

**CITY OF ITHACA, MICHIGAN
ORDINANCE No. 2019-02**

**AN ORDINANCE
AMENDING THE ITHACA CODE OF ORDINANCES
BY AMENDING CHAPTER 10: "CEMETERIES"**

THE CITY OF ITHACA ORDAINS:

SECTION 1. Chapter 10: "Cemeteries" is hereby repealed in its entirety and replaced with the following:

**Chapter 10
CEMETERIES**

- Sec. 10-1. Rules of conduct.
- Sec. 10-2. Financial responsibility for property damage.
- Sec. 10-3. Supervision of contracted labor.
- Sec. 10-4. Lot boundaries.
- Sec. 10-5. Grades established.
- Sec. 10-6. Traffic regulations.
- Sec. 10-7. Parking restrictions.
- Sec. 10-8. Conditions of lot purchase.
- Sec. 10-9. Purchase procedure.
- Sec. 10-10. Forfeiture of vacant lots or burial spaces.
- Sec. 10-11. Transfer of lots.
- Sec. 10-12. Lot care and maintenance.
- Sec. 10-13. Decoration of lots.
- Sec. 10-14. Interment.
- Sec. 10-15. Funerals.
- Sec. 10-16. Interment restrictions.
- Sec. 10-17. Disinterment.
- Sec. 10-18. Monuments and markers.
- Sec. 10-19. Mausoleums or vaults.
- Sec. 10-20. 4th Addition cremains only.

State law references: Authority to acquire and maintain cemeteries, MCL 128.1 et seq.; cemetery regulations act, MCL 456.521 et seq.

Sec. 10-1. Rules of conduct.

- A. No person or group shall:
 - (1) Enter the cemetery except through an established gate or gateway.
 - (2) Deposit rubbish or debris on cemetery grounds, except in provided receptacles.
 - (3) Pick or mutilate any flowers, either wild or domestic, or disturb any tree, shrub or other plant materials.
 - (4) Write upon, deface or damage any monument, gravesite, fence or structure.
 - (5) Possess or consume alcoholic beverages.
 - (6) Disturb, loiter, sleep or protractedly lounge on the benches, grass,

mounds or other areas or engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to a breach of the public peace.

- (7) Solicit or protest prior to, during, or after a funeral or burial of any person within the cemetery, unless such action is taken at a distance of at least six hundred (600) foot beyond the funeral or burial site. Solicitation and protesting regarding this manner of expression shall be described as any verbal speech, or voice provocation, music or other noise, as well as the use of printed or written signs or materials.
- (8) Permit any dog, horse or other domestic animal to enter or remain in the cemetery, unless such animal is contained within a vehicle.
- (9) Use any form of advertising on cemetery premises.
- (10) Purchase any ground or lots within the cemetery for the purposes of speculation thereon.
- (11) Discharge a firearm in or adjacent to any cemetery. This prohibition shall not apply to authorized volleys at military burials or at official Memorial Day or Veterans Day services. Liability for approved firearm discharges shall rest with the authorized party.
- (12) Enter upon the cemetery premises between one-half hour after sunset and dawn.
- (13) Allow children to be unsupervised at all times.
- (14) Place or use glass containers of any type for any reason.
- (15) Plant rose bushes and/or other thorny vegetation in the cemetery.
- (16) Plant, trim, prune or remove any deciduous or coniferous tree, shrub or hedge except under the direction and with the prior consent of the City Manager or his/her designee.

B. Additional Rules and Policies

- (1) Persons entering the cemetery shall be held financially responsible for any damage they cause to the cemetery properties, vegetation, plantings, structures, monuments or gravesites.
- (2) The cemetery, although under City jurisdiction, shall not be considered as public land in the sense that it is common property and subject to the whims of the public, but is to be considered as sacred ground dedicated to the peace and repose of the departed and subject to the consideration and respect of all persons who visit or own lots in the cemetery.
- (3) The City reserves the right to abate or remove any planting or structure, either natural or manmade that is deemed unsightly, a nuisance or poses a hazardous situation at any time and without notice.

Sec. 10-2. Financial responsibility for property damage.

The City shall not be financially responsible for any damage to lots, structures, markers or objects within the cemetery, or for flowers or articles removed from any lot or grave.

Sec. 10-3. Supervision of contracted labor.

Masons, stone cutters and other workers shall be under the supervision of the cemetery sexton or his designee, at all times, and must carry off all rubbish and restore the avenues and paths injured by their operations as he/she shall direct. Any workers failing to conform to the requirement of this section may forthwith be excluded from the grounds, and the person employing such person shall be responsible for the injuries sustained through such neglect.

Sec. 10-4. Lot boundaries.

All landmarks or cornerstones shall be set by the sexton or under his/her supervision, and shall not be altered or removed. No landmarks or cornerstones indicating boundaries of lots shall be set above the surface of the ground.

Sec. 10-5. Grades established.

The cemetery sexton or his/her designee shall establish the grade of all lots, lawns and avenues, and shall have general supervision of improvements within the cemetery upon all lots, before and after interments are made, and no lot shall be filled or raised above the established grade.

Sec. 10-6. Traffic regulations.*

Cars and other vehicles driven in the cemetery shall not exceed a speed of five miles per hour. No person in charge of a vehicle shall pass, or attempt to pass, another vehicle going in the same direction, or turn around, or attempt to turn around on any of the roads, alleys or avenues in the cemetery, or drive upon or across any lot or ornamental ground, or through any alley within the cemetery. No person in charge of a vehicle may enter or leave the cemetery except by roads established for such purpose.

* **Cross references:** Traffic and vehicles, Ch. 36.

Sec. 10-7. Parking restrictions.

No vehicles shall be parked so as to infringe upon any lots or graves, or to obstruct free passage along any roads or drives within the cemetery.

Sec. 10-8. Conditions of lot purchase.

All lots within the cemetery shall be sold subject to the provisions of this chapter, as amended, and the cemetery certificate shall so state. No lot shall be used for any purpose other than the burial of human remains and the placing of appropriate memorials. Interment of the remains of any person other than the owner of a lot or any member of his immediate family will be permitted only after written consent by the owner or authorized agent has been filed with the City Clerk. In the case of a minor, the guardian or authorized agent shall give such consent upon proof of authority to act. Burial lots are exempt from ordinary taxes and cannot be seized on execution. The City may impose specific charges against lots. No mortgage or other encumbrance shall be given on any lot.

Sec. 10-9. Purchase procedure

The purchase of a cemetery lot shall be evidenced by execution of a cemetery certificate as right of burial, issued by the City Clerk, stating the new owners, lot location, purchase price, and date of payment for said lot. Such purchases are subject to approval of the City Clerk. Lots must be paid for in full before a permit for burial shall be issued. When a lot is purchased by more than one person, each person's interest in the lot shall be specifically stated.

Sec. 10-10. Forfeiture of vacant cemetery lots or burial spaces

Cemetery lots in the new 4th Addition and future additions that are sold and remain vacant for forty (40) years or more from the date of the sale, shall automatically revert to the City upon the occurrence of the following events:

- A. Notice shall be sent by the City Clerk by first-class mail to the last known address of the owner and/or their immediate contact(s) on record of the expiration of the 40-year period and that all right with respect to said lots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the City within sixty (60) days from the mailing date of such notice of his/her desire to retain such burial right; and
- B. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the City Clerk from the owner of record of said lots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice; and
- C. A public notice (published one (1) time) will be placed with the local paper stating a written response be received by the City Clerk from the owner of record of said lots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of the newspaper's publication date, of said notice; and
- D. Upon which all above requirements have been meet and no written response is received by the City Clerk, said lots or spaces shall then be considered abandoned and forfeiture shall result in said lots or spaces being automatically reverted to the City, at which time ownership shall belong to the City and said lots or spaces shall be available for resale by the City at the current sale price.

Sec. 10-11. Transfer of lots.

The transfer of a cemetery lot or part of a lot to another party shall be recorded in the office of the City Clerk. No person shall be recognized as owner or part owner of a lot unless it is recorded in the office of the City Clerk. A letter releasing interest of a lot from the owner shall be required only when the original cemetery certificate is not available to be surrendered to the City Clerk.

Sec. 10-12. Lot care and maintenance.

The various arrangements for cemetery lot care and maintenance shall be as follows:

- A. General maintenance of the cemetery, which is designed to improve the overall appearance and condition of the cemetery, shall be the responsibility of the City. Maintenance shall include such items as mowing and trimming of grass, landscaping, and the upkeep of the drives, buildings, water lines, drainage and fences of the cemetery.
- B. Perpetual care shall include the following items of basic lot care: annual spring cleanup, periodic cutting of grass, sowing grass, raking leaves and refilling or leveling of sunken graves.
- C. Maintenance of markers and/or monuments is the responsibility of the lot owner(s).

Sec. 10-13. Decoration of lots.

Lot decorations shall be deemed to include all items of structure, ornaments, plantings or other embellishments, with the exception of monuments and markers or mausoleums, which are placed on cemetery lots with the intention of improving their appearance. Lot decorations shall comply with the following guidelines:

- A. Copings, fences, curbs, benches, steps and structures of vinyl, steel, wood or other equally perishable material are prohibited. These structures or enclosures established on a lot prior to the adoption of the ordinance from which this chapter is derived, which have, in the judgment of the cemetery management, become unsightly or dangerous by reason of neglect or age, shall be removed.
- B. No elevated mounds shall be built over graves, and no lot shall be filled above the grade established by the City.
- C. Grave decorations must be within twelve (12) inches of the gravestone. All flowers, including artificial, must be in an urn; all glass containers are strictly prohibited.
- D. Winter decorations or artificial flowers may be maintained on graves until April 1. Any decorations that are not removed by April 1 shall be considered abandoned and may be disposed of by the cemetery management without notice.
- E. Urns must be placed on a foundation and maintained; there shall be a limit of one urn per grave site. Any urns not in use by June 10 will be removed.
- F. Arches for hanging baskets and urns are permitted only when they are in use, and such arches must be anchored.
- G. Toys or other unsightly objects will not be permitted as grave decorations, and if placed, will be removed without notice.
- H. Plantings shall be permitted only under the supervision of the cemetery sexton. Plantings placed on a lot without permission will be removed without notice.
- I. The planting of hedges is strictly prohibited. Hedges existing on the effective date of the ordinance from which this chapter is derived will be removed whenever they become unsightly or encroach upon an adjoining lot or path.
- J. The City will remove all flowers, trees or shrubs that have become unsightly, dangerous or encroach upon a walkway or alley.
- K. No deciduous or coniferous tree or bush shall be planted, pruned, trimmed or removed, except under the direction and with the consent of the cemetery sexton.
- L. Cement/concrete covered graves or ledger monuments above the ground are not permitted.
- M. One flag holder is permitted for the grave of each veteran whose last service was honorable and is interred in the cemetery.
- N. The City reserves the right to remove any flag that has become damaged or unsightly without making a replacement. Replacement of flags may be made by individuals from time to time.

- O. An edging is required for any ground cover decoration which has been preapproved by the cemetery sexton, and must be within twelve (12) inches of the headstone or marker on the grave site. Decorative and ornamental stones or rocks are prohibited.

Sec. 10-14. Interment.

No interment shall take place without a burial permit, nor until the person making arrangements for the interment comply with all laws, ordinances and rules and regulations relative to burials. Funeral directors making arrangements for burials shall be responsible for all interment charges if such charges are not paid by the owner or his/her agent within twenty-four (24) hours prior to such interment.

- A. The interment of cremains will require a copy of the burial transit permit before any cremains will be interned in the cemetery.
- B. All burials are required to be in a concrete or metal vault or a concrete box.
- C. Green burials are strictly prohibited within the cemetery.

Sec. 10-15. Funerals.

All funerals within the cemetery shall be under the direction of the cemetery sexton or his/her appointed agent. All requests for burial shall be made with City Hall in time to allow at least twenty-four (24) hours to prepare the grave. An additional charge as adopted by resolution of the City Council from time to time shall be made for a service on all non-scheduled work days. The cemetery management reserves the right to remove without notice any funeral designs and floral pieces as soon as they become unsightly.

Sec. 10-16. Interment restrictions.

Only one interment shall be permitted in a grave, except in the case of a mother and infant, or two children, space permitting. Two cremains may be buried in one grave site, or one cremains may be buried above a single grave. The cemetery sexton or public works supervisor of the City shall not be held responsible for errors in location of graves on lots arising from improper instructions of lot owners or funeral directors. Orders from funeral directors shall be construed as orders from the lot owners. Under no circumstances shall the City assume responsibility for errors in opening graves when orders are given by telephone. No graves shall be opened except by workers employed by the cemetery management. Funeral directors should arrange the time of a funeral so that cemetery workers can complete interment by 3:00 p.m.

Sec. 10-17. Disinterment.

No disinterment shall be allowed, except by authority of the person owning the lot in which the interment is made, and except by order of a court with appropriate jurisdiction when proper paperwork from the Mid-Michigan District Health Department for the remains must be given. Graves shall not be opened for inspection except for official investigations. Interment and disinterment may be made only by the regular employees of the cemetery. The City shall exercise the utmost care in making the removal, but it shall assume no liability for any damage to any casket or burial vault or urn incurred in making the removal. Any markers or monuments designating the location of an interment shall be removed at the time disinterment is made at the expense of lot owners or heirs. All disinterments are at the discretion of the City.

Sec. 10-18. Monuments and markers.

Approval of the location of a monument or marker must be obtained from the City Clerk's office or cemetery sexton before a monument or marker is set. No monument or marker shall be placed upon a lot unless such lot has been paid for in full. There are no restrictions as to the styles of monuments and markers that may be placed in the Old Plat and the 1st and 2nd additions of the cemetery; however, the following restrictions shall apply in the new sections L, M, N, O & the 3rd Addition:

- A. A monument or any upright-style memorial structure, such as slant face stones, memorial seats, double markers or permanent urns, must be set in the monument row, and placed eighteen (18) inches from the rear lot line. Any of such styles, monuments or markers may bear just the family name, or two or more inscriptions, as long as there are an equal number of graves for the monument to be centered on. This shall not prevent a monument on a single grave. Single markers are not allowed in the monument row, except section M & the 3rd Addition and any future additions. All monument work must face the abutting pathway, except in section M & the 3rd Addition and any future additions, where all monument work must face to the east.
- B. The term "marker" shall mean a stone used to indicate the location of a particular single grave and must be set in the marker row, except for section M & the 3rd Addition and any future additions, and must face the abutting pathway. In sections L, N and O, no marker shall extend more than six inches above the lawn at its highest elevation and shall be no more than twenty-four (24) inches in length and twelve (12) inches in width. In section M & the 3rd Addition and any future additions, all markers at the foot of the grave, including military markers, shall not extend above ground level.
- C. No material, except granite or a good grade of white marble from recognized monument quarries, shall be used for monuments or upright markers. Bronze may be used for monuments or upright markers if it is firmly attached to a granite base. No materials, except granite or standard bronze, shall be used for flush markers, unless preapproval is obtained from the cemetery sexton.
- D. All monuments and markers shall be placed on a foundation of a depth and size and material deemed adequate by the cemetery sexton. All foundations shall be installed by cemetery personnel. Foundation fees will be assessed on a square inch of surface area basis with a minimum set fee.
- E. Persons engaged in placing monuments and markers shall provide adequate planking to protect turf, and shall remove materials and equipment immediately upon completion of such work. The site shall be left in a clean, orderly condition. Markers and monuments will not be permitted to be delivered to lots until a proper order for a foundation installation has been placed with the City Clerk's office or the cemetery sexton.

Sec. 10-19. Mausoleums or vaults.

A mausoleum or vault may not occupy more than one-fifth (20%) of the ground area, and must be on road frontage lots. Detailed specifications must accompany any request for the building of a vault or mausoleum, and such permit shall be subject to the approval of the City.

Sec. 10-20. 4th Addition Cremains only.

This section is located in the northeast corner of the cemetery. All previous stated rules and regulations apply with the following exceptions:

- A. This section is provided for the burial of cremains only. Urn vaults are required due to the proximity to the public water supply and shall be no more than 14" x 14" x 18" in size.
- B. Lot spaces are 4 feet in length by 5 feet wide (4' x 5'). The cremains of more than one body may be allowed under the following conditions:
 - 1. A maximum of two cremains will be allowed per lot.
 - 2. The cremains must be in its own urn or container approved in advance by the City Clerk or cemetery sexton.
 - 3. The City shall charge a separate fee for each interment service provided. In the event two cremains are placed during the same interment, a fee of one-and-one-half (1½) times the current fee shall be charged.
 - 4. Pet cremains are prohibited and cannot be interred with human cremains.
- C. Markers must be flush with the ground and shall be no more than 20 inches by 10 inches (20" x 10") in size per cremains. Markers must be placed in a single row (north to south) at the head of the lot.
- D. Decorations of any kind are prohibited; in addition, flowers, plants, shrubs and trees are not allowed, except where the City may plant in strategic locations within proximity of this section.

SECTION 2. Repealer Clause. Any ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

SECTION 3. Savings Clause. This ordinance shall in no manner affect pending litigation, either civil or criminal, founded or growing out of any ordinance, resolution, order or parts thereof, hereby repealed; and this ordinance shall in no manner affect any rights, claims, privileges, immunities or causes of action of the City or other person, either criminal or civil, that may have already occurred, accrued or grown out of any ordinance, resolution, order or policy, or any part thereof, hereby repealed.

SECTION 4. Validity and Severability. Should any portion of this Ordinance be found invalid for any reason, such a holding shall not be construed as affecting the validity of the remaining portions of the Ordinance.

Ayes: ()
Nays: ()
Absent: ()
Abstain: ()

Barbara Fandell, Clerk-Treasurer

Introduced: 04/04/2019
Public Hearing: 04/04/2019
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