

AN ORDINANCE AMENDING AN ORDINANCE ESTABLISHING AND REGULATING THE MUNICIPAL CEMETERY; PROVIDING FOR CHARGES FOR SERVICES PROVIDED BY THE CEMETERY AND THE SALE OF LOTS AND PERPETUAL CARE; AND DEFINING THE DAMAGING OF CEMETERY PROPERTY OR OTHER ACTS INIMICAL TO CEMETERY OPERATIONS AS MISDEMEANORS.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SHENANDOAH, IOWA:

SECTION 1. Purpose. The purpose of this Ordinance is to amend Ordinance No. 1994-02, "AN ORDINANCE ESTABLISHING AND REGULATING THE MUNICIPAL CEMETERY; PROVIDING FOR CHARGES FOR SERVICES PROVIDED BY THE CEMETERY AND THE SALE OF LOTS AND PERPETUAL CARE; AND DEFINING THE DAMAGING OF CEMETERY PROPERTY OR OTHER ACTS INIMICAL TO CEMETERY OPERATIONS AS MISDEMEANORS," found at Pages 104 through 110 in Volume II of the Ordinance Book of the City of Shenandoah, Iowa.

SECTION 2. Section 4 of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 4. Operation. The Board of Trustees of the municipal cemetery of the City of Shenandoah, Iowa, referred to as the "Board of Trustees" in this Ordinance, shall recommend policy for the operation of the municipal cemeteries in accordance with such rules and regulations therefor as may be adopted by the City Council.

SECTION 3. Section 5 of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 5. Appointment of Sexton. The City Council shall appoint a cemetery sexton who shall operate the cemetery in accordance with the rules and regulations thereof and under the direction of the City Manager.

SECTION 4. Section 6 (b) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 6 (b). No person shall drive any vehicle faster than 15 miles an hour or in a careless manner upon the cemetery roads nor drive anywhere except upon such roads unless authorized by the sexton. For the purpose of this Ordinance, "vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, and shall include vehicles designed and constructed with special features for off-road operation.

SECTION 5. Section 6 (h) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 6 (h). No person shall allow any dog or other animal in the City cemetery, or any part thereof, except a guide dog or seeing-eye dog when in sue by its master.

SECTION 6. Section 7 (e) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof as follows:

Section 7 (e). No interment of any body other than a human being shall be permitted or made in the City cemetery, nor shall there be more than one body per grave. Any exception to this Section must be made by the City Council. Interment of parent and infant child, or twin children, or two children buried at the same time, will be permitted in one grave. Interment of the cremains of not more than four bodies will be permitted in one grave space.

SECTION 7. Section 7 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 7 (1):

"Section 7 (1). No interments shall be permitted on Saturdays after 12:00 noon, on Sundays or on holidays, except by order of the local Board of Health."

SECTION 8. Section 8 (a) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 8 (a). Monuments and grave markers of every description shall have suitable foundations, adequate to prevent tipping, sinking, breaking or chipping. Such foundations shall be of concrete, installed by the company furnishing the monument or grave marker, and shall be at the owner's expense.

SECTION 9. Section 8 (b) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 8 (b). Foundations shall be of poured concrete, in an area at least as large as the bottom base or first masonry course above ground of the structure to be erected, and of adequate depth, which shall be not less than sixteen (16) inches of poured concrete. Any excess cement not required for construction of the base nor as a structure of the base, shall be removed from the cemetery by the contractor. The four (4) inch "pre-pad" or precast base shall not be considered a part of the sixteen (16) inch poured concrete foundation. The four (4) inch pre-pad or precast base shall be guaranteed by the contractor or manufacturer.

SECTION 10. Section 8 (c) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 8 (c). Location of a marker shall be determined by the sexton, in accordance with this Ordinance and any requirements as set forth in the cemetery rules.

SECTION 11. Section 8 (d) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 8 (d). Commercial monuments shall be of bronze, marble or granite containing no discoloration, flaws, or weak spots. No monument or grave marker for a single grave space shall exceed the width of the grave space.

SECTION 12. Section 8 (f) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 8 (f). If any vault, tomb, mausoleum or like structure in which bodies are entombed in the cemetery shall fall into a state of dilapidation or decay, or shall be determined by the City Council, Cemetery Board, or Sexton to be offensive or in any way injurious to the appearance of the cemetery, no adequate provisions having been made by the owner for repair and preservation of such structure, the City shall have the right to remove the said offensive or objectionable structure and to inter any body or bodies contained therein, in the earth upon the lot on which such structure was located, maintaining such lot thereafter in good and similar condition as done with other lots in the cemetery.

SECTION 13. Section 8 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 8 (p):

"Section 8 (p). Temporary grave markers set after the effective date of this Ordinance shall be removed not later than six months after interment. Temporary markers not removed by the lot owner as required by this Subsection may be removed by the Cemetery Sexton."

SECTION 13. Section 8 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 8 (q):

"Section 8 (q). Prior to setting any monument or grave marker, the contractor shall contact the Cemetery Sexton and complete the appropriate application form, which shall be provided by the Sexton. The Cemetery Sexton shall inspect and measure the foundation excavation prior to pouring any cement."

SECTION 13. Section 8 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 8 (r):

"Section 8 (r). Lot owners and other persons shall not remove survey pins or markers."

SECTION 13. Section 8 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 8 (s):

"Section 8 (s). No person upon roller skates, roller blades or a skateboard, or similar devise, shall go upon any roadway, path or any other part of the cemetery."

SECTION 14. Section 8 of Ordinance 1994-02 of the Ordinances of the City of Shenandoah, Iowa, is amended by adding the following new Subsection, 8 (t):

"Section 8 (t). On any grave space where there is interment of cremains, all markers for marking graves shall be laid flush with the ground."

SECTION 15. Section 9 of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 9. Burial Charges.

(a) Except as adjusted as provided in Section 9, Paragraph (b), the charge for burials shall be as follows:

Opening and closing graves, other than for Infants or Crematory Remains	\$ 200.00
Opening and closing graves of Infants	\$ 75.00
Crematory Remains	\$ 50.00
Opening and closing graves on a Saturday, Sunday or Holiday, other than for Infants or Crematory Remains	\$250.00
Opening and closing graves of Infants on a Saturday, Sunday or Holiday	\$100.00
Opening and closing graves for Crematory Remains on a Saturday, Sunday or Holiday	\$ 75.00

(b) The charges for burials shall be adjusted annually. On July 1, 1997, and on the first day of each July thereafter, the charges for burials shall be adjusted upward if the cost of living index as provided herein discloses an increase in the cost of living, according to the United States Consumer Price Index, (CPI-U), for all items (the "index-number"). Such charges for burials shall be adjusted upward by the percent which such price index has changed as determined by comparing the index number of the then most recent calendar year with the index number of the calendar year ending twelve months prior thereto. The percent of change shall be applied to all charges for burials until the next annual adjustment.

SECTION 16. Section 11 of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

Section 11. Long-term Care of Lots. In addition to the purchase price for each single grave lot, purchasers of burial space shall pay a perpetual care charge. The charge for perpetual care of graves shall be a sum equal to 25 percent of the cost of the lot as determined under SECTION 10.

The City Clerk shall deposit such amount into a Cemetery Perpetual Care Fund. The City Council, by Resolution, may accept gifts or donations of land, money or investment assets to be placed to 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 City 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 a 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 said fund, but such investments may be continued until their maturity and then reinvested according to the provisions of this section.

SECTION 17. Section 14 (a) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

(a) It is hereby made the duty of the City Manager, or upon recommendation of The Board of Trustees, to survey, plat, grade, fence, ornament and improve all of the cemetery grounds and the avenues leading thereto, from time to time, as in the opinion of the City Manager and Council may be necessary and advisable. The City Manager may use the sexton, professional engineers or registered land surveyors and other labor and help to accomplish the aforementioned duties.

SECTION 18. Section 16 (c) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

(c) Powers of City Council. The Mayor and City Council shall have the power to remove from office any or all of said Board of Trustees for nonperformance of duties, as defined in this Ordinance.

SECTION 19. Section 16 (d) of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

(d) Board Duties. The Board shall advise and consult with the City Manager, the Mayor and City Council on all matters relating to the care and maintenance of the cemetery. The Board shall, from time to time, recommend to the City Council for consideration, adoption and amendment, rules and regulations governing the general operation of the cemetery.

The Board shall render an annual report to the Mayor and City Council.

SECTION 20. Section 17 of Ordinance 1994-02 of the Shenandoah City Ordinances is hereby repealed and a new section adopted in lieu thereof, as follows:

SECTION 17. Penalties. Any person found guilty of violating any of the provisions of this Ordinance shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days, or a fine not exceeding \$100.00.

SECTION 21. Ordinance 1994-02 of the Shenandoah City Ordinances is hereby amended by adding the following new Section 21:

SECTION 21. Exceptions from Application of Ordinance. The City Council may authorize in specific cases such variance from the terms of this Ordinance, and any regulations adopted pursuant to this Ordinance, as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of the Ordinance or regulations will result in unnecessary hardship, and so that the spirit of the Ordinance shall be observed and substantial justice done.

No variance or exception shall be authorized unless the City Council finds that:

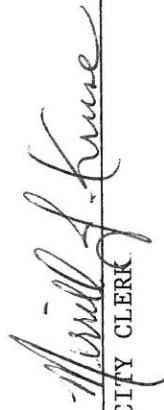
- (a) The strict application of the Ordinance or regulation would produce undue hardship;
- (b) The hardship is not shared generally by other lots or grave spaces within the cemetery;
- (c) The authorization of such variance will not be a substantial detriment to the cemetery;
- (d) The granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
- (e) The condition or situation concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

Before any variance is granted, the City Council shall hold a public hearing thereon, after a notice has been published in the official newspaper in the manner provided by Iowa Code Section 362.3.

SECTION 22. Severability Clause. If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 23. Effective Date. This Ordinance shall be in effect after its final passage, approval and publication in accordance with law.

PASSED by the Council on the 11th day of June, 1996, and APPROVED this 11th day of June, 1996.


CITY CLERK


MAYOR

I, Merrill J. Kruse, City Clerk of the City of Shenandoah, Iowa, do hereby certify that the above Ordinance was duly passed and adopted by the City Council on the 11th day of June, 1996; authenticated by the City Clerk on the 11th day of June, 1996; and published in the Valley News Today on the 26th of June, 1996.


CITY CLERK

