

Chapter 204

CEMETERY

[HISTORY: Adopted by the Village Board of Trustees of the Village of Hixton 10-6-1987 (Title 6, Ch. 4, of the 1987 Code of Ordinances). Amendments noted where applicable.]

§ 204-1. Policy statement.

- A. Purpose. The Village of Hixton Cemetery is owned and maintained by the Village for the benefit of all citizens. Definite rules and regulations must be set up by the Village Board to ensure proper maintenance and beauty and to prevent abuse and destruction. The following rules and regulations are set forth in this chapter to govern the cemetery. The Village reserves the right to amend or change any of these rules and regulations to conform with newly developed cemetery practices.
- B. Management. The Hixton Cemetery shall be subject to the control of the Village Board and the Board may, from time to time, acquire lands for cemetery purposes as the same are required, contiguous to said described premises, in the manner provided by law. The Board shall have full power and authority to exercise general supervision over said cemetery and shall regulate the manner of burial and shall designate who shall be buried in the public grounds.
- C. Sexton. The Board shall appoint a Sexton and shall prescribe his duties and fix the salary to be received by him for the discharge of such duties.

§ 204-2. Platting of new cemetery lots.

- A. Platting. Before any new block of a municipal cemetery is opened for the sale of lots, the Village Board shall cause it to be platted and recorded in the office of the Register of Deeds.
- B. Single grave section. The Village Board or its designee shall designate certain lots as a single grave section, and lots therein shall be platted and sold as single grave lots. Unused portions of lots repossessed for nonpayment of assessments for care may likewise be designated and sold as single graves or otherwise.

§ 204-3. Purchase of lots.

- A. Price of lots. The Village Board shall, by resolution, fix a price on all lots to be sold in the municipal cemetery, a copy of which is on file with the Village Clerk-Treasurer.
- B. Sale of lots. Persons or their agents desiring to purchase a lot in the cemetery shall be referred to the Cemetery Sexton or to his duly authorized agent. The Sexton will have available suitable plats showing size and price of lots, and such other information as may be required, and will render assistance to those desiring to make lot purchases. Upon

having made a lot selection, the Sexton will issue a lot order to the prospective purchaser, or his agent, who will present the order at the office of the Village Clerk-Treasurer. Upon receipt of proper payment, the Village Clerk-Treasurer shall issue a deed to the lot in the form prescribed by the Village Attorney. The deed shall be signed by the Village Clerk-Treasurer and Village President and sealed with the corporate seal and acknowledged so as to entitle it to be recorded. The purchaser may record this deed with the Jackson County Register of Deeds.

§ 204-4. Ownership rights of interment.

A. Lot owner.

- (1) The lot owner or his authorized agent shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of the cemetery rules and regulations.
- (2) Upon full payment of the purchase price of a lot, the Village Clerk-Treasurer will issue a cemetery deed, and the deed will be recorded in the records of the Village as evidence of ownership of the lot. Lots, or fractions of lots, for which lot deeds have been issued by the Village, will not thereafter be divided except by consent of the Village. All lots are exempt from taxation and cannot be seized for debt (except those owed to the cemetery) nor can they be mortgaged.
- (3) All repossessed vacant grave spaces shall be subject to the same fees and charges.
- (4) The lot owner shall have acquired the lot for interment of himself and members of his family. However, the lot owner may grant written permission (which must be notarized and placed on file with the Village Clerk-Treasurer) for the burial of other persons. No corpse shall be interred in a lot except the corpse of one having an interest therein, or a relative, or the husband or wife of such person, or his or her relative, except by the consent of all persons having an interest in the lot.

B. Unless otherwise directed, in writing, and filed with the Village Clerk-Treasurer, the lot owner, his devisees, or his heirs, the cemetery will permit the interment of members of his family at the request of any interested person upon proof of eligibility for burial as follows:

- (1) The surviving spouse of the lot owner shall have the first right to interment or to direct the right of interment.
- (2) When there is no surviving spouse, the devisees or heirs of the owners may, by agreement in writing, determine who among them shall have the right of interment or direction for interment, which agreement shall be filed with the Village Clerk-Treasurer.
- (3) In the event the owner, his devisees or heirs shall not have arranged for future interments, then the devisees or the heirs, as the case may be, of such owner shall have the right to interment in order of their need.

C. All burial rights in cemetery lots purchased from the Village occupy the same position as real estate at the death of the owner. Only such persons whose names appear on the cemetery records of the Village will be recognized as owners or part owners of lots. In case

of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will must be delivered to the Village Clerk-Treasurer before the Village will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the cemetery lots and devise same to one person.

D. Lot owners may not resell or transfer their lots or parts of lots except as outlined below:

- (1) The Clerk-Treasurer shall enter in the record kept for that purpose all deeds of transfer and reconveyance of cemetery lots. No such reconveyance shall be received and recorded by the Clerk-Treasurer until a fee as set by the Village Board has been paid therefor. Said fee shall go into the general municipal fund. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (2) Reconveyance of lots or parts of lots may be made only by written application therefor upon banks furnished by the Village Clerk-Treasurer, the same to be approved by the Village Board. Such application shall be executed by the owner(s) of the lots, or if the owner(s) is deceased, by the legal heirs. The application shall state the lot and block number.
- (3) No owner of a cemetery lot shall sell, transfer or assign the same or the unused portion thereof to any other person without the Village's consent. The Village shall have the right of first refusal to repurchase such lot or part thereof at the current grave price. If the owner of any lot or part of a lot should sell or transfer the same without giving notice to the Village, except through probate, of such transaction, such sale or transfer shall be null and void.

E. Whenever possible, repossessed lots will be used for burials before new areas of the cemetery are used or platted.

§ 204-5. Care of lots.

- A. In order to assure reliable means for permanent care, a perpetual care fund is created. Income from this fund will provide partial maintenance costs of the cemetery. This fund is composed of 50% of the money received from each lot sale and opening and closing fees, with the remaining portion going into the general fund. A record shall be kept on file in the office of the Clerk-Treasurer of the Village. The fund may also be increased by gifts, bequests, a portion of memorial charges and other service revenues.
- B. "Perpetual care" shall be construed to mean the obligation which the Village assumes to use the net annual income received from the investments of the fund in furnishing such care as is furnished similarly endowed lots in the cemetery. Such perpetual care shall be limited to the maintenance of lawn, leaf disposal, filling sunken graves and raising of markers, caring for avenues, alleys, fences, buildings and grounds in general. It is understood that such expenditures shall be made at the discretion of the Village. The Village shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the same shall be added to the perpetual care fund of the Village and the proceeds therefrom used by the Village in the manner as heretofore

provided. Nothing herein shall be construed as obligating the Village to any alleged existing contract as to perpetual care.

§ 204-6. Privileges and restrictions.

- A. No mound shall be raised upon any grave above the general level of the lot.
- B. No hedges, fences or enclosures of any kind will be permitted on or around lots. Wooden boxes, wire containers, glass jars, bottles, toys, cans and other such objects may not be placed on lots and, if so placed, will be removed by the Village without notice. Urns are not permitted on lots sold after the passage of the Ordinance codified herein. Existing urns shall be removed by the Village as they become unsightly or deteriorated and shall not be replaced. However, before any such urn is destroyed or discarded, the last owner of record of the lot shall be notified by registered or certified mail with return receipt requested that such urn has been removed from the grave and will be destroyed unless the owner thereof claims same within 30 days after mailing of such letter.
- C. Each block in the cemetery will, prior to sale, be suitably marked by the Village with metal, brick or concrete.
- D. No planting of shrubs or trees will be permitted on single- or two-grave lots.
- E. The following plants and shrubs may be planted on other grave lots under the supervision of the Sexton:
 - (1) Arborvitae, of small growth;
 - (2) Iris, lilies, peonies or any other related or tuberous plant;
 - (3) Ivy, myrtle, phlox or any other spreading or creeping plant.
- F. All artificial flowers displayed in the cemetery must be in containers and placed at the head of the grave lot. Any artificial flowers not in containers will be removed from the cemetery by the Sexton.
- G. Wreaths on wire stands must also be placed at the head of the lot.
- H. Fresh cut flowers may be used anytime and will remain until, in the judgment of the Sexton, they become wilted or unsightly. Containers for cut flowers are to be a type level with the ground surface and not holding water when not in use or of the type to be disposed of when the flowers are removed.
- I. Potted plants may be set on lots, without disturbing the sod, on special occasions, such as Memorial Day, birthday, anniversary, etc., but will be picked up and destroyed if unsightly or preserved for use in the cemetery beds if suitable.
- J. All landscaping, care of lots and other work in the cemetery will be done by the Village, but it is desired that each lot owner feel free to consult with those in charge of the cemetery at all times. Their advice will be cheerfully given without charge and may be of much value to those contemplating the purchase of or improvements to cemetery lots. The Village shall retain the ownership of all aisles, including monument aisles.

- K. The Village reserves the right for its workmen and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.
- L. The Village, or its employees, assumes no liability for damages to property or of persons, or for physical or mental suffering arising out of the performance of its normal operations, or for loss by vandalism or other acts beyond its reasonable control.
- M. The Village reserves the right to alter, change or close alleys, roadways, water mains and other physical public properties of the cemetery.

§ 204-7. Rules for visitors.

- A. The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and 1/2 hour after the official sunset. Permission to enter the cemetery at any other time must be obtained from the Sexton or the Village Board.
- B. Children under 16 years of age will be admitted only when accompanied by parents or guardians.
- C. Persons or picnic parties with refreshments or alcoholic beverages are not permitted within any municipal cemetery.
- D. Dogs will only be allowed in the cemetery when confined in a vehicle.
- E. Firearms will not be allowed in the cemetery except in conjunction with military funerals. At all other times, firearms, bows and arrows, sling shots and other like articles will not be allowed.
- F. Visitors are required to use the walks and drive whenever possible and shall not pick any flowers (either wild or cultivated), injure any shrub, tree or plant, or mar or deface any monument, stone or structure in the cemetery.
- G. Vehicles traveling within the cemetery shall not exceed 15 miles per hour. No vehicle shall be driven except on roads designated for that purpose, nor shall such be driven in a reckless manner.
- H. No riding of bicycles, motor bikes, motorcycles or other such vehicles will be allowed in the cemetery unless such vehicles are present in conjunction with cemetery business.

§ 204-8. Interments and disinterments.

- A. Interments.
 - (1) Interments will be made only during daylight hours. Interments will not be made on Sundays or official Village holidays except by order of the local Board of Health.
 - (2) All interments shall be made in a permanent outer container excluding the use of wood.
 - (3) All graves shall be dug by the Village under the direction of the Sexton or his authorized agent. Depth of graves shall conform to the Wisconsin State Department

- of Health Services specifications. A charge for opening and closing a grave, including the sodding and seeding of the plot, will be made at a current rate set by the Village. Said charge will be paid to the Village Clerk-Treasurer prior to performance of the service. No burial will be allowed until all fees have been paid to the Village Clerk-Treasurer and an authorization has been issued. This authorization must be presented to the Sexton. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (4) No burial will be permitted until a legal burial transit permit has been presented to the Sexton. The interment of bodies of persons who have died of a contagious disease shall be in strict accordance with the rules of the State Department of Health Services. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
 - (5) There will be no responsibility on the part of the Village for the protection and maintenance of flowers, wreaths, emblems, etc., used in conjunction with funerals.
 - (6) The lot owner or funeral director shall designate on the interment form the location of the graves on the lot to the Sexton and any change in location made after the opening of a grave has begun shall be at the expense of the lot owner. When definite information for locating a grave is not available 36 hours prior to grave preparation to meet the time requested for interment, the cemetery may exercise its best judgment in making a location order that the requested time for interment may be met. The cemetery assumes no responsibility for any error or inconvenience of such location and an additional charge will be made for any change requested.
 - (7) The Sexton or his agent shall, whenever possible, be given 36 hours' notice to ensure the opening and preparation of a grave prior to interment. Barring unforeseen or other untoward circumstances, such grave shall be opened and prepared in time for interment.
 - (8) When several burials occur in a one- or two-day period, said burials may be scheduled at the discretion of the Sexton, but in a prompt and efficient manner.
 - (9) The interments of two bodies in one grave will not be allowed, except in case of a mother and infant, twin children, or two children buried at the same time or in special circumstances with the approval of the Sexton or his agent.
 - (10) More than one cremains may be buried in a single grave space. Only two markers will be allowed on grave space of which one will be flush with the ground and of a size which meets the approval of the Sexton.

B. Disinterments.

- (1) Disinterments of bodies from graves in the cemetery will be made only by the Village in accordance with the requirements of the State Department of Health Services. Charges set by the Village for removal must be paid in advance. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (2) Lot owners, or their heirs, desiring graves opened may secure the necessary disinterment permit from the state and deliver the same to the Cemetery Sexton. All removals will be made by the Village under the supervision of a licensed embalmer.

- (3) For sanitary reasons, graves will not be reopened for inspection except for an official investigation.

§ 204-9. Monuments and markers.

- A. Grave markers and foundations will be set only by the monument company according to regulations specified by the Village. Except as herein otherwise provided, under no conditions will the Village construct monument or marker bases or erect monument or markers on bases. The Village reserves the right to require the construction of a foundation of such size, material and design as will provide ample insurance against settlement or injury to the stone work. The top of the concrete foundation will be constructed flush with the ground line. Whenever possible, all markers will be set with a five-inch margin. A permit shall be available from the office of the Sexton or his assistant.
- B. The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery ground shall be subject to the supervision and control of the Sexton. Unless special arrangements are made with the Sexton, such work shall be conducted between the hours of 8:00 a.m. and 4:00 p.m., Mondays through Fridays, except on national holidays. Whenever possible, at least 24 hours' notice shall be given to the Sexton that said work is to take place. Heavy trucking will not be permitted within the cemetery when, in the opinion of the Sexton, such work might cause damage to the driveways. Except when special permission is obtained, all work as outlined above shall be completed and debris removed immediately.
- C. The Village reserves the right to refuse permission to erect any monument work not in keeping with the good appearance of the grounds. The size of the monument and/or stone work must be given to the Sexton or his agent and approved before said work will be permitted on a lot. All monuments must be set in line with other monuments so far as possible as directed by the Cemetery Sexton or his assistant.
- D. Stone work or monumental work, once placed on its foundation, shall not be removed, except by permission of the Cemetery Sexton.
- E. The lot must be paid in full or other assurance given of payment before markers and monuments are set.
- F. Temporary markers must be removed or replaced with a permanent marker within one year.

§ 204-10. Vaults and mausoleums.

Construction of vaults and mausoleums is prohibited.

§ 204-11. Trees, shrubs and flowers.

- A. The planting of trees and shrubs on newly purchased lots or parts of lots will not be permitted except by approval of the Sexton.
- B. Lot owners may remove under the direction of the Sexton large trees on grave sites that hinder the full usage of the grave site. The expense of the tree and stump removal will be

paid for by the lot owners.

- C. Fresh cut flowers may be used anytime. Containers for cut flowers are to be a type level with the ground surface and not holding water when not in use, or of the type to be disposed of when flowers are removed.
- D. Potted plants may be set on lots, without disturbing the sod, on special occasions, such as Memorial Day, birthday, anniversary, etc., but if not removed within five days will be picked up and destroyed if unsightly, or preserved for use in beds within the cemetery if suitable.
- E. Artificial decorations are prohibited unless in a vase or pot and, when used, will be treated as potted plants.
- F. Individual flower beds of growing plants are permitted but must be of a reasonable size. In case of doubt, the Sexton should be consulted. If these beds are not maintained and when they become unsightly or undesirable, they will be removed by the Village.
- G. Plants or flowers may not be taken up or removed from the cemetery or cuttings removed from plants without permission from the Sexton or under his direction.
- H. Vines that interfere with the proper care of lots or graves and injure the grass will be removed when found objectionable.

§ 204-12. Miscellaneous.

- A. It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire cemetery.
- B. All fees and charges as outlined in the current schedule of fees and charges are payable at the office of the Village Clerk-Treasurer, where receipts will be issued for the amounts paid.
- C. A schedule of the fees and charges, as established by the Village Board, shall be on file in the office of the Village Clerk-Treasurer. Such schedule may change from time to time without advance notice to conform with current economic conditions.
- D. The Village will take reasonable precautions to protect all private property, lots and/or grave owners' property in the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its control and especially from the acts of thieves, vandals and rioters and from all acts of Providence, including wind, tornadoes, hail, snow, rain and frost, whether the damage be indirect or proximate.