

ORDINANCE NO. 11-600

TABLE OF CONTENTS

		<u>Page</u>
Section 11-601	Definitions	1
Section 11-602	Perpetual Care Fund	2
Section 11-603	Payment of Perpetual Care Funds	2
Section 11-604	Perpetual Care Certificates	3
Section 11-605	Perpetual Care Expenditures	3
Section 11-606	Perpetual Care Fund Reporting	3
Section 11-607	Use of Perpetual Care Funds	3
Section 11-608	Cemetery Decorum	3
Section 11-609	Loss, Damage, or Injury	4
Section 11-610	Traffic Regulation	4
Section 11-611	Visitor Hours	4
Section 11-612	Plantings and Decorations	4
Section 11-613	Monuments	5
Section 11-614	Markers	5
Section 11-615	Materials for Monuments and Markers	6
Section 11-616	Niche Identification	6
Section 11-617	Sexton Authority	6
Section 11-618	Interment Requirements	6
Section 11-619	Disinterment	7
Section 11-620	Burial Customs	8
Section 22-621	Interment Restrictions	8
Section 11-622	Transfer of Lot, Grave Space, or Niche	8
Section 11-623	Resident Rates	9
Section 11-624	Non-resident Rates	9

		<u>Page</u>
Section 11-625	Fee Schedule for Purchase of Lots and Niches and Perpetual Care	9
Section 11-626	Fee Schedule for Special Services	9
Section 11-627	Resident Indigent Fee	9
Section 11-628	Penalty	9

ORDINANCE NO. 11-600

AN ORDINANCE REGULATING THE ISHPEMING CEMETERY

THE CITY OF ISHPEMING ORDAINS:

Section 11-601. Definitions.

Burial Permit: A permit authorizing interment of remains delivered to the Cemetery which complies with the requirements of the Michigan Department of Public Health.

Cemetery. The City of Ishpeming Cemetery located in the SE¼ of the SW¼ of Section 34, Township 48N, Range 27W.

Cemetery Perpetual Care Fund. The trust fund established pursuant to the City of Ishpeming Charter Section 14.10.

City. The City of Ishpeming.

Columbarium. An above-grade repository made of granite, marble, or stone with recesses (niches) in the walls to receive the ashes of the dead.

Cremains. The ashes of a cremated deceased person.

Grave Space. The area necessary to accommodate an interment, typically three (3) feet by ten (10) feet in area.

Interment. The permanent disposition of the remains of a deceased person.

Lot. An area of land in the Cemetery containing one or more grave spaces.

Lot Marker. A ceramic or metal post used to indicate lot corners.

Marker. A singular stone of granite, marble, cut stone, or a bronze plaque either flush or above ground, with the name of the deceased appearing thereon.

Monument. A memorial consisting of granite, bronze, or marble bearing the name or names of an individual or family or families, consisting of a base and the upper portion or main section known as a die.

Niche. A recess in a columbarium intended to accommodate up to two urns.

Non-resident. Every person who does not fall within the definition of a "resident".

Owner: A person who has purchased from the City a grave space, lot, or niche in the Cemetery.

Remains. A dead body or any portion thereof.

Resident. A person who:

- a. Is a registered voter or could register to be a voter in the City;
- b. Claims a homestead exemption, as defined by State law, on property in the City, for which the person paid City property taxes in the preceding year and which the person still owns;
- c. Is a minor child of or lives within the City as a dependent of a person who qualifies as a resident;
- d. Has qualified as a resident under Subsection (a) or (b) of this definition, and who has moved directly from the City to a nursing home licensed under the Adult Foster Care Facility Licensing Act, Michigan Public Act No. 218 of 1979 (MCL 400.701 et. seq.), or a successor statute, and who has remained continuously in that or some other licensed nursing home; or
- e. Has qualified as a resident under Subsection (a), (b), (c), or (d) of this definition during the preceding two (2) years.

Urn. A sealed rigid container made of a non-decomposable material designed for holding cremains.

Vault. A compartment made of pre-cast concrete used to encase a casket/coffin or urn.

Section 11-602. Perpetual Care Fund.

- a. A Perpetual Care Fund is hereby established as required under Section 14.10 of the Ishpeming City Charter.
- b. Every person who purchases a niche, grave space, or lot shall also be required to simultaneously purchase perpetual care for such niche, grave space, or lot at the rates set forth in the Annual Fee Schedule adopted by the Ishpeming City Council. Perpetual care fees shall be paid in addition to interment fees on all grave spaces or lots purchased prior to mandatory payment of perpetual care. All sums paid for perpetual care shall be deposited into the Perpetual Care Fund.
- c. The Perpetual Care Fund shall constitute a trust fund, the income of which shall be used, as occasion may require, for the general care and maintenance of those niches or lots for the benefit of which said funds have been deposited into the Perpetual Care Fund.
- d. The Perpetual Care Fund shall never, under any pretext or evasion, be diverted from its declared purpose as set forth in the immediately preceding subparagraph and Section 14.10 of the City Charter.

Section 11-603. Payment of Perpetual Care Funds.

All Perpetual Care Funds so received by the City shall be paid to the Treasurer of the City, who shall immediately deposit said sums of money in such bank or banks as the City Council shall direct, which money shall be kept on special deposit in a fund to be known as the "Perpetual Care Fund".

Section 11-604. Perpetual Care Certificates.

To every person who purchases perpetual care, the City Clerk shall sign and give a certificate to which the City seal is attached, which certificate shall state the amount paid, the name of the person making the payment, a description of the niche, or lot for which the payment was made, and a covenant on the part of the City that the interest on said payment shall be expended on said niche or lot in maintaining, repairing and taking care of the same. The City Clerk shall keep a record of each certificate issued, the amount of same, and the grave space, niche, or lot for which it was issued, and the person to whom given. The Clerk's official bond shall cover all money so paid in trust for the purposes aforesaid.

In no event shall the City ever be required to repay any sum paid for perpetual care.

Section 11-605. Perpetual Care Expenditures.

The expenditure of Perpetual Care Funds shall be in accordance with the provisions of the Ishpeming City Charter.

Section 11-606. Perpetual Care Fund Reporting.

The City Treasurer shall report to the City Council, when so required, concerning the status of the Perpetual Care Fund including, but not limited to, the types of investments, rates of return, and such other information as the City Council may require.

Section 11-607. Use of Perpetual Care Funds.

The charge for perpetual care shall be as shown in the Annual Fee Schedule adopted by the Ishpeming City Council. Perpetual care of a lot shall consist of watering and mowing the lawn; also placing topsoil, seeding and fertilizing, filling in sunken graves and trimming trees or shrubs. In the case of a niche, perpetual care shall consist of maintenance and upkeep of the columbarium, all niche spaces, and the grounds in the area of the columbarium. Perpetual Care shall not include the care of flowers or plants, nor the repair or repositioning of monuments, markers, memorials or any other structures or improvements on said lots. Perpetual Care shall not include care for subsidence or for damage to any monument or structure caused by the elements or by damage beyond the control of the City.

Section 11-608. Cemetery Decorum.

Visitors to the Cemetery are reminded that the grounds are devoted to the interment of the dead, and that appropriate decorum in the Cemetery is required. Appropriate decorum means that:

- a. No domestic animals shall be permitted to enter or remain in the Cemetery, unless kept inside a fully enclosed motor vehicle.
- b. No person shall carry firearms in the Cemetery.
- c. No person shall carry or consume alcoholic beverages in the Cemetery.
- d. Only non-compostable rubbish or debris generated in the Cemetery may be deposited in the City maintained waste receptacles in the Cemetery.
- e. No person shall deface, mutilate, or otherwise injure or commit damage to any marker, monument, lot, or other property in the Cemetery.
- f. No person, except a City employee, shall place any sign in the Cemetery.

Section 11-609. Loss, Damage, or Injury.

The City shall not be liable for any loss or damage caused by an act of God, common enemy, thieves, vandals, unavoidable accidents, the elements, subsidence, riots, or order of any military or civil authority, to any grave space, lot, structure, or object thereon or to the flowers or articles removed from any lot or grave space, nor for any loss or damage or bodily injuries sustained by any person or persons in the Cemetery.

Section 11-610. Traffic Regulation.

All traffic laws of the City of Ishpeming that are applicable to the operation of vehicles in the Cemetery shall be strictly observed. Any person driving a motor vehicle in the Cemetery, and the owner of the vehicle so driven, shall be liable and responsible for all injury or damage done by the vehicle in the driver's charge.

In addition, no person shall, while in the Cemetery:

- a. Drive a vehicle in excess of 15 miles per hour on any Cemetery road;
- b. Drive off the established roads unless permission to do so is given by the Sexton;
- c. Drive an unlicensed motorcycle, a snowmobile, an all-terrain vehicle, or a motor-powered bicycle within the Cemetery grounds;
- d. Make any unnecessary noise, such as loud talking, yelling, whistling or the blowing of horns;
- e. Play loud music in the Cemetery, other than ceremonial music;
- f. Cause any vehicle to be within the Cemetery grounds except during the hours established for the Cemetery grounds to be open;
- g. Bring any dog or cat into the Cemetery unless said animal is at all times kept inside a fully enclosed motor vehicle; or
- h. Participate in any scheduled recreational event, by operating a bicycle or otherwise.

Section 11-611. Visitor Hours.

As a general rule, the Cemetery shall be open to the public every day of the year between the hours of sunrise and sunset unless posted differently. However, the Sexton and/or Cemetery Commission may, in their reasonable discretion, extend or shorten these hours. No person shall be permitted to enter the Cemetery grounds other than during the above hours except by special permission of the Sexton.

Section 11-612. Plantings and Decorations.

To create and preserve the maximum beauty of the entire Cemetery, the following rules shall be observed:

- a. The City of Ishpeming reserves to itself the sole right to plant and maintain all permanent plantings within the Cemetery. Lot owners desiring special permanent planting on their lots shall make their request to the Sexton, who may permit such planting to be done at the lot owner's expense; such planting shall immediately become the property of the Cemetery.

- b. As of January 1, 2019, no new bushes, shrubs, or ornamental trees are allowed. City staff may at its sole discretion trim or remove shrubs or trees as necessary.
- c. Winter decorations may be maintained on graves until May 1st, at which time they may be removed by Cemetery employees.
- d. Seasonal plantings are only permitted within two (2) feet of the perimeter of a monument, but may not encroach upon an adjacent lot. However, seasonal plantings may be removed at any time by the City.
- e. Rubbish, refuse and unused containers shall not be left on lots, but shall be placed in waste receptacles provided by the City. All compostable waste materials shall be placed at the edge of the nearest accessible row. The City reserves the right to remove all floral designs, flowers, trees, shrubs, plants, or herbage of any kind, whether real or artificial, from the Cemetery as soon as, in the judgment of the Sexton, they become unsightly, dangerous, detrimental to Cemetery maintenance or upkeep, or diseased, or when they do not conform to the decorum of the Cemetery.
- f. Benches not permanently attached to monuments are prohibited.

Section 11-613. Monuments.

- a. Every monument shall be centered and placed at the head of a lot. If an additional monument is placed on the lot, it must be centered over the graves it represents. See Annual Fee Schedule for cost of placing an additional monument on a lot.
- b. No monument shall be placed upon any lot unless such lot purchase has been paid for in full.
- c. Every monument shall be placed on a foundation of cast-in-place concrete of not less in width and length than the base of the monument to be installed thereon, and at a depth of and in accordance with the monument manufacturer's foundation requirements. The funeral home or entity installing a monument shall furnish to the Cemetery Sexton the monument manufacturer's foundation requirements prior to foundation installation.
- d. The upper surface of the foundation for a monument shall be placed not more than two inches below the grade of the lot.
- e. All materials used in the construction of any foundation or monument may be inspected by the Sexton. All construction and installation relative to foundations or monuments must be performed during the regular City working hours, and all such construction and installation must be performed with the approval of the Sexton.
- f. No monument may encroach upon an adjacent lot.

Section 11-614. Markers.

- a. A marker shall consist of one piece and shall not be less than 14 inches nor

more than 28 inches in width, nor less than 8 inches nor more than 16 inches in length.

- b. No new above ground markers shall be permitted in any new blocks beginning January 1, 2019. All markers installed in any new blocks beginning January 1, 2019 shall be flush with the final grade of the grave space.
- c. No marker may encroach upon an adjacent lot.

Section 11-615. Materials for Monuments and Markers.

No material except granite, marble, cut stone from a recognized monument quarry, or standard bronze shall be used for markers or monuments. Bronze may be used for a monument only if attached to a cement or granite base.

Section 11-616. Niche Identification.

- a. A bronze plaque identifying the family name or names may be attached to the face of a niche, in such manner as approved by the Sexton. No other attachment or marker shall be attached to a niche.

Section 11-617. Sexton Authority.

- a. The Sexton and subordinates of the Sexton are expected to see that the provisions of this Ordinance are observed. No burials or interment shall be made on Saturdays, Sundays, or on City holidays, except by order of the Sexton. No interment equipment except that provided or approved by the City shall be used. Workers engaged in the vicinity of a burial shall suspend their labors during services at a grave or services at a niche.
- b. Any section or part of the Cemetery may be declared closed to the public by the Sexton at any time, and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), or merely to certain uses as the Sexton shall find reasonably necessary.
- c. The Sexton shall have the power to make, from time to time, such reasonable rules and regulations, not inconsistent herewith, as are necessary to manage, use, preserve, and govern Cemetery property and activities. All such rules and regulations issued by the Sexton shall be in writing, shall be approved by the City Manager, and shall be posted at the Cemetery office, with a copy filed with the City Clerk.
- d. Any person found violating any provision of this ordinance or any rules adopted pursuant to this ordinance may be ejected from the Cemetery, in addition to any other penalties imposed by law.

Section 11-618. Interment Requirements.

- a. No interment shall take place until and unless:
 - i) the lot, grave space, or niche purchase fee and the interment fees have been paid; and
 - ii) this Ordinance has been complied with; and
 - iii) a burial permit has been issued and approved by the City.

- b. Upon payment of the purchase price for a lot, grave space, or niche, the purchaser shall receive a deed. No partial payments will be accepted.
- c. The City shall not be liable or responsible for:
 - i) Any information provided to the City in a burial permit;
 - ii) Any mistake or error in the identity of remains or cremains to be interred; or
 - iii) The condition of any remains or cremains to be interred.
- d. Funeral directors making arrangements for interment shall be responsible for payment of all lot and niche purchases, and payment of all interment fees, if not paid by the lot or niche owner or agent.
- e. If the deceased to be interred is not an owner as shown on the deed, written consent of an owner or authorized agent must be filed with the City before interment.
- f. The City and its agents and employees shall not be held responsible or liable for errors in location of interment on lots arising from instructions by lot owners. Orders from funeral directors shall be construed as orders from lot owners.
- g. No grave space or niche shall be opened for interment except by an employee of the City, and upon a written work order.
- h. No vaults or other materials shall be delivered to the Cemetery on Saturday, Sunday, or City observed holidays except by order of the City Manager or Sexton. Funeral directors shall arrange the time of a burial so that Cemetery workers can complete interment by 2:30 p.m.
- i. A vault shall be compulsory for burial of all remains. An urn shall be compulsory for the interment of all cremains.
- j. The number of remains placed in a grave space is limited to one, except that the remains of a child may be simultaneously interred with a parent in the same grave space.
- k. The number of cremains placed in one grave space is limited to three, and no additional cremains or remains will be allowed in that grave space. No more than three flush markers will be permitted on one grave space.
- l. A grave space may include one remains and not more than two cremains.
- m. The number of cremains in a niche is limited to two. Cremains in a niche must be placed in an urn.

Section 11-619. Disinterment.

- a. Disinterment and removal of remains or cremains shall not be made without notice in writing to the Sexton, and the permission in writing of the lot owner

or next of kin of the deceased. Graves shall not be opened for inspection except for official investigation by proper legal proceedings.

- b. After the close of any funeral service at the grave and after the placing of a casket in the vault, it shall not be permissible for anyone to open the casket or to touch the remains therein without the consent in writing of the legal representative of the deceased or a court order for that purpose.
- c. The City shall exercise due care in making a disinterment, but it shall assume no liability for any damage to any casket or vault incurred in making the disinterment.
- d. The same restrictions set forth above for disinterment and removal of remains shall apply to the removal of an urn or container from a niche.

Section 11-620. Burial Customs.

This Ordinance is not intended to violate any burial customs of any religion, and where any contradictions exist, exceptions to this Ordinance may be permitted by the Sexton.

Section 11-621. Interment Restrictions.

- a. All lots shall be sold subject to the terms and provisions in this Ordinance, and the deed to the lot shall so state. No lot shall be used for any purpose other than the interment of human remains or cremains and the placing of appropriate memorials. Interment of the remains of any person other than an owner of a lot will be permitted only after written consent of an owner or authorized agent has been filed with the City. Burial lots are exempt from tax and cannot be seized on execution.
- b. No indigent buried at public expense shall be buried in any lot unless such indigent shall be a resident of the City of Ishpeming.
- c. No niche shall be used for any purpose other than the interment of human cremains. Interment of the cremains of any person other than the owner of a niche or a member of the immediate family will be permitted only after the written consent of the owner or owner's agent or representative has been filed with the City. Niche spaces are exempt from tax and cannot be seized on execution.

Section 11-622. Transfer of Lot, Grave Space, or Niche.

- a. No lot, grave space, or niche shall be exchanged, transferred, or assigned except upon surrender of the original deed to the City with written instructions from the owner. If the original deed is lost, the owner shall notify the City in writing at the time the request for transfer is made.
- b. Once cremains are interred in a niche, the niche may not be exchanged, transferred or assigned.
- c. If transfer, exchange, or assignment of a lot, grave space, or niche is made back to the City, such lot, grave space, or niche shall become the sole property of the City and subject to resale by the City.

Section 11-623. Resident Rates - See Annual Fee Schedule adopted by the Ishpeming City Council.

Section 11-624. Non-resident Rates See Annual Fee Schedule adopted by the Ishpeming City Council.

Section 11-625. Fee Schedule for Purchase of Lots and Niches and Perpetual Care.
See Annual Fee Schedule adopted by the Ishpeming City Council.

Section 11-626. Fee Schedule for Special Services.
Charges for special services are listed in the Annual Fee Schedule adopted by the Ishpeming City Council.

Section 11-627. Resident Indigent Fee.
Indigent fees for grave spaces and burial will be the amount paid by the Department of Social Services for Marquette County or the State of Michigan, whichever agency is involved in the burial arrangements by the funeral director.

Section 11-628. Penalty.
Any person who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than One Hundred (\$100.00) Dollars or by imprisonment in the Marquette County Jail for a period not to exceed ninety (90) days, or by both such fine and imprisonment.

- Amended: November 3, 1976
- Amended: May 4, 1977 (Section 11-631)
- Amended: December 21, 1981
- Amended: August 8, 1984
- Amended: August 9, 1989
- Amended: March 17, 1993
- Amended: December 15, 1993
- Amended: November 8, 1995
- Amended: September 17, 1997
- Amended: March 7, 2001
- Amended: August 7, 2002
- Amended: October 9, 2002
- Amended: May 11, 2005
- Amended: April 5, 2006
- Amended: December 6, 2006
- Amended: January 9, 2008
- Amended: August 6, 2008
- Amended: January 7, 2009
- Amended: March 7, 2012
- Amended: January 9, 2019