

Agenda



City of Hillsdale Cemetery Board Meeting

May 3, 2017 at 4:00 P.M.

- I. **Call to Order**
- II. **Roll Call**
- III. **Approval of Minutes**
 - A. February 1, 2017
- IV. **Public Comments**
- V. **Old Business**
- VI. **New Business**
 - A. Use of Cemetery Perpetual Care Funds
 - B. Discussion of Cemetery Rules regarding pets
- VII. **ADJOURNMENT**

The next meeting is scheduled for August 2, 2017 at 4:00 p.m. in the Conference Room on the second floor of City Hall.

DRAFT



**Cemetery Board
Minutes**

**2nd Floor Conference Room
City Hall**

February 2, 2017

Call to Order:

The meeting was called to order by Mr. Hammel at 4:00 P.M.

Board members present:

Mr. Jacob Hammel, City Department of Public Services Director
Ms. Vicki Ladd
Ms. Carol Lackey
Mr. Carl "Bud" Heinowski

Board members absent:

Mr. John Barrett

Also present were:

Mr. Frank Engle, City Sexton
Mr. Stephen M. French, City Clerk

Board Member Excused

Ms. Ladd, seconded by Ms. Lackey, moved to excuse the absence of Mr. Barrett. By a voice vote, the motion passed unanimously.

Approval of Minutes

Mr. Heinowski, seconded by Ms. Lackey, moved to approve the minutes of November 2, 2016 meeting as submitted. By a voice vote, the motion passed unanimously.

Public Comments

No comments were offered.

DRAFT

OLD BUSINESS

There was no Old Business on the agenda.

NEW BUSINESS

A. Oath of Office

City Clerk French administered the Oath of Office to Mr. Heinowski.

B. Application of growth retardant in both cemeteries

Mr. Hammel report city staff had not received any negative feedback regarding the application of growth retardant around the headstones in specific sections of Lakeview Cemetery in 2016. Mr. Hammel recommended the program would be expanded to other areas in Lakeview and Oak Grove cemeteries in the spring based on its effectiveness. Mr. Hammel stated the application of growth retardant reduced the need to trim around the headstones in Lakeview Cemetery at two different times throughout the year.

Mr. Heinowski, seconded by Ms. Ladd, moved to permit the application of growth retardant with both Lakeview and Oak Grove cemeteries at the discretion of city staff. By a voice vote, the motion passed unanimously.

C. Ladies of Oak Grove Cemetery Monument Dedication

Ms. Lackey noted the new memorial area utilizing the remaining stones of the granite arch had been completed with the assistance of Braman Roofing and the city's Public Services Department. Ms. Lackey stated the construction of the monument had been fully funded by donations received from the Historical Society and Mitchell Research Library. Ms. Lackey stated a dedication ceremony would be held on May 5, 2017 at 7:00 p.m. and would be held in memory of Mr. James O. Taylor, a long-time volunteer in the community.

D. Repair of streets and trees at Oak Grove Cemetery

Mr. Hammel reported there were areas of Oak Grove Cemetery that needed road repair and regrading. The Cemetery Board engaged in general discussion and questioned if the perpetual care fund could be used to repair the roadways and replace several trees in the cemetery near Montgomery Road that had been destroyed. Mr. Sexton noted the roadways had been chip-sealed in 1998 or 1999.

Mr. Heinowski, seconded by Ms. Ladd, moved to postpone discussion of this item until the May 3, 2017 board meeting, so staff could obtain additional information on this issue. By a voice vote, the motion passed unanimously.

DRAFT

Adjournment

Ms. Lackey, seconded by Ms. Ladd, moved to adjourn the meeting. By a voice vote, the motion passed unanimously.

The meeting adjourned at 4:30 pm.

Respectfully submitted,

Stephen M. French, MMC
City Clerk

Memo

To: Cemetery Board

From: Bonnie Tew, Finance Director

Date: May 3, 2017

Subject: Fire Department/Cemetery Perpetual Care Interdepartmental Loan

I ask for your consideration to do an interdepartmental loan between the Fire Department and the Cemetery Perpetual Care Funds. This is similar to the loan you did back in 2010 for the Library. This 10 year loan for approximately \$450,000 would be used by the Fire Department to purchase a new pumper. The Fire Department does not have the reserves in their equipment replacement fund to purchase this unit. After review by the Finance Committee, it was decided to approach you with this option, which seems to best meet everyone's objectives. The interest rate to be charged has not yet been established. Should you agree to the issuance of the loan, the next step would be to determine a fair and equitable interest rate based on the attorney's opinion (attached). Also included is the loan quotes we received from three local banks and an email from Southern Michigan Bank & Trust's investment advisor, Melissa Natzke-Barlow who has been handling the cemetery investments for the past few years.

The Cemetery Perpetual Care Fund has cash reserves/investments in excess of \$600,000. These funds were generated from cemetery lot sales in the city's two cemeteries, Oak Grove and Lake View. The interest earned on this money is used to help offset the perpetual cost of cemetery maintenance. We have been transferring \$20,000 or what interest is earned annually to the General Fund.

Bonnie Tew

From: Esther E. Muehlberger <EMuehlberger@smb-t.com>
Sent: Thursday, April 27, 2017 4:36 PM
To: Bonnie Tew
Cc: Melissa Natzke-Barlow
Subject: RE: Investment Possibilities

Importance: High

Bonnie,

Melissa asked me to send this response to you regarding your questions in Monday's email to her: She will be back in the office tomorrow morning, let us know if you need anything more for your meeting tomorrow.

Esther

The truest comparison of investing vs. issuing the internal loan would be to compare the yields of investments that have similar maturities (10 years). Below are current rates for investments that are allowed under your investment policy.

Current Yields:

10-Year U.S. Treasury Bond:	2.33%
FHLB – Maturing 2027:	3.00%
GNMA – Maturing 2028:	3.30%

One point to consider when making the evaluation is that the interest rate for the loan will likely be a fixed rate, while the interest rates listed above will likely be rising over the next 10 years. To give some context, the average yield on a 10-year U.S. Treasury since January of 1962 is 6.29%. While we do not anticipate rates increasing that much over the next 10 years, it would not be unreasonable to think that 10 year rates could be back in the 3.5-4.5% range during this time.

All that said, if we were to invest the funds (assuming the principal wasn't needed for 10 year) we wouldn't recommend investing all of the funds in bonds that mature in 10 years, but would spread the maturities out over the period. This would allow for us to take advantage of rising rates, as we could invest funds as bonds mature at higher rates. The impact of spreading the maturities over the 10 year period would result in cumulative yields lower than listed above.

I hope this provides you the information that you need to set your interest rate. If you would like a formal investment proposal for the funds, please let me know.

From: Bonnie Tew [<mailto:btew@cityofhillsdale.org>]
Sent: Monday, April 24, 2017 5:03 PM
To: Melissa Natzke-Barlow
Cc: David Mackie
Subject: Investment Possibilities

Hi Melissa,

We are looking to do a 10-year internal loan between our Cemetery Perpetual Care Fund and the Fire Department for the purchase of a new fire truck. In order to set the loan rate, we would like to know what possible investments and rate of returns we could get on \$450,000 over the next 10 years? We have loan rates from three banks but would also like to have this investment projection as a comparison. I'm hoping this is something you can assist us with. This would have to be an investment that meets our investment policy requirements. Not sure what long-term investments are available these days for municipalities to utilize.

Let me know if this is something you can help us with.

Thanks you,

Bonnie Tew
Finance Director
City of Hillsdale
(517) 437-6446



Esther Muehlberger
Investment Sales Assistant
Southern Michigan Bank and Trust
88 North Main Street
Three Rivers, MI 49093
Phone: (269) 273-9827
Toll Free: (800) 379-7628
EMuehlberger@smb-t.com

Total Control Panel

[Login](#)

To: btew@cityofhillsdale.org

From:

btv1==290fb6bb458==emuehlberger@smb-t.com

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Fund 711 CEMETERY PERPETUAL CARE FUND

GL Number	Description	Balance
*** Assets ***		
711-000.000-001.000	CHECKING ACCOUNT - COMMON	370,366.06
711-000.000-001.100	LAKEVIEW - TO BE INVESTED	143,545.16
711-000.000-001.200	OAKGROVE - TO BE INVESTED	154,187.60
711-000.000-120.100	INVESTMENTS - LAKEVIEW	35,215.61
711-000.000-120.200	INVESTMENTS - OAKGROVE	39,730.87
711-000.000-122.100	RETURNED INVEST PRIN-LAKEVIEW	(31,840.10)
711-000.000-122.200	RETURNED INVEST PRIN-OAK GROV	(34,910.32)
Total Assets		676,294.88
*** Liabilities ***		
Total Liabilities		0.00
*** Fund Balance ***		
711-000.000-390.000	FUND BALANCE	655,374.27
Total Fund Balance		655,374.27
Beginning Fund Balance		655,374.27
Net of Revenues VS Expenditures		20,920.61
Ending Fund Balance		676,294.88
Total Liabilities And Fund Balance		676,294.88

EVA+ EMERGENCY VEHICLES PLUS

Chief Scott Hephner
City of Hillsdale
97 N Broad Street
Hillsdale, MI 49242

RE: New Pumper Proposal

We hereby propose to furnish the CITY OF HILLSDALE, subject to proper execution of a signed contract by the CITY OF HILLSDALE, with acknowledgement by ROSENBAUER AMERICA, the following apparatus as per our specification.

(1) ROSENBAUER PUMPER (EVP Demo) \$457,048.00

***** FOUR-HUNDRED FIFTY-SEVEN-THOUSAND FORTY-EIGHT DOLLARS AND 00/100 *****

DEMONSTRATOR PRICING \$447,048.00

Upon completion of the apparatus the it shall be inspected by the committee at Rosenbauer. And shipped to the dealership in Holland, Michigan. Emergency Vehicles Plus will be permitted to use the truck for a period of one month upon delivery from Rosenbauer to the dealership.

Price includes:

- Final Inspection at Rosenbauer
- Delivery to Hillsdale Fire Department
- Customer orientation at Hillsdale Fire Department

Delivery: This unit will be ready for final inspection in May 2017.

Please feel free to contact me with any questions regarding our bid specification and proposal.

Bill Sedlacek
Apparatus Specialist
Emergency Vehicles Plus
517-749-389
wrsedlacek@gmail.com

Date: February 3rd, 2017

MEMORANDUM

TO: David Mackie, City Manager
FROM: Thomas L. Thompson
DATE: April 24, 2017
RE: Borrowing from Cemetery Perpetual Care Funds

BACKGROUND

The City of Hillsdale will soon purchase a new fire truck for the City's fire department. It is my understanding that the City is interested in the possibility of financing the purchase of the vehicle by borrowing funds from the perpetual care trust funds for Oak Grove Cemetery and Lakeview Cemetery located within the City.

It appears that Oak Grove Cemetery was originally organized as a private cemetery association. However, in 1975 the Oak Grove Cemetery Association was dissolved. As part of the dissolution, on September 22, 1975, the Hillsdale City Council adopted Resolution 607, through which the City formally accepted the transfer of the cemetery and its assets pursuant to Public Act 10 of 1927 (currently codified at MCL 456.181 through MCL 456.184). At the time of the transfer, the Oak Grove Cemetery Association maintained a perpetual care trust fund. The trust fund was one of the assets accepted by the City. It does not appear that the City has possession of the original by-laws or other corporate documentation relating to Oak Grove Cemetery Association as a private entity.

It is unclear when or how Lakeview Cemetery was created. There is no reference in the City Charter or in the Code of Ordinances to the creation of the Cemetery by the City. It also appears that, pursuant to a diligent search, City staff has been unable to locate a copy of any ordinance creating the Cemetery. While the City does maintain a perpetual care fund for Lakeview Cemetery, again, there is no mention in the code of ordinances of the establishment of the perpetual care fund, nor has City staff been able to locate any resolution creating the fund.

I was provided with a copy of an opinion from former assistant City Attorney Kevin Shirk dated May 28, 2010, concluding that the City could borrow money from the Oak Grove and Lakeview Cemetery perpetual care trust funds for purposes associated with the financing for the current public library facility. I have been asked to render an opinion as to whether I concur with Mr. Shirk's conclusion as to the propriety of borrowing from the cemetery perpetual care trust funds regarding the financing of the purchase of the new fire truck.

ISSUE PRESENTED

May the City of Hillsdale legally borrow funds from Oak Grove Cemetery and Lakeview Cemetery perpetual care trust funds to finance the purchase of a new fire truck for the City's fire department?

APPLICABLE LAW

MCL 456.536 deals with the creation and administration of cemetery perpetual care trust funds in private cemetery associations. MCL 456.536(1) states in part that:

...The amounts deposited into an endowment and perpetual care trust fund pursuant to subsection (5) shall be held in perpetuity by the trustee and may only be distributed to the cemetery upon order of a court following petition by the commissioner. Interest or income shall be used only for endowment care. Except as otherwise provided in subsection (2), money in the endowment and perpetual care trust fund shall not be commingled with any other money or trust accounts....

Consistently, Resolution 607 provides with regard to the perpetual care trust fund for Oak Grove Cemetery that it was accepted, "subject...to the requirement that the City of Hillsdale shall keep the perpetual care funds in trust separate from other funds of the City of Hillsdale and shall maintain the principal thereof intact with the income only to be used exclusively for the perpetual maintenance of the real estate..."

Section 4 of the Act pursuant to which the City accepted Oak Grove cemetery (MCL 456.184) provides:

(1) The legal rights and privileges, statutory or otherwise, of the owners, stockholders, partners, or members are not affected by the contract or conveyance by which the cemetery property is transferred to a municipal corporation. The municipal corporation shall assume and perform all liabilities, charges, and duties, statutory or otherwise, imposed upon or assumed by the municipal corporation, fully perform all existing contracts or agreements of the cemetery, and carry out and perform all provisions as to maintenance whether imposed upon the legal entity by statute or assumed by its bylaws or other originating documentation.

(2) Any fund for maintenance as provided by statute or by the bylaws or other originating documentation of the legal entity shall be turned over to the municipal corporation and preserved, applied, and used as required under statute or under bylaws or other originating documents.

MCL 128.1 states in relevant part with regard to a municipal cemetery that:

(1) The legislative body of a municipality owning or controlling a cemetery or burial grounds may by resolution or ordinance provide for the perpetual care and maintenance of the cemetery or a burial lot upon the payment by the owner of the lot or another person of the agreed upon sum, and in consideration for which the municipality may bind itself to perpetually care for and maintain the lot.

(2) Subject to subsection (3), money deposited in a perpetual care and maintenance fund for a cemetery owned or controlled by a municipality may be

invested in mutual funds consisting of fixed income securities, equity securities, or both, if both of the following requirements are met:

(a) The equity position of the perpetual care and maintenance fund does not exceed 60% of the perpetual care and maintenance fund balance and the equity position does not contain more than 40% in any given asset category.

(b) Each mutual fund is rated in the top 2 of 5 or more tiers by Morningstar, Inc. or another nationally recognized mutual fund rating agency at the time of purchase.

(3) Subsection (2) does not prohibit any other investments that may be authorized by law....

While the City does not appear to possess documentation regarding the original establishment of Lakeview Cemetery or its perpetual care fund, Section 4.22 of the Hillsdale City Charter does suggest that such a fund was in existence and administered by the City as of the time the Charter was adopted. Specifically, Section 4.22 states that, “the Perpetual Care Fund now in existence, known as the improvement or memorial fund, is hereby continued and the interest from all monies now in such fund shall be devoted to keeping clean and in good order the lots of the several contributors thereto and any monuments of said contributor’s lots in good repair and also to improving or beautifying any lot or portion of lot which the contributor has set apart for ornamental purposes.”

Regarding the investment of the assets of perpetual care trust funds held by private cemetery associations, MCL 456.536(4) requires that, no later than January 1, 2010, the cemetery must establish the trust funds with one or more regulated financial institutions and enter into an irrevocable trust agreement with each institution as the trustee of the funds. The statute further provides, “that the investing of the assets are subject to the Michigan prudent investor rule as set forth in sections 1501 to 1512 and 7803 of the estates and protected individuals code, 1998 PA 386, MCL 700.1501 to 700.1512 and 700.7803, except that the agreement shall not be modified or amended, as allowed under sections 1502(2) and 7105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1502 and 700.7105, to provide less than the standard of care in the prudent investor rule....”

DISCUSSION

In general, I concur with the distinction Mr. Shirk makes in his 2010 opinion between the clear restrictions on the *use* of the monies in the perpetual care trust funds and the *investment* of the funds. The applicable statutes and Resolution 607 clearly prohibit the City from using the funds in the perpetual care accounts for anything other than the maintenance of the applicable cemeteries, and clearly require that the City keep the funds segregated from all other funds and accounts of the City. As such, the City cannot directly appropriate the funds to be used to purchase a fire truck, nor could it transfer any of the perpetual care funds to an account related to the fire department. However, to the extent the City merely borrows the money from the funds, at an appropriate market interest rate, such borrowing would effectively amount to an investment of the principal funds held in the perpetual care accounts.

While there is no express authorization for making loans to the City as a proper investment of perpetual care funds, there is no express prohibition of such an investment either. It is clear that both the Oak Grove Cemetery and Lakeview Cemetery, regardless of the original manner of their creation, are cemeteries that are currently owned or controlled by the City. As such, they fall within the purview of MCL 128.1(3), which essentially allows the investment of the funds in the perpetual care accounts in any manner, “that may be authorized by law.”

For purposes of determining what types of investments may be authorized by law, it is important to remember that the funds in the perpetual care accounts are held *in trust*, and the City administers the funds as the *trustee*. As such, the City has a fiduciary responsibility with respect to the investment of the trust funds. While the Oak Grove perpetual care trust funds were accepted by the City long before the statutory requirements in MCL 456.536(4) were adopted to apply the prudent investor rule to the investment of trust funds in the hands of private cemetery associations, given that the City still holds the funds in trust as a fiduciary, compliance with the prudent investor rule would still likely be legally required.¹ Additionally, other fiduciary duties are implicated due to the City holding the funds as trustee. As the authors of a treatise on Michigan trust administration explain generally:

A classic source of trustee liability occurs when the trustee’s fiduciary duty and personal interests conflict. Conflicts of interest may occur, for example, (1) when the trustee wants to invest trust assets in a venture in which the trustee has a personal stake, (2) when the trustee wants to purchase assets from the trust, (3) when the trustee is also a beneficiary of the trust, or (4) when the trustee is also an employee of a business owned by the trust.

Under EPIC and the Michigan Prudent Investor Rule, trustees are not expressly prohibited from investing in securities or property purchased from the trustee or an affiliate of the trustee. MCL 700.1214, 7802(5), 487.14405. However, the trustee does have a duty to invest and manage assets solely in the interests of the beneficiaries. MCL 700.1506. Depositing money in a bank operated by the trustee is expressly authorized and does not present a conflict of interest problem. MCL 700.7817(f).

Even though EPIC and the Michigan Prudent Investor Rule give some guidance as to whether certain kinds of transactions or relationships constitute conflicts of interest, Michigan common law provides the substantive test for the existence of self-dealing and conflicts of interest:

Many forms of conduct permissible in the workaday world for those acting at arm’s length, are forbidden to those bound by fiduciary ties. A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of

¹ This is because, in addition to being codified in the Michigan Trust Code and other statutes, the prudent investor rule has long been the measure for the proper investment of funds held by a trustee or other fiduciary under Michigan common law.

an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate. Uncompromising rigidity has been the attitude of courts of equity when petitioned to undermine the rule of undivided loyalty by the “disintegrating erosion” of particular exceptions.... Only thus has the level of conduct for fiduciaries been kept at a level higher than that trodden by the crowd. It will not consciously be lowered by any judgment of this court.

* * *

In re Estate of Butterfield, 418 Mich 241, 256–257, 341 NW2d 453 (1983) (citations omitted).

Likewise, the Michigan Court of Appeals in *In re Green Charitable Trust*, 172 Mich App 298, 323–324, 431 NW2d 492 (1988), held as follows:

[The trustee] was bound to consider the interests of the trust as paramount to all others. If other interests would prevent him from making a sound decision from the point of view of the trust, a potential conflict of interest exists. It is a fundamental principle that the trustee must display complete loyalty to the interests of the beneficiary, to the exclusion of all selfish interests or consideration of the interests of third parties. This principle is based on the understanding that a person acting in two capacities or in behalf of two interests may consciously or unconsciously favor one side over the other. It is not necessary that the trustee gain from the transaction to find disloyalty. “In its desire to guard the highly valuable fiduciary relationship against improper administration, equity deems it better to forbid disloyalty and strike down all disloyal acts, rather than to attempt to separate the harmless and the harmful by permitting the trustee to justify his representation of two interests.” (Citations omitted.)

A trustee who acts in a potential conflict situation without explicit authorization of the trust instrument or court approval does so at his or her own peril....

Imani and Prince, *Trust Administration Under the Michigan Trust Code*, § 2.17, Institute of Continuing Legal Education, 2017. These tenets with respect to fiduciary duty would apply equally to the City as trustee of the cemetery perpetual care funds under Michigan common law, even though the funds are not subject to the provisions of the Michigan Trust Code.

In the context of the proposed loan transaction, one obvious potential claim that could be leveled at the City from a conflict of interest standpoint, would be that the funds could have been more productively invested in some other fashion, and that while the lending of the funds to the City might result in a savings to the taxpayers of the City in general, they do not sufficiently benefit the interests of the perpetual care funds and their contributors/beneficiaries. Considering this, it is important that if the City ultimately decides to undertake to borrow the funds for the purchase of the fire truck from the cemetery perpetual care funds, the City must take special care to ensure that the interest rate and other terms of the loan are objectively fair and beneficial from the perspective of the perpetual care funds and their contributors/beneficiaries – particularly in relationship to

Memorandum to David Mackie

April 24, 2017

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other types of investment of the funds that are currently being made or that might otherwise be made if the funds were not loaned to the City. As part of this process, the City must make sure that, in addition to the approval of any such loan transaction by the City Council, the transaction is submitted to and thoughtfully considered for approval by the cemetery board. If such steps are taken, they will help the City withstand any attack on the transaction on the basis of self-dealing or conflict of interest – though there is no guarantee in this regard.

CONCLUSION

It is my opinion that the City may borrow the funds for the purchase of the fire truck from the cemetery perpetual care funds for Oak Grove and Lakeview Cemeteries, provided that the interest rate and other terms of the loan are objectively fair and beneficial to the funds, and provided that the loan and its terms are separately considered and approved by both the cemetery board and the City Council. The City, however, must keep in mind that there is no guarantee that the transaction could not be challenged on the basis of self-dealing, conflict of interest, or other alleged breach of fiduciary duty.

I hope this information is helpful. Should you have any questions or concerns that you would like to discuss, please let me know. For your convenience, I have attached a copy of the referenced statutes, along with a copy of Resolution 607 and Mr. Shirk's 2010 opinion letters.



Thomas L. Thompson

LOREN & SHIRK
ATTORNEYS AT LAW
P.O. BOX 246
HILLSDALE, MICHIGAN 49242

LEWIS I. LOREN
KEVIN G. SHIRK

91 SOUTH BROAD STREET
HILLSDALE, MICHIGAN
TELEPHONE (517) 439-1421

May 28, 2010

Ms. Bonnie Tew
Hillsdale City Hall
Hillsdale, Michigan 49242

Re: Propriety of Lending Cemetery Perpetual Care Funds to the City Library

Ms. Tew:

Pursuant to your request, I researched the propriety of the Library being allowed to borrow funds from the Cemetery Perpetual Care Funds. As I explained to you during our telephone conversation, my research included not only a review of the City Charter and Ordinances but also state statutes and previously adopted resolutions allowing such funds to be invested with Edward D. Jones. Unfortunately, my research did not discover a clear cut answer to your inquiry. However, my research did lead me to conclude that it is permissible for Cemetery Perpetual Care Funds to be loaned to the library, assuming that loan is approved by the Library Board, the Cemetery Board and, ultimately, the City Council.

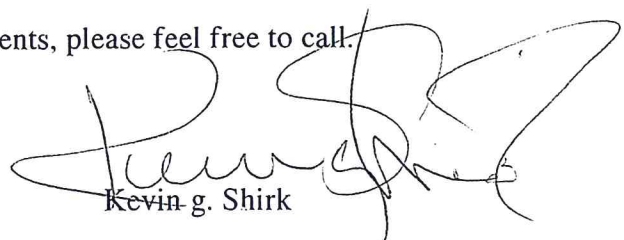
While there is no statute expressly permitting such a loan by a City, I note that state law does expressly provide that a county can expressly borrow from money deposited with the county treasurer for perpetual care of cemetery lots. Again, this statute is not direct authority for my opinion, but I believe it is a very strong indicator that the legislature, when confronted with the issue, did not have any objection to authorizing counties to make the very same type of borrowing that you are now questioning.

Additionally, Resolution 953 which allows the city manager and clerk to establish and maintain for Oak Grove and Lakeview Cemeteries Perpetual Care Funds one or more accounts with Edward D. Jones grants broad authority with regard to the investment of monies in those accounts. This grant of authority expressly includes the "authority ... to borrow money and to secure repayment thereof with the property of the city."

I also believe that my opinion is supported by the rather broad powers granted to cities, by both their charters and under state law, to support libraries and the broad powers granted to cities generally to operate and provide services to their citizens.

As noted, any loan should be approved by the Library Board, the Cemetery Board and, ultimately, the City Council. I also suggest that if the loan is considered and approved, it be reflected by formal documentation setting forth the required repayment and the interest rate which should be at least equal to what the funds are currently earning.

In the event you have additional questions or comments, please feel free to call.



Kevin g. Shirk

KGS/ccs

LOREN & SHIRK
ATTORNEYS AT LAW
P.O. BOX 246
HILLSDALE, MICHIGAN 49242

LEWIS I. LOREN
KEVIN G. SHIRK

91 SOUTH BROAD STREET
HILLSDALE, MICHIGAN
TELEPHONE (517) 439-1421

May 28, 2010

Ms. Bonnie Tew
Hillsdale City Hall
Hillsdale, Michigan 49242

Re: Expenditure of Cemetery Perpetual Care Funds

Ms. Tew:

You recently contacted me and requested that I provide you with an opinion of the propriety of Perpetual Care Funds being loaned to other departments of the city. I recently provided you with an opinion wherein I opined that such a loan was appropriate. After discussing that opinion, you raised the more specific question of what Cemetery Perpetual Care Funds could be spent on.

Obviously, a loan is not an expenditure as it assumes repayment at a given rate of interest. A loan is more of a type of investment. An expenditure, on the other hand, is just that and the propriety of any given expenditure needs to be analyzed.

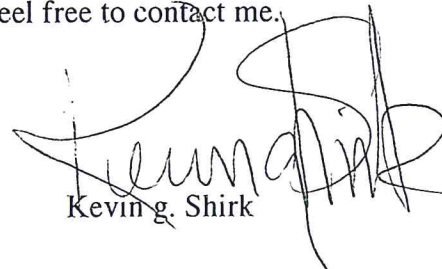
Section 4.22 of the Hillsdale City Charter specifically provides that "the Perpetual Care Fund now in existence, known as the improvement or memorial fund, is hereby continued and the interest from all monies now in such fund shall be devoted to keeping clean and in good order the lots of the several contributors thereto and any monuments of said contributor's lots in good repair and also to improving or beautifying any lot or portion of lot which the contributor has set apart for ornamental purposes."

The quoted charter language is instructive in two areas. First of all, it is clear that the charter language only envisions interest from the fund being spent. Frankly, this is consistent with the whole theory behind a perpetual care fund, that being that the fund will always be there and thereby guarantee the proper maintenance, or at least some maintenance, of cemetery lots.

The language also expressly limits the expenditure of interest for the cleaning and maintenance of lots and monuments thereon.

In conclusion, under the express language of the charter, it is my opinion that only the interest generated by the Perpetual Care Fund can be spent and then only for the purpose of cleaning, repairing, improving or beautifying lots which have been purchased and monuments thereon.

If you have additional questions or comments, please feel free to contact me.


Kevin G. Shirk

KGS/ccs

RESOLUTION NO. 607

WHEREAS, Oak Grove Cemetery Association of Hillsdale, Michigan, a Michigan Corporation, is preparing to be dissolved pursuant to the provisions of Act 10 of the Public Acts of Michigan for 1927 (MSA §27.901, et seq.) and,

WHEREAS, said Oak Grove Cemetery Association as part of its dissolution is proposing to transfer its assets to the City of Hillsdale pursuant to authorization by said association's lotowners, and

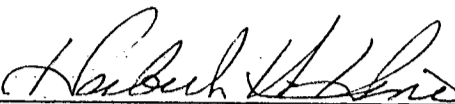
WHEREAS, there is at the present time the sum of \$172,408.55 in assets in Oak Grove's perpetual care fund, said fund being for the purpose of providing perpetual care for real estate located in the City of Hillsdale and presently being used for burial purposes and commonly known as Oak Grove Cemetery and being more particularly described in the attached Exhibit a, and

WHEREAS, the City of Hillsdale is desirous of accepting transfer of the aforescribed assets, subject, however, to the requirement that the City of Hillsdale shall keep the perpetual care funds in trust separate from other funds of the City of Hillsdale and maintain the principal thereof intact with the income only to be used exclusively for the perpetual maintenance of the real estate described in the attached Exhibit A for cemetery purposes and to perpetually commit the real estate described on said attached Exhibit A for such cemetery purposes,

NOW, THEREFORE, BE IT RESOLVED that the City of Hillsdale does hereby agree to accept the real estate and perpetual care fund aforescribed, subject, however, to the requirement that the City of Hillsdale shall keep the perpetual care funds in trust separate from other funds of the City of Hillsdale and shall maintain the principal thereof intact with the income only to be used exclusively for the perpetual maintenance of the real estate

described in the attached Exhibit A for cemetery purposes and to perpetually commit the real estate described on said attached Exhibit A for such cemetery purposes.

CITY OF HILLSDALE

By 
Herbert H. Hine - Mayor

Dated: September 22, 1975

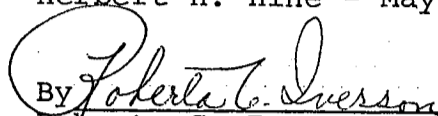
By 
Roberta C. Iverson - Clerk

EXHIBIT A

Land in the City of Hillsdale, County of Hillsdale and State of Michigan, described as: Commencing at a point where the center line of Montgomery Street crosses the North-South 1/4 line of Section 22, Town 6 South, Range 3 West, and running thence East along the North line of Montgomery Street to a point of intersection with the East line of West Street as extended North of Montgomery Street, thence North along the East line of West Street extended to the North Section line of said Section 22, thence West along the North section line to the North-South 1/4 line of said Section 22, thence South along the 1/4 line to the point of beginning.

Land in the Township of Fayette, County of Hillsdale and State of Michigan, described as: Commencing at the South 1/4 corner of Section 15, Town 6 South, Range 3 West, thence East along the South section line to a point of intersection with the East line of West Street extended, thence North 11.22 feet, thence West 52.14 feet, thence North 47° West 1112.1 feet, thence West to the North-South 1/4 line of said Section 15, thence South along said 1/4 line to the point of beginning.

CEMETERY OR BURIAL GROUNDS
Act 215 of 1937

AN ACT to authorize municipalities to own or control cemetery or burial grounds; to provide for perpetual care and maintenance; to provide for endowment and perpetual care funds; and to permit municipalities to authorize the creation of joint cemetery associations.

History: 1937, Act 215, Imd. Eff. July 21, 1937;—Am. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

The People of the State of Michigan enact:

128.1 Perpetual care and maintenance of cemetery or burial lot; resolution or ordinance; payment; investment in mutual funds; petition to transfer money to municipality.

Sec. 1. (1) The legislative body of a municipality owning or controlling a cemetery or burial grounds may by resolution or ordinance provide for the perpetual care and maintenance of the cemetery or a burial lot upon the payment by the owner of the lot or another person of the agreed upon sum, and in consideration for which the municipality may bind itself to perpetually care for and maintain the lot.

(2) Subject to subsection (3), money deposited in a perpetual care and maintenance fund for a cemetery owned or controlled by a municipality may be invested in mutual funds consisting of fixed income securities, equity securities, or both, if both of the following requirements are met:

(a) The equity position of the perpetual care and maintenance fund does not exceed 60% of the perpetual care and maintenance fund balance and the equity position does not contain more than 40% in any given asset category.

(b) Each mutual fund is rated in the top 2 of 5 or more tiers by Morningstar, Inc. or another nationally recognized mutual fund rating agency at the time of purchase.

(3) Subsection (2) does not prohibit any other investments that may be authorized by law.

(4) A testamentary trustee appointed by a probate court of a trust fund, the income from which is to be used to maintain a cemetery or burial lot, may, upon petition to the probate court that authorized the trustee's appointment, be authorized and directed by the court to transfer the money in the trustee's possession in the corpus of the trust to a municipality under an ordinance or resolution adopted under subsection (1). Upon receipt of the money filed with the probate court the testamentary trustee may be discharged from the trust.

History: 1937, Act 215, Imd. Eff. July 21, 1937;—CL 1948, 128.1;—Am. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2016, Act 13, Eff. May 16, 2016.

128.2 Joint cemetery authority; formation and purpose.

Sec. 2. The legislative body of 2 or more municipalities may authorize the formation of a nonprofit corporation as a joint cemetery authority to acquire, own, operate, maintain, and sell real and personal property used for a cemetery or burial ground.

History: Add. 1980, Act 366, Imd. Eff. Dec. 30, 1980.

128.3 "Community foundation" and "municipality" defined.

Sec. 3. As used in this act:

(a) "Community foundation" means an organization that meets all of the following requirements:

(i) Has been in existence for at least 10 years.

(ii) Has assets of at least \$10,000,000.00.

(iii) Qualifies for exemption from federal income taxation under 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

(iv) Supports a broad range of charitable activities within the specific geographic area of this state that it serves, such as a municipality.

(v) Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the geographic area served.

(vi) Is publicly supported, as defined by 26 CFR 1.170A-9(f).

(vii) Meets the requirements for treatment as a single entity under 26 CFR 1.170A-9(f)(11).

(viii) Is not an organization described in section 509(a)(3) of the internal revenue code, 26 USC 509(a)(3).

(ix) Has an independent governing body representing the general public's interest and that is not appointed by a single outside entity.

(x) Maintains continually at least 1 part-time or full-time employee beginning not later than 6 months after the community foundation is incorporated or established.

(xi) Is subject to an annual independent financial audit.

(xii) For a community foundation that is incorporated or established after January 9, 2001, operates in a county of this state that was not served by a community foundation when the community foundation was incorporated or established or operates as a geographic component of an existing community foundation.

(b) "Municipality" means a city, village, township, or county.

History: Add. 1980, Act 366, Imd. Eff. Dec. 30, 1980;—Am. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

128.4 Irrevocable endowment and perpetual care fund; establishment as component fund within community foundation; powers and duties of community foundation; "fund" defined.

Sec. 4. (1) Subject to this section, to lessen the burden of government, each municipality with a municipally owned cemetery may establish and maintain an irrevocable endowment and perpetual care fund as a component fund within a community foundation by entering into an irrevocable agreement with the community foundation.

(2) The amounts deposited into the fund shall be held in perpetuity by the community foundation except that the community foundation shall annually authorize 2 distributions of interest and other earnings to the municipality for care and maintenance of the cemetery. The withdrawals shall be documented. The cemetery shall maintain records showing that earnings from the fund are used exclusively for endowment and for care and maintenance of the cemetery. The community foundation is not responsible for ascertaining that money paid to the municipality is expended for the limited purposes authorized in this subsection.

(3) Subject to the terms of the agreement, the fees and costs of the community foundation for services under this section and the agreement may be paid from the principal of the fund.

(4) The community foundation shall submit to the legislative body of the municipality an annual fund statement that includes all of the following information for the reporting period:

(a) Beginning and ending fund balances.

(b) Deposits to the fund, including interest and earnings from fund investments.

(c) Documentation of distributions from the fund under subsection (2).

(d) Documentation of any expenditures under subsection (3).

(5) As used in this section, "fund" means an endowment and perpetual care fund established under subsection (1).

History: Add. 2014, Act 422, Imd. Eff. Dec. 30, 2014.

CEMETERY REGULATION ACT
Act 251 of 1968

AN ACT to regulate the creation and management of cemeteries; to provide for a cemetery commissioner and to prescribe the powers and duties of the commissioner; to require the registration and audit of cemeteries; to provide standards regarding the long-term care of certain cemeteries and trusting of certain funds; to regulate persons selling burial, entombment, or columbarium rights and certain merchandise; to provide for qualifications for owners, operators, employees, and transferees of cemeteries under certain circumstances; to provide for the abandonment of interment rights; to allow the cemetery commissioner to conduct certain investigations; and to prescribe administrative and civil remedies and penalties.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009;—Am. 2014, Act 398, Eff. Jan. 1, 2015.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

456.521 Cemetery regulation act; short title.

Sec. 1. This act shall be known and may be cited as the "cemetery regulation act".

History: 1968, Act 251, Eff. Sept. 15, 1968.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.522 Definitions.

Sec. 2. As used in this act:

(a) "Cemetery" means 1 or a combination of more than 1 of the following:

(i) A burial ground for earth interments.

(ii) A mausoleum for crypt entombments.

(iii) A crematory for the cremation for human remains.

(iv) A columbarium for the inurnment of cremated remains.

(b) "Interment" means the disposition of human remains by earth interment, entombment, or inurnment.

(c) "Burial right" means a right of earth interment.

(d) "Entombment right" means the right of crypt entombment in a mausoleum or in an aboveground vault.

(e) "Columbarium right" means the right of inurnment in a columbarium for cremated remains.

(f) "Mausoleum" means a building or other aboveground structure that is affixed to land and is a permanent repository for human remains.

(g) "Crypt" means a chamber in a mausoleum of sufficient size to entomb the uncremated remains of a deceased person.

(h) "Columbarium" means a building or other aboveground structure that is affixed to land and is a permanent repository for cremated human remains.

(i) "Crematory" means a building or structure, within which the remains of deceased persons are or are intended to be cremated.

(j) "Cremation" means the incineration of the body of the deceased person.

(k) "Cemetery commissioner" or "commissioner" means the director of the department of labor and economic growth or a designee of the director.

(l) "Endowment and perpetual care" means all general work necessary to keep the cemetery property in a presentable condition at all times, including, but not limited to, the cutting of grass at reasonable intervals; the raking, cleaning, filling, seeding, and sodding of graves; the replacement, pruning, or removal of shrubs and trees in order to assure access to interment rights; and the repair and maintenance of enclosures, buildings, drives, walks, and the various memorial gardens.

(m) "Merchandise trust" means trusts required by section 16, composed of deposits made in connection with merchandise and service sales made prior to January 1, 2005.

(n) "Municipal corporation" means a county, city, village, or township.

(o) "Regulated financial institution" means a state or nationally chartered bank, savings and loan association or savings bank, credit union, trust company, or other state or federally chartered lending institution or a regulated affiliate or regulated subsidiary of any of these entities.

(p) "Person" means an individual, group of individuals, sole proprietorship, partnership, limited liability company, association, corporation, government agency, cemetery, or a combination of these legal entities.

(q) "Good moral character" means that term as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(r) "Cemetery owner" means the person who has title to the cemetery.

(s) "Operator" means any of the following:

(i) A person, an officer of a person, a partner of a person, or a member or manager of a limited liability company, who holds more than 50% voting rights in a cemetery owner.

(ii) A person who is a member of the board of directors of a cemetery owner, a partner in a cemetery owner, or a member or manager of a limited liability company that is a cemetery owner.

(iii) An administrative official of the cemetery owner or the person described in subparagraph (i), comparable to a chief administrative officer, chief executive officer, or chief financial officer.

(t) "Affiliated person" means a person directly or indirectly controlling the cemetery and includes all of the following:

(i) A person who holds at least a 50% interest in a cemetery.

(ii) A person who is a member of the board of directors or a cemetery owner, a partner in a cemetery owner, or a member or manager of a limited liability company that is a cemetery owner.

(iii) A person who is an officer of the person who holds at least a 10% interest in a cemetery corporation or other entity having control of the cemetery.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 290, Eff. July 10, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.522a Commissioner, spouse, or child; financial interest in cemetery, cemetery operations, supplier, or funeral establishment prohibited.

Sec. 2a. The cemetery commissioner, or the commissioner's spouse or child, shall not have a direct or indirect financial interest in a cemetery, cemetery operations, a supplier of cemetery services or cemetery memorials, or a funeral establishment as defined in section 1801 of the occupational code, 1980 PA 299, MCL 339.1801.

History: Add. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.523-456.527 Repealed. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

Compiler's note: The repealed sections pertained to the creation and membership of the state cemetery commission.

456.528 Commissioner; rules.

Sec. 8. (1) The commissioner shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer this act, including, but not limited to, rules regarding all of the following:

(a) The maintenance of records relative to the financial aspects of cemeteries.

(b) Requirements for applications for the granting of permits and registrations required under this act, including, but not limited to, the good moral character and financial security, responsibility, and stability of persons having an interest in the cemetery and all persons with decision-making authority that are employed by the applicant, registrant, or permittee.

(c) The formal and informal procedures governing the conduct of contested cases under this act before the commissioner or a hearing officer designated by the commissioner.

(d) The establishment, control, record keeping, and auditing of endowment care trusts, merchandise trust accounts, and related trust funds.

(e) Requirements for trust agreements, endowment care trusts, and merchandise trust accounts.

(f) The full disclosure of the source, nature, and amount of consideration to be used in the sale or transfer of a cemetery.

(g) Submission of annual reports in accordance with section 16(12) and (13), including requests for extensions.

(2) The commissioner shall update any existing rules that must be changed due to the amendatory act that added this subsection within 12 months after the effective date of the amendatory act that added this

subsection.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Administrative rules: R 456.101 et seq. of the Michigan Administrative Code.

456.529 Commissioner; hearings; investigations; oaths; testimony; witnesses; production of books and records; subpoena; abandoned cemeteries; failure to obey subpoena; perjury; violation of act, rule, or order; powers of commissioner; injunction or restraining order; appointment of receiver or conservator; powers; sale of cemetery; notice to creditors and filing of claims; denial of application; suspension or revocation of permit or registration.

Sec. 9. (1) The commissioner may hold hearings, conduct investigations, administer oaths, take testimony under oath, and request in writing the appearance and testimony of witnesses, including the production of books and records. The commissioner may petition the circuit court for Ingham county for an order to issue, as part of the commissioner's general investigative and enforcement authority, a subpoena or a subpoena duces tecum relating to any person's appearance and testimony and for the production, examination, or copying of books, papers, or other documents pertaining to an investigation or hearing that is within the scope of the commissioner's authority under this act. The court shall issue an order for the issuance of subpoenas when reasonable grounds are shown.

(2) The commissioner has the authority to control, manage, and dispose of or transfer abandoned cemeteries or to require acceptance of responsibility for an abandoned cemetery according to law. The commissioner may promulgate rules that are necessary for the department to carry out its powers and duties under this subsection.

(3) Failure to obey a subpoena issued to any person by the commissioner through an order of the circuit court may subject the person to punishment by the circuit court as a contempt of court.

(4) Any person required by this act to take any oath or affirmation and who knowingly makes any false oath or affirmation is considered to have committed the crime of perjury.

(5) When it appears to the commissioner that a person or registrant has engaged in, or is about to engage in, any act or practice constituting a violation of this act or a rule promulgated or order issued under this act, the commissioner may do 1 or more of the following:

(a) Issue a cease and desist order.

(b) Accept an assurance of discontinuance of the violation.

(c) Bring an action in the circuit court for the county in which the person resides or in the circuit court for the county of Ingham, to enforce compliance with this act or a rule promulgated or order issued under this act.

(6) Upon a proper showing regarding an action brought under subsection (5)(c), a permanent or temporary injunction or a restraining order may be granted and a receiver or conservator may be appointed by the court. A receiver or conservator appointed by the court shall receive compensation from the cemetery as determined by the court. The receiver or conservator may operate the cemetery and take possession of the assets. The receiver or conservator shall have the rights and obligations of the cemetery as to all trust and escrow accounts and may sell, assign, transfer, or convey the cemetery and any of the assets to a municipal corporation or other person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, under conditions prescribed by the court, in order to discharge outstanding contractual obligations. A receiver or conservator appointed under this section or section 2926a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2926a, has all the powers, authority, and remedies of an assignee for the benefit of creditors under chapter 52 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5201 to 600.5265. The court may allow the receiver or conservator to file for protection under the bankruptcy code.

(7) Subject to court approval, a receiver or conservator may do any of the following:

(a) Take possession of the books, records, and assets of the cemetery or cemetery entity.

(b) Employ employees and agents, legal counsel, actuaries, accountants, appraisers, consultants, and such other personnel as he or she considers necessary.

(c) Fix the reasonable compensation of employees and agents, legal counsel, actuaries, accountants, appraisers, and consultants with the court's approval.

(8) In the order of sale of the cemetery, the court shall make provision for notice to creditors and the filing of claims against the receivership or conservatorship. Money held by the cemetery in trust or in escrow shall not be distributed to the general creditors of the cemetery. This section does not prohibit the court from

allowing the sale of the cemetery to a person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, or from allowing the sale of the cemetery to a municipal corporation.

(9) In addition to an action taken under this section, the commissioner may deny an application or may suspend or revoke a permit or registration after an administrative hearing as provided for in this act.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2002, Act 550, Imd. Eff. July 26, 2002;—Am. 2003, Act 289, Imd. Eff. Jan. 8, 2004;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.529a Performance of duties of commissioner; assistance from all departments, state agencies, public bodies corporate, committees, commissioners, officers of state, and any political subdivision.

Sec. 9a. All departments, state agencies, public bodies corporate, committees, commissioners, or officers of this state, and any political subdivision of this state, so far as is compatible with their duties, shall give the commissioner or his or her designee any necessary assistance required by the commissioner in the performance of the duties of the commissioner. All departments, state agencies, public bodies corporate, committees, commissioners, or officers of this state, and any political subdivision of this state, shall provide the commissioner free access to any book, record, or document in their custody relating to the matters within the scope of the commissioner in the performance of his or her duties.

History: Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

456.529b Consultants; contracts.

Sec. 9b. The commissioner may enter into contracts to accomplish requirements under this act, including for the engagement of consultants. The commissioner may use an authorized employee or agent, who is an attorney, to represent the commissioner or the department in a contested case proceeding brought under this act.

History: Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

456.530 Commissioner; auditing trust funds; registration of cemeteries; exemptions.

Sec. 10. (1) The commissioner shall institute and maintain a system of auditing trust funds required by this act and of registering each cemetery authorized to be created, maintained, and operated in this state, as well as any other cemetery operating under state law or local ordinance. A cemetery owned and operated by a municipal corporation, church, or religious institution is exempt from this act. However, a municipal corporation may pass ordinances necessary for regulating that municipal corporation's cemeteries.

(2) A cemetery for earth interment of 10 acres or less in size, which is owned and operated entirely and exclusively by an existing nonprofit entity and in which a burial has taken place before September 15, 1968, is exempt from the fee provisions of this act, shall have the trust fund required by this act audited at the discretion of the commissioner, and is exempt from the endowment care trust fund requirements of section 16, except for the report requirements if the cemetery maintains endowment and perpetual care trust funds.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 1982, Act 289, Imd. Eff. Oct. 7, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.531 Commissioner; registration fee; renewal blank and notice.

Sec. 11. The commissioner shall charge an annual registration fee of \$20.00 per year for each cemetery registered. Not less than 90 days before the expiration date prescribed in section 15, the commissioner shall cause a renewal blank to be mailed to each registrant, together with a notice advising the registrant of the time and procedures for renewal of a registration.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.532 Permit for registration required; acquisition of controlling interest in cemetery

company; application for certificate of approval; contents; issuance; fee; noncompliance; escrow of endowment and perpetual care trust fund; prohibited use of funds; “controlling interest” defined.

Sec. 12. (1) A person shall not establish a cemetery without a valid permit or operate an existing cemetery except under a valid registration issued under this act.

(2) If a person proposes to purchase or otherwise acquire a controlling interest in an existing cemetery company, that person shall first apply to the commissioner for a certificate of approval of a proposed change of control of a cemetery company. The application shall contain all of the following:

(a) The name and address of the proposed new owner or operator.

(b) A sworn statement from the seller attesting to the assets and liabilities related to the cemetery, including all trust accounts and the value of those accounts.

(c) Sworn statements from both the seller and the purchaser stating who will assume the assets and liabilities related to the cemetery.

(d) A sworn statement that the principal from the endowment and perpetual care trust accounts will be held in escrow for 6 months from the later of the following:

(i) The commissioner's approval of the application.

(ii) The close of the sale of a controlling interest in the cemetery owner or the sale of a substantial portion of the assets of the cemetery owner.

(iii) The transfer of title of the cemetery.

(e) Any other information the commissioner requires.

(3) The commissioner shall issue a certificate of approval for a change of control only after he or she is satisfied that the proposed new cemetery owner or operator is qualified by good moral character, experience, and financial stability, responsibility, and security to control and operate the cemetery in a legal and proper manner, and that the interest of the public generally will not be jeopardized by the proposed change in ownership and management. The application for a purchase or change of control must be accompanied by an initial filing or investigation fee of \$1,500.00.

(4) If a person fails to comply with this section, the commissioner may do any of the following if a transfer of controlling interest is found to have taken place without prior commissioner approval:

(a) Suspend or revoke the registration of the cemetery.

(b) Issue a cease and desist order or other order requiring a person to immediately take remedial action as prescribed by the commissioner.

(c) Seek injunctive or other equitable action from a court of competent jurisdiction.

(d) Take other appropriate action until the person purchasing or otherwise acquiring a controlling interest in an existing cemetery, purchasing an existing cemetery, or otherwise acquiring the cemetery demonstrates compliance with this section or divests itself of any interest or control of the cemetery.

(5) After the sale, transfer, purchase, or acquisition of a controlling interest in a cemetery is completed, the endowment and perpetual care trust fund for the cemetery shall be escrowed into an account for the first 6 months of the new ownership. This subsection shall not be construed to prevent or prohibit the cemetery from receiving interest or income from the endowment and perpetual care trust fund to maintain the cemetery.

(6) The endowment and perpetual care trust funds of a cemetery being sold shall not be used by the new owner of an existing cemetery in any manner to purchase or otherwise finance the purchase of that cemetery from the previous owner.

(7) As used in this section, "controlling interest" means the capability to decide the operating and financial policies of the cemetery company or to select the officers or directors with majority control of the cemetery company.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.532a Examining affairs of cemetery or person; inspection or audit of books, papers, records, and documents; audit charges.

Sec. 12a. (1) The commissioner or an examiner, investigator, or other person the commissioner may appoint, may visit and examine the affairs of any cemetery or person required to register under this act and shall have free access to the books, papers, records, and documents of the cemetery corporation, person, affiliated person, or agent acting on its behalf that relate to the business of the cemetery or person required to

register under this act.

(2) The books, papers, records, and documents shall be available for inspection or audit at any time during regular business hours with reasonable notice. One or more qualified persons designated by the commissioner shall conduct the audit, whose services shall be charged to and paid by the cemetery.

History: Add. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.533 Establishment of cemetery; application for permit; investigation fee; conduct of investigation; notice to commissioner of certain changes; order to void certain appointments.

Sec. 13. (1) Any person desiring to establish a cemetery shall file with the commissioner, on forms furnished by the commissioner, an application for a permit to establish a cemetery. The application shall be accompanied by a nonrefundable investigation fee of \$1,500.00.

(2) After a receipt of an application, the commissioner shall conduct an investigation pertaining to the physical plans, the community need for the planned cemetery, and pertinent information pertaining to the applicant's experience, financial security, responsibility, and stability, ability, and good moral character and the source, nature, and amount of consideration to be used in the purchase of the cemetery. If the applicant is not an individual, the same investigation shall be made of the owners, directors, officers, partners, members, or any person occupying a similar status or performing similar functions, or any affiliated person.

(3) A cemetery company shall immediately notify the commissioner of any change in its directors, officers, partners, members, affiliated persons, or any persons occupying a similar status or performing similar functions. If after investigation the commissioner determines that any new director, officer, partner, member, affiliated person, or a person occupying a similar status or performing a similar function does not have suitable experience, financial security, responsibility, and stability, ability, and good moral character, the commissioner shall order the cemetery company to void the appointment of the director, officer, partner, member, affiliated person, or any persons occupying a similar status or performing a similar function.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.533a Circumstances causing person to be ineligible as cemetery owner or holder of controlling interest; factors for determining eligibility.

Sec. 13a. (1) Notwithstanding any other provisions governing eligibility as a cemetery owner, a person may be ineligible to become a cemetery owner or hold a controlling interest in a cemetery company if any of the following circumstances exist:

(a) The person has been convicted of a felony under the laws of this state, any other state, or the United States.

(b) The person has been convicted of a misdemeanor involving gambling, theft, dishonesty, or fraud in any state, or has been convicted under a local ordinance in any state involving gambling, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in this state.

(c) The person has knowingly submitted an application for a license under this act that contains false information.

(d) The person lacks the requisite character, experience, and financial responsibility to control and operate the cemetery in a legal and proper manner, as determined by the commissioner, and the proposed ownership or change in ownership and management is likely to jeopardize the public.

(2) In determining whether to allow a person to become a cemetery owner, the commissioner shall also consider all of the following:

(a) The past and present compliance of the person and its affiliated person with cemetery or cemetery-related licensing requirements, cemetery-related agreements, or compacts with the state of Michigan or any other jurisdiction.

(b) Whether the person has been indicted, charged, arrested, or convicted, has pleaded guilty or nolo contendere, or has forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, unless the offense has been expunged, pardoned, or

reversed on appeal or otherwise nullified as determined by the commissioner.

(c) Whether the person has filed, or had filed against it, a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt.

(d) Whether the person has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.

(e) The person has a history of noncompliance with any regulatory requirements in this state, any other jurisdiction, or the federal government.

History: Add. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

456.534 Granting or refusing to grant permit; denial of application; procedures.

Sec. 14. After receipt of the investigation fee and application, and after investigation, the commissioner shall grant or refuse to grant the permit. If the commissioner decides to deny the application for a permit, he or she shall follow the procedure set forth in section 19.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.535 Registration of cemetery; date; application; form; fee; expiration; procedure for denying registration; late penalty filing fee.

Sec. 15. (1) Each person owning, managing, or operating a cemetery shall register the cemetery by filing with the commissioner a registration application before June 2 of each year, on a form furnished by the commissioner, and accompanied by the registration fee. A registration expires on July 1 of each year.

(2) If the commissioner intends to deny registration, the procedure set forth in section 19 shall be followed. The commissioner may impose a late penalty filing fee of \$10.00 per day on a person which filed a registration application after June 1.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.535a Witness fee; prohibition.

Sec. 15a. A registrant shall not charge a fee for witnessing the lowering of a casket into the ground.

History: Add. 1996, Act 112, Imd. Eff. Mar. 5, 1996.

456.536 Irrevocable endowment and perpetual care trust fund; establishment and maintenance; commingling prohibited; annual report; application for modification or waiver; expenses; bundling of funds with common ownership; pooling of trust or escrow funds for investment purposes; agreement with regulated financial institutions with trust powers; deposits; agent or seller; deposit requirements; use of interest or income; merchandise trust account; deposit for sale of burial vaults or containers; repayment; installation of vault; contents of cemetery merchandise and services contract; annual reports; deficit in amount of required deposits; penalty; hearing; additional penalty; powers and jurisdiction of attorney general and courts; disposition of fees, charges, and penalties; notice of financial transaction or investment; failure to submit reports under subsections (12) and (13); civil actions.

Sec. 16. (1) The commissioner shall require each cemetery to establish and maintain an irrevocable endowment and perpetual care trust fund. The amounts deposited into an endowment and perpetual care trust fund pursuant to subsection (5) shall be held in perpetuity by the trustee and may only be distributed to the cemetery upon order of a court following petition by the commissioner. Interest or income shall be used only for endowment care. Except as otherwise provided in subsection (2), money in the endowment and perpetual care trust fund shall not be commingled with any other money or trust accounts. The cemetery shall report annually before July 1 of each year, on forms approved and furnished by the commissioner, endowment and perpetual care trust fund information required to be reported to the commissioner by other statutes and information regarding the funds as the commissioner considers pertinent in the public interest. A cemetery applying to the commissioner as authorized by other statutes for an endowment and perpetual care trust fund

deposit modification or waiver shall be assessed the actual expenses for an examination or investigation by the commissioner.

(2) Notwithstanding subsection (1), bundling of funds held in trust or escrow, for each cemetery or among cemeteries with common ownership, is permissible only under the following circumstances:

(a) Each cemetery maintains separate trust and escrow account records pursuant to statutory and rule requirements for endowed care, merchandise, or prepaid funeral and cemetery sales.

(b) A cemetery, or cemeteries with common ownership, has all its trust or escrow accounts on deposit with 1 or more regulated financial institutions with trust powers in this state.

(c) The trustee, or the trustee's trading block nominee, holds title in the name of each individual trust or escrow account for that trust or escrow account assets and the assets are promptly settled back to the individual accounts by the trustee in the ordinary course of business.

(3) Notwithstanding subsection (2), other comparable methods of bundling or pooling of trust or escrow funds for investment purposes may be permissible upon terms and conditions approved in writing by the commissioner and only after the commissioner is reasonably satisfied that the title to, character of, and accounting for funds held in trust or escrow is preserved.

(4) Not later than January 1, 2010, the irrevocable endowment and perpetual care trust fund shall be established, or reestablished, with 1 or more regulated financial institutions with trust powers that shall be the trustee of the portion of the fund allocated to it. The cemetery shall enter into agreements of irrevocable trust agreements with each trustee. Those agreements shall provide that the investing of the assets are subject to the Michigan prudent investor rule as set forth in sections 1501 to 1512 and 7803 of the estates and protected individuals code, 1998 PA 386, MCL 700.1501 to 700.1512 and 700.7803, except that the agreement shall not be modified or amended, as allowed under sections 1502(2) and 7105 of the estates and protected individuals code, 1998 PA 386, MCL 700.1502 and 700.7105, to provide less than the standard of care in the prudent investor rule. The cemetery shall notify the commissioner, in writing, not later than 14 days before the effective date of an appointment of a trustee. The cemetery may remove and replace a trustee at any time, subject to the consent of the commissioner, and subject to the terms of the cemetery's agreement with the trustee. The fees and costs of the trustee may, in accordance with the terms of the trust agreement, be paid from the principal of the trust. A cemetery that establishes its irrevocable endowment and perpetual care trust with 1 or more regulated financial institutions with trust powers, and that does not reserve, retain, or otherwise exercise any power of direction of specific investments, is not liable for any deficiencies in the irrevocable endowment and perpetual care trust caused by performance of the investments. A cemetery may reserve the right to recommend, to a trustee, an investment advisor, registered with the securities and exchange commission under the investment advisers act of 1940, 15 USC 80b-1 to 80b-21, or under the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, to advise the trustee in the trustee's decisions on asset allocation, investment managers, and investments, except that a trustee is not required to heed such advice. Alternatively, and notwithstanding any other provisions of this section, and at all times subject to the Michigan prudent investor rule, a cemetery may direct the trustees to make certain investments, provided that the trust is a named beneficiary of fiduciary liability insurance covering the cemetery's or other fiduciaries' actions in an amount equal to 100% of the amount so directed. Proof of the fiduciary liability coverage shall be provided not less than annually to the commissioner, in a form to be determined by the commissioner, before any direction being given. The commissioner or the attorney general may prosecute a claim against the fiduciary liability insurance on behalf of the trust. The trustees are not liable, or otherwise punishable, for complying with the direction of investments except that the trustees shall retain custody of all the investments.

(5) Beginning January 12, 2009, an irrevocable endowment and perpetual care trust fund shall be created by the deposit of at least \$50,000.00 into the fund before any sale of burial rights, entombment rights, or columbarium rights is made.

(6) Each month, not less than 15% of all proceeds received during the previous month from the sales of burial rights, entombment rights, or columbarium rights shall be deposited with the trustee for inclusion in the endowment and perpetual care trust fund. No total deposit for a single burial right sale or assignment shall be less than \$20.00. A cemetery may apply to the commissioner for a modification of the minimum deposit requirement. The commissioner shall take testimony and investigate as he or she considers necessary and if the commissioner determines that the applicant's endowment and perpetual care trust fund will generate sufficient income to meet all current costs of keeping the applicant's cemetery in good condition, the commissioner may modify the minimum deposit requirement. A cemetery applying to the commissioner for a modification of the endowment and perpetual care trust fund deposit requirements shall be assessed the actual costs for the commissioner's examination and investigation. Excess money in the fund may be applied by a cemetery against future deposits and shall be annually reported to the commissioner in a manner prescribed

by the commissioner.

(7) The commissioner shall require each person engaged as agent or seller in the selling of burial rights, entombment rights, or columbarium rights owned by a party other than a cemetery or corporation subject to the irrevocable endowment and perpetual care trust fund requirements of this act and other laws, to deposit 15% of all gross proceeds received from the sales of those rights into the irrevocable endowment and perpetual care trust fund of the cemetery in which the rights are located if an irrevocable endowment and perpetual care trust fund exists for that cemetery. A deposit required to be made by those persons shall be modified or waived if the cemetery has received an irrevocable endowment and perpetual care trust fund deposit modification or waiver approved by the commissioner. The total deposit for a single adult burial right sale or assignment shall not be less than \$20.00.

(8) Interest or income from the money in the endowment and perpetual care trust fund shall be used exclusively for endowment and perpetual care. No portion of the interest or income may be used directly or indirectly for salaries or other payments to the officers, directors, partners, members, or managers of the entity owning the cemetery. Withdrawals of accumulated interest or income from the endowment and perpetual care trust fund may be authorized by the trustee, and such withdrawals shall be documented in the manner provided by rule of the commissioner. A cemetery shall maintain records showing that interest from the endowment and perpetual care trust fund is used exclusively for endowment and perpetual care. The trustees are not responsible for ascertaining that money paid to the cemetery is expended for the limited purposes permitted by this subsection.

(9) Subject to subsection (17), a cemetery that is required to register pursuant to this act and an agent authorized by a cemetery or acting on its behalf under an agreement or sales contract to sell cemetery merchandise or cemetery services shall establish a merchandise trust account and deposit a percentage of the gross proceeds received from the sales as determined by the commissioner. The merchandise trust account shall be maintained exclusively for the deposit of the money into a regulated financial institution under the terms of a written trust agreement approved by the commissioner. All documents, reports, and records regarding the trust shall be kept in this state. It shall be the responsibility of each registrant under this act to assure that documents relating to the merchandise trust account are provided to the commissioner upon request. If a subpoena is issued to obtain these documents, the registrant shall pay all costs related to obtaining the documents. The money shall be deposited not later than the month following its receipt.

(10) Subject to subsection (17), the total deposits to a merchandise trust for the sale of cemetery burial vaults or other outside containers, other than crypts installed underground and sold as part of a cemetery lot, shall at all times be not less than the greater of \$100.00 per vault or outside container or 130% of the total costs of the containers covered by the trust. Money deposited in connection with a sale shall be repaid within 30 days upon written demand of the purchaser. A burial vault shall be installed only at need or by separate written authorization of the purchaser. The cemetery shall have the right to withdraw the amount on deposit for the delivered vault or outside container.

(11) Subject to subsection (17), a contract or agreement made with a purchaser of cemetery merchandise and cemetery services shall contain a complete description of the cemetery merchandise purchased and of the cemetery services to be rendered.

(12) The commissioner shall require the cemetery owner or operator to report annually before July 1 of each year on forms provided by the commissioner. The reports shall contain information as the commissioner considers necessary to ascertain that the requirements of this act and rules promulgated under this act are being implemented. Subject to approval of the department, the cemetery owner or operator may ask for an extension not to exceed 90 days to submit the report required by this subsection. All reports required by this subsection and subsection (13) shall include a sworn statement by the cemetery owner or operator that includes the following:

(a) A certification that the signing cemetery owner or operator has reviewed the report.

(b) Based on the operator's or owner's knowledge, that the report does not contain any untrue statement of material fact related to the financial condition of the endowment and perpetual care trust fund or merchandise trust accounts.

(c) Based on the operator's or owner's knowledge, that the report fairly presents all material information regarding the financial condition of the endowment and perpetual care trust fund or merchandise trust accounts.

(d) That the signing operators or owners are responsible for establishing and maintaining internal controls; have designed those internal controls to ensure the accuracy of material information relating to the condition of the endowment and perpetual care trust fund or merchandise trust accounts; have evaluated the effectiveness of the internal controls within 90 days before the issuance of the report; and have included information evaluating the effectiveness of those internal controls.

(13) At a minimum, the commissioner shall require the following information concerning the endowment and perpetual care trust fund, the accuracy of which shall be certified by a certified public accountant:

- (a) Beginning and ending balances.
- (b) Receipts from the sale of burial, entombment, and columbarium rights.
- (c) Deposits to the endowment and perpetual care trust fund.
- (d) Itemized payments of interest or income.
- (e) Documentation that interest was utilized solely for endowment care.

(14) If, after an audit by the commissioner's staff, a deficit in the amount of required deposits to the trust funds is found, the commissioner may assess a penalty in the amount allowed under this act. The cemetery entity may request an administrative hearing before the commissioner or a hearing officer designated by the commissioner within 30 days after being notified of a deficit by the commissioner. If, following the administrative hearing, the commissioner determines that a deficit does exist, an additional penalty may be assessed each month on the unpaid monthly balance until the deficit is paid in full.

(15) In addition to all other remedies at law or in equity, the attorney general and the circuit court of the county in which the cemetery is located have all the powers and jurisdiction granted to the attorney general and court as to trusts covered by 1915 PA 280, MCL 554.351 to 554.353. The remedies granted include all endowment and perpetual care trust funds without regard to uncertainty or indefiniteness of beneficiaries.

(16) All fees, charges, and penalties, or other money from any source, collected under this act, other than fines prescribed in section 21, shall be paid to the commissioner. Upon receipt, the commissioner shall remit money received to the department of treasury for deposit in the general fund of this state.

(17) Any preneed contracts for cemetery merchandise or services entered into on or after January 1, 2005 are subject to the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

(18) Not less than 7 days before 30% of the endowment and perpetual care or perpetual care funds established under this act are moved from an account or otherwise engaged in some type of financial transaction or investment, the cemetery owner or operator shall notify the commissioner of the transaction on appropriate forms that the commissioner shall authorize. The commissioner may allow the submission of a notification up to 7 days after the transaction, for good cause shown. Failure to comply with this subsection is considered a violation of this act.

(19) The commissioner, upon finding after notice and an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that a cemetery owner or operator has failed to timely submit a report required under subsections (12) and (13), regardless of whether he or she acted alone or through an employee or agent, may impose an administrative fine, payable to the commissioner, for the enforcement of this act. If the commissioner finds that a violation occurred despite the exercise of due care, the commissioner may issue a warning instead of imposing an administrative fine.

(20) The commissioner shall advise the attorney general of the failure of a person to pay an administrative fine imposed under this section. The attorney general may bring an action in a court of competent jurisdiction for the failure to pay an administrative fine imposed under this section.

(21) Applicable provisions of the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947, apply to civil actions filed pursuant to this section.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1972, Act 290, Imd. Eff. Oct. 30, 1972;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2003, Act 89, Imd. Eff. July 24, 2003;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009;—Am. 2010, Act 326, Imd. Eff. Dec. 21, 2010.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.536a Preconstruction sales of crypts or niches.

Sec. 16a. A person shall not develop or build a mausoleum or columbarium and engage in preconstruction sales of crypts or niches in a mausoleum or columbarium unless that person does both of the following:

(a) Agrees to complete the mausoleum or columbarium within 4 years after the date of the first sale of an entombment or inurnment right in the proposed mausoleum or columbarium or, if construction is not completed within that time and upon the request of the purchaser, agrees to offer to the purchaser a refund of 100% of the purchase price with interest calculated at the rate of 4% per annum.

(b) Agrees that if the person for whom the entombment or inurnment right in the proposed mausoleum or columbarium dies before completion of the mausoleum or columbarium, an alternative disposition of the remains shall be provided until completion of the mausoleum or columbarium or until a refund is made of 100% of the purchase price with interest calculated at the rate of 4% per annum.

History: Add. 2004, Act 22, Eff. Jan. 1, 2005.

456.537 Right to possess space within cemetery; presumption of abandonment; certification; notice; record; remedies; transfer; sale; contract; publication on internet website; exception; intent of section; definitions.

Sec. 17. (1) A person possessing a right to a space within a cemetery is presumed to have abandoned the right if all of the following apply:

(a) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not provided the cemetery owner or operator with an updated address for purposes of contacting the person.

(b) During the past 60 years, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed possession of the right in any of the following ways:

(i) Requesting an interment or notifying the cemetery owner or operator of an interment under the right to the space.

(ii) Requesting the installation of a memorial or notifying the cemetery owner or operator of the installation of a memorial under the right to the space.

(iii) Indicating or requesting a transfer of the right to the space to another person.

(iv) Making a payment to the cemetery owner or operator relating to the right to the space.

(v) Affirming in writing the possession of the right to the space.

(c) A memorial has not been installed at the cemetery under the right to the space.

(d) Remains have not been interred at the cemetery under the right to the space.

(2) If, after a right to a space is presumed to be abandoned under subsection (1), all of the following requirements are met, the cemetery owner or operator may under subsection (4) certify the right as abandoned:

(a) The cemetery owner or operator posts on the space for 120 consecutive days a written notice of intent to certify the right to the space as abandoned.

(b) If the cemetery owner or operator has a mailing address for the person possessing the right to the space or the person's authorized representative, the cemetery owner or operator sends to that address a written notice of intent to certify the right to the space as abandoned. The notice shall be sent by certified mail with a return receipt requested.

(c) If any of the following conditions apply, the cemetery owner or operator publishes once a week for 2 consecutive weeks a notice of intent to certify the right to the space as abandoned in a newspaper circulated in the county in which the cemetery is located:

(i) The cemetery owner or operator does not have a mailing address for the person possessing the right to the space or the person's authorized representative.

(ii) Whether or not a written notice mailed under subdivision (b) is returned as undeliverable, the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right within 60 days after the notice was mailed.

(d) If publication is required under subdivision (c), 60 days have elapsed since the cemetery owner or operator published the second notice and the person possessing the right to the space or the person's authorized representative has not contacted the cemetery owner or operator and affirmed the person's possession of the right.

(3) A notice required under subsection (2) shall state all of the following:

(a) A description of the right to a space affected.

(b) If known to the cemetery owner or operator, the name of the person possessing the right to the space and the person's authorized representative, if any.

(c) The time frame within which a person possessing the right to the space or the person's authorized representative must contact the cemetery owner or operator and affirm the person's possession of the right to the space to prevent the right from being certified as abandoned.

(d) That, if the right to the space is certified as abandoned, a person who possessed the right may be entitled to the remedies set forth in section 17 of the cemetery regulation act, 1968 PA 251, MCL 456.537.

(e) The name, address, electronic mail address, and telephone number of the cemetery owner or operator.

(4) A right to a space is certified as abandoned by any person possessing the right if, after satisfying the requirements of subsections (2) and (3), the cemetery owner or operator creates, signs, and maintains a record that states all of the following:

(a) A description of the right to a space affected.

(b) The names of any persons possessing the right to the space immediately before the right is certified as abandoned, if known to the cemetery owner or operator.

(c) That the right to the space is presumed to be abandoned under the criteria set forth in subsection (1).
(d) That the cemetery owner or operator provided notice in compliance with subsections (2) and (3).
(e) That the cemetery owner or operator has not received a response to a notice under subsection (2) from a person possessing the right to the space or the person's authorized representative affirming the person's possession of the right.

(5) A person whose right to a space was certified as abandoned under subsection (4) is entitled only to the following remedies:

(a) Reinstatement of the right to the space if the right has not been resold or otherwise transferred to another person by the cemetery owner or operator.

(b) If the right to the space has been resold or otherwise transferred to another person by the cemetery owner or operator, at the option of the person whose right was certified as abandoned, either of the following:

(i) A different right to a space of comparable value within the cemetery.

(ii) Compensation in the amount that the person whose right was certified as abandoned paid for the right or in an amount equal to 65% of the price for which the right was resold or otherwise transferred by the cemetery owner or operator, whichever amount is greater.

(6) If a person possessing a right to a space within a cemetery or the person's authorized representative is notified by the cemetery owner or operator under subsection (2) and the person or the person's authorized representative does not wish to retain possession of the right, the person or the person's authorized representative may transfer the right to the space back to the cemetery owner or operator for an amount as agreed by the parties.

(7) A contract for the sale of a right to a space entered into by a cemetery owner or operator after the effective date of this section shall contain a written notice of the presumption of abandonment of a right to a space under subsection (1).

(8) A cemetery owner or operator may publish on 1 or more internet websites a notice of intent to certify a right to a space as abandoned under subsection (2). A cemetery owner may use an internet search to attempt to identify for use under subsection (2) the current mailing address of a person possessing a right to a space or the person's authorized representative.

(9) Subsections (1) to (8) do not apply to a right to a space if 1 or more of the following apply:

(a) An inscribed memorial is located on the space to which the right applies.

(b) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial and the adjoining side of the inscribed memorial displays a family surname.

(ii) The space was purchased with another space on which the inscribed memorial that displays the family surname is located.

(c) Both of the following apply to the space to which the right applies:

(i) The space immediately adjoins an inscribed memorial.

(ii) The space immediately adjoins a space that was purchased with the right to a space and includes interred remains.

(10) This section is intended to advance the significant and legitimate public purpose of ensuring the availability and productive use of space within cemeteries and providing security in rights consistent with the health, safety, and welfare of the people of this state.

(11) As used in this section:

(a) "Inscribed memorial" means 1 or both of the following:

(i) A stone or other structure or item that is used for the purpose of memorializing a decedent on a place of interment and that displays the name of a decedent.

(ii) A stone or other structure or item that identifies an area of a cemetery dedicated for the interment of members of a family and that displays a family surname.

(b) "Right to a space" or "right" means the privilege, license, or right of interment in a space in a cemetery.

History: Add. 2014, Act 398, Eff. Jan. 1, 2015.

Compiler's note: Former MCL 456.537, which pertained to the licensing of salesmen and trainees, was repealed by Act 132 of 1982, Imd. Eff. Apr. 20, 1982.

456.538 Denial, suspension, or revocation of permit or registration, and other disciplinary action; grounds; effect; fulfillment of contractual obligations and agreements; administrative fine.

Sec. 18. (1) The commissioner may deny an application filed under this act and refuse to issue a permit or registration, or may suspend or revoke a permit or registration, or may reprimand, place on probation, or take other disciplinary action against the applicant if the commissioner's investigation reveals facts which, with

reference to the establishment of a cemetery, show inappropriate physical plans; lack of community need; inadequate experience, financial stability, or integrity to protect the public welfare; or when the commissioner finds that the cemetery owner, operator, or applicant or the officers, cemetery owners, directors, members, affiliated persons, or general manager of those entities has done 1 or more of the following:

- (a) Made a false statement of a material fact in the application.
 - (b) Not complied with this act.
 - (c) Been guilty of an unlawful or fraudulent act in connection with selling or otherwise dealing in cemetery lots and burial rights regulated by this act or funeral or cemetery merchandise and services regulated by the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.
 - (d) Been guilty in the judgment of the commissioner of other conduct whether of the same or different character than specified in this act which constitutes dishonest and unfair dealing or a demonstration of lack of good moral character.
 - (e) Violated article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812.
 - (f) Violated the terms of an assurance of discontinuance entered into with the commissioner pursuant to section 9(5).
 - (g) Violated the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.
 - (h) Failed to comply with section 2080 of the insurance code of 1956, 1956 PA 218, MCL 500.2080.
 - (i) Adopted, enforced, or attempted to enforce a regulation of the cemetery that prohibits the installation of a grave memorial or burial vault unless the grave memorial or burial vault was purchased from the cemetery. This subdivision does not prohibit a cemetery from adopting and enforcing consistent rules and regulations to be followed by both the cemetery and outside vendors as to the quality, size, shape, type, installation, and maintenance of the grave memorial or burial vault.
- (2) If the commissioner denies an application for a permit or registration, or suspends or revokes an existing permit or registration required by this act, the denial, revocation, or suspension shall revoke the cemetery operation as to the sale or assignment of burial rights, entombment rights, or columbarium rights, cemetery merchandise, or cemetery services after the date of the suspension, revocation, or denial. The cemetery owner or operator shall fulfill all contractual obligations and agreements entered into before the date of the suspension, revocation, or denial, and shall make required interments for the owners of burial rights, entombment rights, or columbarium rights purchased before the date of suspension, revocation, or denial.
- (3) The commissioner may impose an administrative fine of not more than \$5,000.00 for each separate violation of this act.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.539 Denial, suspension, or revocation of permit or registration; notice of intent; hearing; decision.

Sec. 19. If the commissioner intends to deny an application for a permit to establish a cemetery, to refuse registration of an existing cemetery, or to suspend or revoke a registration, the commissioner shall give written notice to the person involved of that intent. The notice shall state a time and a place for hearing before the commissioner or a designated hearing officer, and a summary statement of the reasons for the proposed action. The notice of intent shall be mailed by certified mail to the applicant at least 15 days before the scheduled hearing date. The commissioner shall hold a hearing pursuant to the notice in the manner required by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and the rules of procedure adopted by the commissioner. The commissioner shall issue a written decision.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 102, Imd. Eff. Apr. 6, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.540 Appeal.

Sec. 20. Any person aggrieved by the decision of the commissioner rendered under section 19 may appeal to the circuit court as provided in chapter 6 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.541 Violations; penalties.

Sec. 21. (1) Except as otherwise provided for in subsection (2), a person who violates this act is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(2) If the violator is an individual, the offense is punishable by a fine of not more than \$10,000.00 or imprisonment for not more than 1 year, or both.

History: 1968, Act 251, Eff. Sept. 15, 1968;—Am. 1978, Act 215, Imd. Eff. June 5, 1978;—Am. 1982, Act 132, Imd. Eff. Apr. 20, 1982;—Am. 2004, Act 22, Eff. Jan. 1, 2005;—Am. 2008, Act 478, Imd. Eff. Jan. 12, 2009.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.542 Repeal.

Sec. 22. Act No. 337 of the Public Acts of 1966, being sections 456.501 to 456.514 of the Compiled Laws of 1948, is repealed.

History: 1968, Act 251, Eff. Sept. 15, 1968.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

456.543 Effective date of act.

Sec. 23. This act shall take effect September 15, 1968.

History: 1968, Act 251, Eff. Sept. 15, 1968.

Compiler's note: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

CEMETERY CORPORATIONS; TRANSFER OF RIGHTS TO MUNICIPAL CORPORATION
Act 10 of 1927

AN ACT to authorize cemetery corporations, partnerships, limited liability companies, and other legal entities to sell, assign, or convey property rights, franchises, and liabilities to a municipal corporation.

History: 1927, Act 10, Eff. Sept. 5, 1927;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

The People of the State of Michigan enact:

456.181 Cemetery corporations; sale to municipal corporation; definitions.

Sec. 1. (1) A legal entity organized under any law of this state for the purpose of establishing or maintaining a cemetery may sell, assign, transfer, or convey to any municipal corporation in which the cemetery is located or to any municipal corporation within 10 miles of the municipal corporation in which that cemetery is located all or any part of its assets, rights, franchises, and liabilities. The sale, assignment, transfer, or conveyance may also be as a result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship action under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

(2) The sale, assignment, transfer, or conveyance under subsection (1) may be according to terms as are ordered or mutually agreed upon, under either of the following circumstances:

(a) The owner, partner, or a majority of the owners, stockholders, partners, or members of the stock or other evidence of ownership or control issued by the legal entity present and voting at a special meeting called for that purpose.

(b) Pursuant to an order of a court of competent jurisdiction as described in subsection (1).

(3) As used in this act:

(a) "Legal entity" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(b) "Municipal corporation" means a county, township, city, or village.

History: 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10458;—Am. 1933, Act 185, Eff. Oct. 17, 1933;—Am. 1945, Act 345, Eff. Sept. 6, 1945;—Am. 1947, Act 268, Imd. Eff. June 27, 1947;—CL 1948, 456.181;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

456.182 Resolution of directors; special meeting; transfer of cemetery to municipal corporation.

Sec. 2. (1) Except as otherwise provided in subsection (2), the governing board of the legal entity, as applicable, may at a regular meeting pass a resolution containing the substance of the contract of conveyance proposed to be entered into between the legal entity and a municipal corporation and calling a special meeting of the owners, partners, members, or stockholders for the purpose of authorizing that transfer.

(2) A cemetery may be transferred to a municipal corporation in which the cemetery is located pursuant to a court order issued as a result of a receivership or conservatorship action conducted under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529, without a resolution executed by the governing board of the legal entity under subsection (1).

History: 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10459;—CL 1948, 456.182;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

456.183 Notice of special meeting; publication.

Sec. 3. (1) Except as otherwise provided for in subsection (2), notice of a meeting pursuant to section 2 shall be given by publication of a notice for 6 consecutive weeks previous to the time of holding the meeting in a newspaper published and circulated in the county in which the legal entity has its principal office or place of business. The notice shall state the time and place of the meeting, its purpose, and the substance of the proposed contract of conveyance. Proof of publication shall be filed with the secretary of the legal entity, as applicable, on or before the date of meeting.

(2) This section does not apply if the sale, assignment, transfer, or conveyance is the result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

History: 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10460;—Am. 1933, Act 185, Eff. Oct. 17, 1933;—CL 1948, 456.183;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

456.184 Legal rights and privileges unaffected by sale; duties of municipal corporation.

Sec. 4. (1) The legal rights and privileges, statutory or otherwise, of the owners, stockholders, partners, or members are not affected by the contract or conveyance by which the cemetery property is transferred to a

municipal corporation. The municipal corporation shall assume and perform all liabilities, charges, and duties, statutory or otherwise, imposed upon or assumed by the municipal corporation, fully perform all existing contracts or agreements of the cemetery, and carry out and perform all provisions as to maintenance whether imposed upon the legal entity by statute or assumed by its bylaws or other originating documentation.

(2) Any fund for maintenance as provided by statute or by the bylaws or other originating documentation of the legal entity shall be turned over to the municipal corporation and preserved, applied, and used as required under statute or under bylaws or other originating documents.

History: 1927, Act 10, Eff. Sept. 5, 1927;—CL 1929, 10461;—CL 1948, 456.184;—Am. 2002, Act 551, Imd. Eff. July 26, 2002.

CITY OF HILLSDALE CEMETERY RULES AND REGULATIONS

GENERAL RULES

1. **Hours of Operation** – The cemeteries will be open to the general public from 8:00 am until 8:00 pm, Sunday through Saturday. No person shall be allowed in any cemetery outside of these hours without first securing permission from the Department of Public Service.
2. **Vehicles** – All motorized and non motorized modes of transportation shall travel on designated roads, except those vehicles which are being used in the maintenance of the cemeteries, attendance at a funeral, or on cemetery business.
3. **Speed Limits** – All vehicles shall obey the posted speed limit.
4. **Advertisement** – The placing of signs, notices, or advertisements of any kind, peddling, soliciting, and/or the sale of any commodity within the cemetery grounds are prohibited.
5. **Pets** – All domestic animals shall be confined to designated roads, avenues, and walkways and must be on a maximum six foot leash. At no time shall a pet be allowed to roam free within the cemetery grounds. **YOU MUST CLEAN UP AFTER YOUR PET.**
6. **Consumption of Alcohol** – Alcoholic Beverages are prohibited within the cemetery grounds. No person shall consume any alcoholic beverage while on cemetery grounds.
7. City owned cemeteries shall be used solely for the burial of deceased humans in burial lots, and related burial and memorial services, for the care, beautification, adornment and improvement of a burial lot or place of actual interment, or to express affection and respect for the dead, and for no other purposes, subject to such rules and regulations as the Cemetery Board of Trustees now have, are set forth herein, or are subsequently approved and implemented by appropriate City Council action.
8. Persons who have purchased or otherwise acquired, or who hereafter purchase or otherwise acquire, a burial lot in a City owned cemeteries shall, by reason of said purchase or acquisition, have rights of burial with respect to each such lot.
9. Persons who have purchased or otherwise acquired, or who hereafter purchase or otherwise acquire, a burial lot in a City owned cemetery, their immediate family members, and members of the public may enter a City owned cemetery to attend and participate in a burial ceremony and burial, or to express their affection and respect for the dead.
10. Persons who have purchased or otherwise acquired, or who hereafter purchase or otherwise acquire, a burial lot in a City owned cemetery, their immediate family members, and a person authorized by them or any of them in writing, may enter a City owned cemetery to care for, beautify, adorn, and improve a burial lot or place of actual interment, provided that such care, beautification, adornment, and improvement shall conform to the general plan and style now existing for caring, beautifying, adorning, and improving the cemetery and the manner of performing such actions.
11. Notwithstanding the prohibitions and restrictions otherwise set forth in these rules, members of the general public may enter a City owned cemetery at any time during daylight hours to conduct historical or other research or to engage in non-competitive recreational activities such as walking, jogging, or the general enjoyment of the cemetery's landscaping, serenity, and peaceful environment.
12. Except as otherwise provided above, no person may conduct any business or commercial activities in any City owned cemetery, nor engage in any conduct or activity that is unrelated to a burial, burial ceremony, or the care, beautification, adornment, and improvement of a burial lot or place of actual interment, except and unless authorized in advance by the City Council.

From: [Stephen French](#)
To: [John Lovinger](#); "Tom Thompson"
Cc: [Jake Hammel](#)
Subject: Cemetery Rules
Date: Friday, April 28, 2017 10:02:00 AM
Attachments: [Cemetery Rules - 2.6.16 Revised.doc](#)

Gentlemen,

The DPS has had several instances of dogs running loose in the cemeteries and owners not picking up their dog's waste in the cemetery. We have existing cemetery rules that require owners to pick up after their pets and to keep their dog's on a lease.

The question involves enforcement of the rules. Do we need to create an ordinance to allow the enforcement of the rules and create a fine/penalty schedule for violations? I don't see anything in our Code of Ordinances that involve the specific rules of the cemeteries, only that those rules are created/amended by the Cemetery Board of Trustees. I've attached the Cemetery Board's rules for your reference.

Thank you for your opinion on this issue.

Stephen M. French, MMC

City Clerk
City of Hillsdale, MI
97 N. Broad Street
Hillsdale, MI 49242
(517) 437-6441