



TO: Mayor and Members of Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Allan T. Motzny, Assistant City Attorney
DATE: June 25, 2008
SUBJECT: Amendment to Chapter 29 of Troy City Code

Chapter 29 of the City Code establishes provisions to regulate and control the cemeteries that are maintained by the City of Troy. Included among the provisions are regulations for the purchase and transfer of burial spaces. Currently Chapter 29 only allows residents or property owners of the City of Troy to purchase burial spaces. Additionally, the ordinance currently restricts the transfer of ownership of burial spaces to members of the owner's immediate family. The current ordinance also restricts interments to members of the immediate family of the record owner of a burial space. Recently, an owner of a burial space made a request to transfer ownership to a "common law" wife of several years. The transfer would not be allowed under the current ordinance.

The attached proposed amendment to Chapter 29 would remove current restrictions and allow any person to purchase a burial space in a city cemetery. It would also allow an owner to transfer a burial space to any other person. Additionally, the proposed amendment would let the owner of a burial space determine who will be interred in the space and removes the current restriction limiting interment to family members. The proposed amendment also corrects some typographical errors and makes a few grammatical changes.

It is our recommendation that City Council adopt the proposed amendment to Chapter 29. Please let us know if you have any questions.

cc. Tonni Bartholomew, City Clerk
Carol Anderson, Parks and Recreation Director

CITY OF TROY
AN ORDINANCE TO
AMEND CHAPTER 29 OF
THE CODE OF THE CITY
OF TROY

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 29, Cemetery Ordinance, of the Code of the City of Troy.

Section 2. Amendment

Sections 2, 6, 7, 8, 12B, 12D, and 14B of Chapter 29 are amended as follows:

(Underlining and strikeout denote changes)

2. Control of Cemeteries. The Director of Parks and Recreation, subject to the direction of the City Manager, shall manage, supervise, maintain and improve city cemeteries. ~~He~~The Director shall plat cemetery grounds and after these plats have been approved by the City Council they will be filed in the office of the City Clerk.
6. Purchase of Burial Spaces. ~~The sale of burial spaces shall be limited to residents or property owners of the City of Troy.~~ Any ~~such~~ person desiring to purchase a burial space in any city cemetery shall make application to the City Clerk and pay the required amount to the City Treasurer for the space selected. Upon the purchase of any such burial space, the City Clerk shall prepare and deliver to the purchaser a duly executed deed for said burial space. Such deed shall convey to the purchaser 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 of Troy.
7. Lot Records. The City Clerk shall keep proper records in which the deeds to all such burial spaces shall be recorded. In connection with all such records, the City Clerk shall also keep a general index indicating alphabetically the name of the party or parties to every such burial space. ~~The transfer of ownership or burial spaces shall be restricted to members of the immediate family.~~ Any person desiring to transfer his or her burial space to another party shall make application with the City Clerk. No person shall be recognized as owner or part owner of a burial space until such ownership is recorded with the City Clerk. The City may buy back a burial space from any owner of record. The amount paid for a burial space by the city will be the original purchase price.
8. Owner Burial Rights. The owner of any burial space shall allow no

interments for remuneration. All interments in burial spaces shall be ~~restricted to members of the family and the immediate relatives of the owner~~determined by the owner of record.

12. Funeral and Interments.

A. *(unchanged)*

B. Funerals. - All funerals within the cemeteries shall be under the direction of the Director of Parks and Recreation or his or her authorized representative. The City ~~reserved~~reserves the right to remove funeral designs and floral pieces as soon as they become unsightly.

C. *(unchanged)*

D. General Interment Restrictions. - Only one adult interment in any one grave shall be permitted, except that cremated remains may be buried above another grave. The Director of Parks and Recreation and his or her authorized representatives shall not be held responsible for errors in location of graves on lots arising from improper instructions of lot owners. Orders from funeral directors shall be construed as orders from owners. Under no circumstances shall the City assume responsibility for error in opening graves. No graves shall be opened except under the direction of the Director of Parks and Recreation or his or her authorized representative.

14. Markers.

A. *(unchanged)*

B. Flush Markers – In sections designated as flush marker sections, all markers shall be set so that the top is flush or level with the ground. No memorials other than grave markers may be set on any section so designated. The exposed surface of all single flush markers shall be of standard size, 24 inches in length and 12 inches in width. Double flush markers shall be 12 inches in width and not less than 40 inches in length. Flush type markers issued by the United States Government must be set flush evenn if used in a section where upright markers are permitted.

C. *(unchanged)*

D. *(unchanged)*

E. *(unchanged)*

F. *(unchanged)*

Section 3. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such

proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 4. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

Section 5. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, 2008.

Louise Schilling, Mayor

Tonni Bartholomew, City Clerk