such assets, subject to the provisions of applicable law. The Committee shall have the power to purchase notes, bonds, or other obligations of the City before or after the same are offered to the public, with or without advertising for bids. The Committee shall have power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the funds of the system have been invested, as well as the proceeds of such investments and any monies belonging to the system. The provisions of this section shall be subject to such conditions and restrictions as the City Commission may hereafter impose by resolution.

§ 10-31. Perpetual Care Investment Committee; membership, appointment, duties.

[Added 11-15-2004 by Ord. No. 1778]

- A. Membership, appointment. The PCIC shall consist of no less than three nor more than five members, all of whom shall also serve on the Retirement Investment Committee (RIC). Said members shall be appointed by the City Commission upon the recommendation of the RIC Chair; their term on the PCIC shall be concurrent with their term on the RIC.
- B. The PCIC members shall serve without compensation and if any member fails to attend three consecutive regularly scheduled meetings of the Committee, unless in each case excused for cause by the remaining members, his or her office will be deemed vacated. Within 60 days of any time that the number of Committee members becomes less than three, the Chair of the RIC shall appoint enough new members from the RIC to the PCIC so that the PCIC consists of at least three members.
- C. The Committee shall hold meetings regularly, at least quarterly, and shall designate the time and place thereof. A majority of the Committee's membership shall constitute a quorum at any meeting of the Committee. Each member shall be entitled to one vote on each question before the Committee; at any

meeting with a quorum, decisions shall be made by affirmative vote of a majority of those present; except that should the Committee's membership become three, the entire membership shall constitute a quorum and all decisions shall be made by a unanimous vote of the entire membership. The Committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Committee shall be open to the public. The City Commission may appoint a Commissioner as liaison to the Committee.

- D. Officers. The Committee shall elect a chairman and chairman pro tem; the Director of Finance shall serve as secretary to the Committee and provide staff support.
- E. Duties. The duties of the Investment Committee shall be as follows:
 - (1) To formulate and recommend to the City Commission investment policies, strategies, and guidelines for approval by the City Commission;
 - (2) To carry out such investment policies, strategies, and guidelines as approved by the City Commission;
 - (3) To establish investment performance monitoring systems and report the results of said system quarterly to the City Commission;
 - (4) To insure that investment records are properly maintained;
 - (5) To serve as the primary contact with investment managers and advisors;
 - (6) To insure that the plan is properly audited; and
 - (7) To perform such other duties as the City Commission may from time to time direct.

§ 10-32. Available cash and use of assets.

[Added 11-15-2004 by Ord. No. 1778]

- A. There shall be kept on deposit available cash not to exceed 5% of the total assets of the system. All assets of the system shall be held for the sole purpose of meeting disbursements for allowable expenses, as authorized by this article and shall be used for no other purpose.
- B. Payment of expenses relating to perpetual care shall be paid from investment income.