

## ORDINANCE NO. 1988-04

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. Establishment. The cemetery ground (presently existing and known as the Rose Hill Cemetery and all additions thereto) is hereby established as a municipal cemetery of the City of Shenandoah, Iowa.

SECTION 2. Purpose. The purpose of this Ordinance is to provide rules and regulations for the care and management of the cemetery grounds owned or operated by the City.

SECTION 3. Control by Council. The cemetery grounds owned or operated by the City shall be under the control of the City Council.

SECTION 4. Operation. The City Manager shall have charge of the operation of the municipal cemeteries in accordance with such rules and regulations therefor as may be adopted by the City Council.

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

SECTION 6. Rules - - general operation. The following rules shall govern general operations of the cemetery:

- (a) Persons within the cemetery shall at all times maintain decorum of speech and action, including avoidance of loud talking or other noise within earshot of graveside ceremonies if not part of the group participating in the ceremonies, and workers shall suspend their work when near such ceremonies.
- (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.
- (c) Persons shall walk only on roads and walkways or footpaths except when absolutely necessary for maintenance of gravesites, inspection of plots, installation of markers or decoration of graves.
- (d) No person shall deface or otherwise damage any marker, headstone, monument, cemetery fence, or any other cemetery structure.
- (e) The hours when the cemetery may be closed shall be set by Council resolution.
- (f) No persons except an authorized City employee shall cut, remove, or carry away any flowers, trees, shrubs, plants or vines from any lot. However, the owner of a lot may remove and carry away any flowers, plants or vines that he has placed upon said lot. No person other than the owner of the lot or City employees in the performance of their duties shall remove, carry away or destroy any vases, flower pots, urns or other objects which have been placed upon any lot.
- (g) No person may consume or possess refreshments, liquors or beverages of any kind on the cemetery grounds.
- (h) No person shall allow any dog or other animal belonging to him or under his control to run at large in the City cemetery, or any part thereof.
- (i) No persons other than law enforcement officers and persons engaged in military funerals or like ceremonies

whose functions require the carrying of firearms may carry any firearm in or upon the City cemetery grounds.

- (j) All persons using the cemetery grounds shall deposit their rubbish and trash in the receptacles placed in the cemetery for that purpose.

SECTION 7. Rules - burials. The following rules shall apply to burials within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith with regard to burials.

- (a) Undertakers must furnish the sexton with the proper permits before any burial will be permitted.
- (b) Lot owners are forbidden to allow interments to be made in their lot for a remuneration.
- (c) On lots owned by churches or benevolent societies, burials may be made upon receiving written consent of the trustees of such church or society.
- (d) All graves shall be dug by workmen employed by the City, and no filling, sodding, boxing, mounding, or other work upon single graves or lot graves shall be done except by such employees.
- (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.
- (f) Arrangements for interments shall be made by the owner of the burial space, by a member or members of the family acting and authorized by law to act for the owner, or by an authorized undertaker, or other authorized agent of the owner.
- (g) Notice of interment must be given to the sexton at least 48 hours in advance of burial. A longer time may be required by resolution-adopted rule for winter burials. The sexton or other authorized employee of the City must be present at all interments and have full charge of opening, closing and sodding of all graves.
- (h) The City shall in no manner be liable for any delay in the interment of a body where a protest to the interment has been made or where the rules and regulations of the cemetery have not been complied with. The City shall be under no duty to recognize any protest of interment unless it be in writing and filed with the City Clerk. The City shall not be responsible for errors resulting from orders or instructions given by telephone and the Clerk and cemetery sexton may require such orders to be in writing before finalizing any action.
- (i) The City shall not be liable for the interment permit nor for the identity of the body sought to be interred.
- (j) Disinterments shall be government by the above rules a, d, e, f, g, h, and i.
- (k) Cemetery employees shall exercise reasonable care in making a removal but neither they nor the City shall assume any liability for damages to any casket or burial case or urn incurred in making the removal.

SECTION 8. Rules - markers and decorations. The following rules shall apply to the erection of markers within the City cemetery. The Council, by resolution, may adopt further regulations not in conflict herewith with regard to markers.

- (a) Monuments and grave markers of every description shall have suitable foundations, adequate to prevent tipping or sinking. Such foundations shall be of concrete, installed by the company furnishing the monument or grave marker, and shall be at the owner's expense.
- (b) Foundations shall be of concrete, in 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. Said foundation shall meet the requirements as set forth in the cemetery rules.
- (c) Location and size of a marker shall be determined by the sexton and it must be set and maintained so that the top of the marker is flush with the surrounding ground.
- (d) Commercial monuments shall be of bronze or granite of recognized grade, containing no discoloration, flaws or weak spots.
- (e) Slabs of any kind will not be permitted as coverings for graves. Surface vaults will not be permitted.
- (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 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.
- (g) No fences or enclosures around lots shall be permitted.
- (h) Lot owners shall have the right to cultivate plants within the limit of a one-foot radius of any monument, which plants must not be detrimental to the cemetery or adjoining lots. Owners of lots shall not change the grade of any lot, nor interfere in any way with the general plan of landscaping of the cemetery.
- (i) The sexton or other authorized employees of the City may enter upon any lot and remove any shrub, plant, ornament, tree or other object which is deemed detrimental to the cemetery or adjoining lots and for the purpose of making any improvements deemed to be advantageous to the cemetery grounds.
- (j) Lot owners and others are prohibited from placing on lots or graves any toys, cases, boxes, globes, shells, cans, jugs, bottles, bric-a-brac of every description, wooden benches, chairs, settees, head-boards or wooden articles of any kind. Any such articles found on the cemetery grounds may be removed.
- (k) In that part of the cemetery added in the year 1948 and which is described as follows:  
  
Blocks One (1), Two (2), Three (3), Four (4), and Five (5) of the survey plat dated July, 1949, known as Memorial Park Addition;

all markers for marking graves shall be of stone or bronze laid flush with the ground. This regulation shall also apply to the irregular diamond-shaped park East of the mausoleum and known as the Rose Hill Park Addition.

(1) Monuments and grave markers set after the effective date of this Ordinance shall be located at the North end of North-South burial spaces, and at the West end of East-West burial spaces, except as otherwise provided in Section 8, subsection (m) of this Ordinance.

(m) Monuments and grave markers set after the effective date of this Ordinance on the following described lots in Southview Addition to Rose Hill Cemetery shall be located on the respective burial spaces, as follows:

<u>BLOCK NUMBER</u>	<u>LOT NUMBER</u>	<u>BURIAL SPACE LOCATION</u>		<u>MONUMENT OR MARKER LOCATION</u>	
1.	1	97 thru 109	South/West	South/West	South/West
2.	1	97 thru 109	North/East	North/East	North/East
3.	1	91 thru 96	West/North	West/North	West/North
4.	1	91 thru 96	East/South	East/South	East/South
5.	2	51 thru 60	North	North	North
6.	2	51 thru 60	South	South	South
7.	2	61 thru 68	North/West	North/West	North/West
8.	2	61 thru 68	South/East	South/East	South/East
9.	3	61 thru 68	North/East	North/East	North/East
10.	3	1 thru 8	South/West	South/West	South/West
11.	3	9 thru 18	North	North	North
12.	3	9 thru 18	South	South	South
13.	4	10 thru 17	East/North	East/North	East/North
14.	4	10 thru 17	West/South	West/South	West/South
15.	4	1 thru 9	East/North	East/North	East/North
16.	4	1 thru 9	West/South	West/South	West/South
17.	5	1 thru 13	West/North	West/North	West/North
18.	5	1 thru 13	East/South	East/South	East/South
19.	5	14 thru 18	North	North	North
20.	5	14 thru 18	South	South	South
21.	6	1 thru 5	North	North	North
22.	6	1 thru 5	South	South	South
23.	6	6 thru 21	North/East	North/East	North/East
24.	6	6 thru 21	South/West	South/West	South/West
25.	7	1 thru 6	East/South	East/South	East/South
26.	7	1 thru 6	West/North	West/North	West/North
27.	7	7 thru 13	North/West	North/West	North/West
28.	7	7 thru 13	South/East	South/East	South/East
29.	7	14 thru 18	South	South	South
30.	7	14 thru 18	North	North	North
31.	8	1 thru 5	South	South	South
32.	8	1 thru 5	North	North	North
33.	8	6 thru 12	South/West	South/West	South/West
34.	8	6 thru 12	North/East	North/East	North/East
35.	8	13 thru 18	West/South	West/South	West/South
36.	8	13 thru 18	East/North	East/North	East/North

SECTION 9. Burial Charges. The charge for burials shall be as follows:

Opening and closing graves, other than for infants or crematory remains	\$80.00
Opening and closing graves on a Saturday, Sunday or holiday, other than for infants or crematory remains	95.00
Opening and closing graves of infants	20.00
Crematory remains	15.00

SECTION 10. Sale of Lots; Perpetual Care.

- (a) Purchasers of burial space in the City cemetery whether by lots or parts thereof, shall be entitled upon payment of the full purchase price and the perpetual care charge to a deed for the space purchased; said deed to be signed by the Mayor and countersigned by the City Clerk, and specifying that said deed vests in the purchaser, the heirs, or the assigns of said purchaser, a right in fee simple to such lots, lot, or part thereof for the sole purpose of sepulcher alone, for human bodies only, subject to the rules and regulations and ordinances governing the cemetery as they exist at the time of interment, and that the City reserves the control of said lots, lot or part of lot in the cemetery in order to properly maintain the cemetery. No deed shall be delivered until the purchaser has made final payment of the full fee for purchase plus the payment required for perpetual care. Any deed granted prior to the requirement for perpetual care shall be subject to any annual fee that the Council has set for care. The City Council shall permit the conversion of the annual care requirement to perpetual care upon payment of the owner or another person in his behalf of the amount that would be required for such lots for perpetual care if purchased at the time of such conversion. Thereafter such owner or his heirs and assigns shall be relieved of any annual liability for a care fee.
- (b) Any unoccupied lot will be presumed abandoned under the conditions set out in state law for reversions, and the City may sell such reverted lot, the proceeds from which shall be deposited in the perpetual care fund to provide for the care of any occupied area of the reverted property or if there be no occupied portion, the proceeds from the sale portion may be invested and the interest thereon be used wherever deemed useful for the care of the cemetery.
- (c) The cost of all lots in all additions of the cemetery shall be Sixty Dollars (\$60.00) for each single grave lot. No graves in any part of the cemetery are to be sold without payment for perpetual care. The proceeds from the sale portion shall be deposited in the general fund.
- (d) The City reserves and shall have the right to correct any errors that may be made in making either interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by cancelling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the City or in the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves the right to remove and transfer such remains to such other property of equal value and similar location as far as reasonably possible may be substituted and conveyed in lieu thereof.

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 as follows:

For an 8-grave lot	\$100.00
For a 4-grave (one-half) lot	60.00
For a 2-grave (one-quarter) lot	30.00
For a single grave	16.00

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 12. Records.

- (a) The City shall keep a lot record and each lot record shall consist of an individual page or card for each lot, arranged by blocks according to lot number. Each page or card shall contain a record of the name and address, as nearly as possible, of each lot owner, the lot and block number, the purchase receipt number, date of purchase and space for recording transfers. A diagram of the lot shall be drawn on the page, numbering and showing the location of each grave. A space is to be provided to record the name and grave number of each person buried in the lot.

- (b) Interment register shall be maintained by the City showing a complete record of interments. This shall be in book form, the columns of which shall provide space for recording each burial, the date of interment, the deceased's full name, place of death, name of funeral director, lot and block where buried, size of grave, and location of grave in the lot measured in terms of feet from designated boundaries. (Example: "One foot from the North lot line, three feet from the West lot line.")

- (c) The City shall keep a burial record for each body buried, arranged alphabetically by last name of deceased, giving name, date of burial, and the lot and block number. This record will supplement the interment register and provide a starting point when only the name of the deceased is known.

SECTION 13. Liability. The City shall take reasonable precautions to protect plot owners and the property rights of plot owners within the cemetery from loss or damage, but it expressly shall not be liable for loss or damage beyond its control, and, particularly, from damage caused by the elements, an Act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable civil disorder, whether the damage be direct or consequential.

#### SECTION 14. Platting.

- (a) It is hereby made the duty of the City Manager 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.
- (b) Before any new block of a city-owned cemetery is opened for sale of lots, the City Council shall cause it to be platted and recorded in the office of the County Recorder. A copy of the plat map shall be deposited with the sexton and one or more copies with the City Clerk. The plat shall be so designed as to provide direct access to each lot from either a road or a walkway or foot path.

## CONTINUED ORDINANCE 1988-04

SECTION 15. Regulations Adopted. The rules and regulations of the municipal cemetery as adopted and amended from time to time by the City Council are hereby made a part of this ordinance. Copies of these rules and regulations shall be maintained on file in the office of the City Clerk and may be obtained upon request at such office.

SECTION 16. Penalties. The violation of any provision of Section 2 shall constitute a misdemeanor.

SECTION 17. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. These are: Chapter 10, Cemeteries, Municipal Code, City of Shenandoah, Iowa.

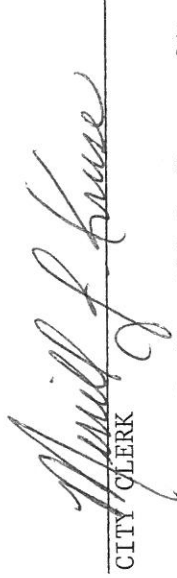
SECTION 18. Severability Clause. If any section, provision or part of this Ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 19. Effective Date. This Ordinance shall be in effect after its final passage, approval and publication in accordance with law.

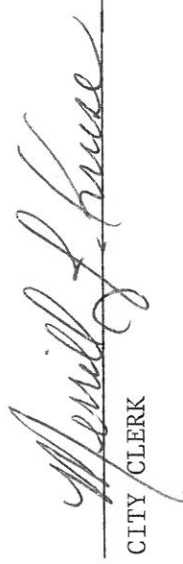
Passed by the Council on the 12th day of July, 1988, and approved this 12th day of July, 1988.

  
MAYOR

Attest:

  
CITY CLERK

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 12th day of July, 1988; authenticated by the City Clerk on the 12th day of July, 1988, and published in the Evening Sentinel on the 29th day of July, 1988.

  
CITY CLERK

