

## CHAPTER 116

# CEMETERIES

116.01 Purpose

116.02 Control By Council

116.03 Enforcement

116.04 Trespassing and Damaging Improvements

116.05 Records

116.06 Sale of Interment Rights

116.07 Perpetual Care

116.08 Cemetery Lots without Perpetual Care

116.09 Annual Care

116.10 Improvements; Maintenance

116.11 Restrictions on Activities of Visitors

116.12 Rules and Regulations

**116.01 PURPOSE.** The purpose of this chapter is to provide rules and regulations for the care and management of the cemetery grounds owned or operated by the City. As used herein, the term “cemetery” refers to Resthaven Memory Gardens and Memorial Cemetery.

**116.02 CONTROL BY COUNCIL.** The Cemetery grounds owned or operated by the City are under the control of the Council, and the Council shall have the power to make additional rules and regulations for the cemetery by resolution as it may deem requisite and proper. Pursuant to Section 523I.502 of the *Code of Iowa*, the Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

*(Code of Iowa, Sec. 523I.502)*

**116.03 ENFORCEMENT.** It is the duty of the City Administrator to enforce the rules and regulations for City cemeteries herein and as otherwise provided by resolution of the Council. Such officer shall have police power to arrest anyone willfully violating any of such rules and regulations or creating any disturbance or breach of the peace.

**116.04 TRESPASSING AND DAMAGING IMPROVEMENTS.** It is unlawful for any person to deface or injure any grave, vault, tombstone or monument or any building, fence, tree, shrub, flower or other thing belonging to a cemetery, or to dig any grave therein, or interfere with any grave, lot, street or alley therein, without the permission of the Mayor or City Administrator.

**116.05 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:

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

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.

**116.06 SALE OF INTERMENT RIGHTS.** 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 Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

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

**116.07 PERPETUAL CARE.** The Council, by resolution, 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 Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, 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 & 523I.508)*

**116.08 CEMETERY LOTS WITHOUT PERPETUAL CARE.** Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the City of the perpetual care charges at the rates specified in the rules and regulations.

**116.09 ANNUAL CARE.** An annual care charge as specified in the rules and regulations shall be made by the City on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The City reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

**116.10 IMPROVEMENTS; MAINTENANCE.**

1. Lot Corners To Be Marked. All lots shall bear one iron corner mark, with the number of such lot marked thereon.
2. Grade. The grade of cemetery lots and other cemetery grounds, roads and walkways shall be established by the Council, and no lot shall be filled above the established grade.
3. Control of Work. All persons employed in the construction of vaults or tombs, erection of monuments, etc., shall be subject to the control and direction of the City Administrator. All materials brought into the cemetery to be used in improving lots shall be transported and deposited within the cemetery in such manner as the City

[The next page is 665]

Administrator may direct, and all earthwork and rubbish accumulated in improving such lots shall be removed under the City Administrator's direction, at the expense of the proprietor of such lot. Any person failing to conform to this regulation will not be permitted afterwards to work in the cemetery.

4. Control of Maintenance. All work in the care of lots shall be done under the supervision of the City Administrator. The roads and walkways will be kept in good condition and the lots kept clean by the City, but any extra care or work such as planting trees, cultivating flowers or other extraordinary work on lots will only be done at the owner's expense and under the direction of the City Administrator.

5. Rights of Owners.

A. Monuments; Plants. The owner of each lot shall have the right, subject to the approval of the City Administrator, and the ordinances, rules and regulations of the Council, to erect any proper headstone, monument or memorial thereon, except in Block 18, 23 and all of Resthaven Memory Gardens, which has been established as a memorial section, where only markers flush with the ground will be permitted. The owner shall not have the right to cultivate trees, shrubs and plants on the same, but no tree growing within any lot shall be cut down, removed or destroyed without the consent of the City Administrator or the Council.

B. Extra Work on Lots. Owners of lots may have extra work or repairs done upon their lots by leaving a written order with the City Administrator, specifying the work they wish done. The owner will be given an estimate of the cost of such work and upon the payment thereof, in advance, the work, insofar as it is consistent with the rules and regulations herein or adopted by resolution of the Council, will be promptly done.

6. Foundations For and Installing Monuments and Improvements. Foundations for all monuments or other superstructures shall have the approval of the City Administrator or other authorized officer. The setting of all monuments, including foundation, shall be the responsibility of the company furnishing same and all work shall be under the supervision of the City Administrator.

7. Supervising Planting; Plants Prohibited. If trees or shrubs are planted upon any lot, such planting shall be done under the supervision of the City Administrator, and such trees, plants and shrubs shall be of such varieties only as will not injure adjacent lots. Silver leaf poplars, locust trees, cottonwoods, lilac and syringa bushes will not be allowed.

8. Removal of Refuse and Building Material. Material for stone or marble work will not be allowed to remain in the cemetery longer than is strictly necessary, and refuse or unused material shall be removed as soon as the work is completed. In case of neglect, such removal will be made by the City Administrator, at the expense of the lot owner or contractor, who shall be severally responsible.

9. Hedges, Structures and Large Urns Prohibited. Hedges, fences, wood trellis and large vases or urns are prohibited.

10. Enclosures Prohibited; Remodeling Lots. Enclosures around burial lots are not permitted to be erected, and the City Administrator is authorized to remove any

enclosure heretofore erected, if desired by the owner, and to remodel lots in conformity with this chapter at the expense of the owner.

11. **Removal of Unsightly or Detrimental Conditions.** If any trees or shrubs situated upon any lot shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues, or unsightly or inconvenient to passersby, the Council will order the City Administrator to remove said trees and shrubs, or such parts thereof as are detrimental, unsightly or inconvenient; and if any lot or structure thereon shall become unsightly, by the neglect of the owner thereof, the Council may order the City Administrator to put the same in proper order and repair, and the Council may make a reasonable charge for the removal of such structure, trees or shrubs, and the repairs on any lot, which charge shall be paid by the lot owner when notified, and until such charge shall be paid by such lot owner, such owner shall be barred from further use of said lot.

#### **116.11 RESTRICTIONS ON ACTIVITIES OF VISITORS.**

1. **Access.** Visitors shall be allowed access to the cemetery at all proper times, and must observe all rules now in force or that may be adopted for the regulation of the grounds.
2. **Unauthorized Persons Prohibited.** All unauthorized persons and all those known to have wantonly violated any of the rules and regulations of the cemetery grounds, will be not be permitted to enter the grounds.
3. **Vehicles in Cemeteries.** No vehicle shall be driven in excess of five (5) miles per hour, nor shall any vehicle be driven on any grounds of the cemetery other than the roadways.
4. **Bicycles and Motorcycles Prohibited.** The riding of bicycles or motorcycles within the cemetery grounds is prohibited.
5. **Soliciting; Advertising.** The soliciting for contracts or orders for monuments, headstones, memorials or other work in the cemetery grounds is prohibited. Signs, notices or advertisement of contractors, stonecutters, undertakers or any other person are prohibited upon or within the cemetery grounds.
6. **Shooting Firearms.** Shooting of firearms upon cemetery grounds is prohibited, except as military funerals or on Decoration Day, Memorial Day or as otherwise authorized by the Council.
7. **Dogs Prohibited.** Dogs shall not be brought within the cemetery grounds.
8. **Littering.** It is unlawful for any person to throw any waste paper, cans or other refuse upon the grounds of the cemetery.

**116.12 RULES AND REGULATIONS.** Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, or a resident of the State who served in the armed forces of the United States, completed a minimum aggregate of ninety days of active Federal service and was discharged

under honorable conditions, who is a landowner or who lives within the City shall be allowed to purchase an interment space and be interred within the cemetery and also be allowed to purchase an interment space for interment of the spouse of the veteran if such a space is available and shall allow the surviving spouse of a veteran interred within the cemetery to purchase an interment space and be interred within the cemetery if such a space is available.

*(Code of Iowa, Sec. 523I.304)*