



Legislation Text

File #: 17-0907, **Version:** 1

An Ordinance to Amend Sections 3:42, 3:43, 3:44, 3:45, 3:46, 3:47, 3:48 and 3:50 of Chapter 41, Cemeteries, of Title III of the Code of the City of Ann Arbor (Ordinance No. ORD-17-11)
Your approval is request to amend Chapter 41, Cemeteries, of the City Code to allow transfer of the administrative management of the City's cemetery from the Public Services Area to the City Clerk.

With this transfer, the City Clerk's office will be responsible for the sale of plots, burial administration and record retention. The transfer of oversight will improve customer service and operational efficiency.

In addition to the necessary amendments to the Code to transfer the management of the City cemetery, the provision on investment options available for perpetual funds has been updated to comply with recent statutory changes.

Prepared by: Mary Joan Fales, Senior Assistant City Attorney

Reviewed by: Jacqueline Beaudry, City Clerk

Molly Maciejewski, Public Works Manager

Approved by: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-17-11

First Reading: June 19, 2017

Public Hearing: July 3, 2017

Approved: July 3, 2017

Published: July 14, 2017

Effective: July 24, 2017

CEMETERIES

AN ORDINANCE TO AMEND SECTIONS 3:42, 3:43, 3:44, 3:45, 3:46, 3:47, 3:48 AND 3:50 OF CHAPTER 41, CEMETERIES, OF TITLE III OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor Ordains:

Section 1. That Section 3:43 of the Code of the City of Ann Arbor be amended to read as follows:

3:42. City cemeteries.

The cemeteries which have been or may hereafter be established by the City of Ann Arbor and maintained either within or without its limits, of which plats have been or shall be filed in the office of the City Clerk, shall be under the management and supervision of the City Clerk.. The City Clerk or designee shall, if necessary, cause such cemeteries to be laid out in lots, drives and walks; the lots to be numbered, drives and walks therein to be named, and plats thereof to be made and, when properly approved, to be filed in the office of the City Clerk. The City Council shall fix the price of lots and other services necessary thereto from time to time by Resolution.

Section 2. That Section 3:43 of the Code of the City of Ann Arbor be amended to read as follows:

3:43. - Rules and regulations.

The City Council shall, from time to time, make such rules and regulations for the burial of the dead, care, improvements and protection of the grounds, mausoleums, monuments and appurtenances of the cemeteries and orderly conduct of persons visiting the same, as may be deemed necessary. The City Clerk, shall see that this chapter and all rules and regulations in respect to cemeteries are strictly enforced. The City Clerk shall cause to be kept a register and record of all interments made in any City cemetery in which shall appear the name of the deceased, the date and place of interment and such other information as may be required by law

Section 3. That Section 3:44 of the Code of the City of Ann Arbor be amended to read as follows:

3:44. - Sale of lots.

The City Clerk shall attend to the selling of lots, and all deeds therefor shall be executed on behalf of the City by the City Clerk. Any person desiring to purchase a burial space in any City cemetery shall make application and pay the required amount for the lot selected to the City Clerk. Upon the purchase of any burial space(s), the City Clerk shall prepare and deliver to the Owner, a duly executed burial rights certificate for said burial space(s). Such certificate shall convey to the Owner the right of interment only and shall be held subject to the provisions of this Code, existing rules and regulations and such ordinances, rules and regulations as may hereafter be adopted by the City Council.

Section 4. That Section 3:45 of the Code of the City of Ann Arbor be amended to read as follows:

3:45. - Lot owner's burial rights; ownership sales and transfers.

1. The Owner of any burial space in any city cemetery shall have the right of burial of the human dead only and shall allow no interments for remuneration. Under the regulations of the cemetery, the interment rights cannot be conveyed without the assent of the City Clerk, nor can any use, division or improvements of them be made which the cemetery prohibits
2. Privately owned burial space(s) may only be sold back to the City. Repurchase of a burial space(s) upon written request of the Owner or legal heirs or representatives. The value of any burial space(s) being sold back to the City is established as the original purchase price. Upon sale, all interest of Owner shall revert to the City.
3. Privately owned burial space(s) may be transferred to an heir or assigned subject to the following:
 - a. If the Owner is living, transfer of ownership can be completed by endorsement of an assignment on a form issued and approved by the City Clerk.
 - b. If the Owner of the burial space(s) is deceased, transfer of ownership can only be completed if the person making the request is in possession of the original deed

endorsed by the Owner; is the executor of the estate, or has other legal paperwork showing that he/she is authorized to make the request.

- c. If the Owner of the burial space(s) is a public or private corporation, transfer of ownership can be completed on presentment of a duly authorized resolution of the governing body or official authorized to make the request.

Upon such assignment, approval and entry into the record, the City Clerk will issue a new deed to the assignee and shall cancel and terminate upon the public record, the original deed thus assigned. Any and all transfers of any interment right are subject to all rules and regulations of the cemetery, which are now in full force and effect or which may be hereafter enacted. Transfers of ownership shall be subject to an administrative charge as may be from time to time fixed by resolution of City Council.

Section 5. That Section 3:46 of the Code of the City of Ann Arbor be amended to read as follows:

3:46. - Lot records.

The City Clerk shall keep proper records in which the certificates to all burial spaces shall be recorded at length. In connection with all such records, the City Clerk shall also keep a general index in which shall be noted alphabetically the name of the party or parties to every such certificate.

Section 6. That Section 3:47 of the Code of the City of Ann Arbor be amended to read as follows:

3:47. - Labor charges.

The City Clerk or designee shall charge and cause to be collected on behalf of the city such fees for work performed in the city cemeteries as may be from time to time fixed by the City Council. All such fees shall be payable to the City of Ann Arbor and delivered to the City Clerk or designee prior to interment. No person other than an employee or contractor of the city, acting under the direction of the City Clerk, shall dig or open any grave, nor shall any person grade or fill in a burial space or otherwise do any work in connection therewith, unless such work be done under the written authorization of the City Clerk or court order..

Section 7. That Section 3:48 of the Code of the City of Ann Arbor be amended to read as follows:

3:48. - Trespass.

No person shall trespass on any lot or burial space within any city cemetery nor pick or cut flowers or shrubs except on his own burial space, or cut down, injure or disturb any tree or shrub or otherwise commit any desecration within any city cemetery. The City Clerk shall make such additional rules and regulations not inconsistent with the terms of this chapter, subject to the approval of the City Council, as may be deemed necessary for the operation and control of city cemeteries.

Section 8. That Section 3:50 of the Code of the City of Ann Arbor be amended to read as follows:

3:50. - Perpetual care fund: investment.

Any part of the principal of the cemetery perpetual care fund may be invested by the City Treasurer as provided for in Public Act 215 of 1937, as amended.

Section 9. Severability. In the event any court of competent jurisdiction shall hold any provision of this Ordinance invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision thereof.

Section 10: Effective Date. This Ordinance shall take effect on the tenth day following legal publication.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of July 3, 2017.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on July 14, 2017.

Jacqueline Beaudry, Ann Arbor City Clerk