

CHAPTER 115

CEMETERY

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115.01 DEFINITION.

1. The term "cemetery" means the Oakshade Cemetery, which is a municipal cemetery under the provisions of chapter 523I of the Code of Iowa.
2. The terms "Cemetery Deed" and "Certificate of Cemetery Interment Rights" are one in the same.
3. "Interment rights" means the rights to place remains in a specific location for use as a final resting place or memorial.
4. "Interment rights agreement" means an agreement to furnish memorials, memorialization, open and closing services, or interment rights.

115.02 CEMETERY MANAGEMENT. The Park Board shall be responsible for the management of the Oakshade Cemetery and any other cemetery ground that may hereafter be owned or operated by the City.

115.03 RECORDS. It is the duty of the Park Board to make and keep a permanent record of all interments made in the cemetery, which record shall at all times be open to public inspection. The record shall, among other things, include:

1. Plat. An accurate plat of the cemetery;
2. Certificates of Interment Right Holders. The names of the certificate holders of all grave spaces that have been sold;
3. Grave Space Descriptions. The correct description of all grave spaces for sale and the price thereof, as shall be fixed by the City Council;
4. Grave Locations. The exact location of each grave upon each cemetery lot.

115.04 SALE OF INTERMENT RIGHTS. The sale of 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.

115.05 PERPETUAL CARE.

1. Trustee. Pursuant to section 523I.502 of the Code of Iowa, the City of Marion hereby states its willingness and intention to act as the trustee for the perpetual maintenance of interment spaces in Oakshade Cemetery.

2. Establishment of Trust Fund. A perpetual trust is hereby established for Oakshade Cemetery in accordance with Iowa Code chapter 523I, the Iowa Cemetery Act. A restricted fund 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 twenty percent of the gross selling price, or \$50.00, whichever is more, for each sale of interment space within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Iowa Code chapter 523I.

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

3. Perpetual Care Registry. 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.

115.06 VANDALISM IN CEMETERY. Any person who destroys, injures or defaces any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to any cemetery under the jurisdiction of the City shall be liable for any and all damage, in addition to being subject to any other penalty imposed.

115.07 RATES AND CHARGES. The Park Board shall at such times as it deems appropriate recommend changes in cemetery fees and charges to the City Council for its consideration and adoption by resolution.

115.08 RULES AND REGULATIONS. The rules governing the use of public cemeteries of the City are as follows:

1. Terms used in this section have the following meanings:

A. "Relative" means a great-grandparent, grandparent, father, mother, spouse, child, brother, sister, nephew, niece, uncle aunt, first cousin, second cousin, third cousin, or grandchild connected to a person by either blood or affinity.

B. "Lot" means an area containing more than one interment space identified by a numeric system and in most cases contains twelve (12) spaces.

C. "Grave Space" means the space of ground used or intended to be used for an in-ground burial.

2. Potted plants are allowed and shall be placed adjacent to the headstone. Plants placed in the ground shall be prohibited on lots/grave spaces unless written permission has been received from the Park Board or its authorized representatives. All decorations shall be removed by March 1st for spring cleanup. New decorations may be placed after May 1st. All decorations shall be removed by October 1st for fall cleanup. Blankets and wreaths are

permitted after Thanksgiving and may remain until March 1st. No breakable containers are permitted at a grave space.

3. Burials without a concrete vault or equivalent structure that minimizes excessive settling of a grave are prohibited.

4. Headstones, monuments, or markers must be set on foundations and shall be constructed of concrete or granite, shall extend four (4) inches beyond the marker on all sides, and shall be of an adequate depth to hold the stone upright. Placement of memorials must be approved by the Cemetery and be completed by an approved memorial dealer.

5. The cemetery shall be open daily from eight o'clock (8:00) a.m. to sunset and no one shall be present on the cemetery property except between those hours.

6. Cremated remains shall be interred at least eighteen (18) inches below the surface of the ground. Scattering of cremated remains on the surface of the ground is prohibited in the cemetery.

7. Interments shall be limited to, one traditional interment (full burial) or up to two cremains interments in each interment space.

8. The Park Board is empowered to make special exceptions to the foregoing rules upon a written request and a clear and definite showing that literal enforcement of the rule would create an unreasonable hardship and that the exception would not defeat the public interest served by the rule.

9. No interment space shall be sold or transferred without notifying the Cemetery at which time the records shall be updated and a new Certificate of Interment Rights issued.

10. No person shall be interred in a grave space except the owner of interment rights or their relative.

(Ord. 18-03 – May 18 Supp.)