

VILLAGE OF WYANET

ILLINOIS

CEMETERY ORDINANCE

ORDINANCE NO. # O-3-20-7-14

COMPLETE AND UP TO DATE WITH ALL
AMENDMENTS

WHEREAS, the President and Board of Trustees of the Village of Wyanet, Illinois, have determined it necessary to enact a formal cemetery ordinance for the village in establishing rules and regulations regarding the village's care, maintenance and financial responsibility of the cemetery.

SECTION 1: This ordinance shall be known as the "Cemetery Ordinance".

SECTION 2: Definitions:

The following words, terms and phrases used in this ordinance, for the purpose of this ordinance, have the following meanings:

"President" means the President of the Village of Wyanet.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein; including cutting and trimming of lawn, shrubs and trees at reasonable intervals; keeping in repair the drains, water lines, roads, buildings, fences and other structures in keeping with a well maintained cemetery; also overhead expense necessary for such purposes, including maintenance of machinery, tools and equipment for such care; compensation of employees, payment of insurance premiums, reasonable payments for employees' pension and other benefit plans, and maintaining necessary records of lot ownership, transfers and burials.

"Care funds" as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personality impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by the President, or by any trustee for the same, under Section 3 of this ordinance, and the amounts set aside under Section 4 of this cemetery ordinance, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.

"Cemetery" means any land or structure in this village dedicated to and used, or intended to be used, for the interment of human remains.

"Cemetery authority" means any municipality owning, operating, controlling or managing a cemetery or holding lands for burial grounds or burial purposes in this village.

"Mausoleum Crypt" means a space in a mausoleum used or intended to be used, above or underground, to entomb human remains.

"Family burying ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

"Grave" means a space of ground in a cemetery, used or intended to be used, for burial.

"Municipal cemetery" means a cemetery owned, operated, controlled or managed by any city, village, incorporated town, township, county, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Niche" means a space in a columbarium used or intended to be used, for inurnment of cremated human remains.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by the consumer for use as a final resting place.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by the consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

"Lawn crypt" means a permanent underground crypt usually constructed of reinforced concrete or similar material installed in multiple units for the entombment of human remains.

"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.

SECTION 3: Gifts and contributions-Trust Funds:

Any cemetery authority is hereby authorized and empowered to accept any gift, grant, contribution, payment legacy, or pursuant to contract, any sum of money, funds, securities or property of any kind, or the income or avails thereof, and to hold the same in trust in perpetuity for the care of its cemetery, or for the care of any lot, grave, crypt or niche in its cemetery; or for the special care of any lot, grave, crypt or niche or of any family mausoleum or memorial, marker, or monument in its cemetery. No gift, grant, legacy, payment or other contribution shall be invalid by reason of any indefiniteness or uncertainty as to the beneficiary designated in instrument creating the gift, grant, legacy, payment or other contribution. If any gift, grant, legacy, payment or other contribution consists of non-income producing property, the cemetery

authority accepting it is authorized and empowered to sell such property and to invest the funds obtained in accordance with the provisions of the next succeeding paragraph.

The care funds authorized by this section and provided for in Section 4 of this ordinance shall be held intact and, unless otherwise restricted by the terms of the gift, grant, legacy, contribution, payment, contract or other payment, as to investments made after June 11, 1951, the cemetery authority or the trustee of the care funds of the cemetery authority, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for any such trust, shall exercise the judgment and care under the circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the cemetery authority or the trustee of the care funds of the cemetery authority is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment, including specifically but without limiting the generality of the foregoing, bonds, debentures and other corporate obligations, preferred or common stocks and real estate mortgages, which persons of prudence, discretion and intelligence acquire or retain for their own account. Within the limitations of the foregoing standard, such authority or trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. The care funds authorized by this Section may be commingled with other trust funds received by such cemetery authority for the care of its cemetery or for the care or special care of any lot, grave, crypt, niche, private mausoleum, memorial, marker, or monument in its cemetery, whether received by gift, grant, legacy, contribution, payment, contract or other conveyance heretofore or hereafter made to such cemetery authority. Such care funds may be invested with common trust funds as provided in "The Common Trust Fund Act" of the State of Illinois approved June 24, 1949. The net income only from the investment of such care funds shall be allocated and used for the purposes specified in the transition by which the principal was established in the proportion that each contribution bears to the entire sum invested.

SECTION 3A: Loans of care funds:

Except upon written approval of the President, no loan or investment of any care funds by any cemetery authority shall be made:

- 1) Unless the same has been duly approved by a resolution of the board of trustees
- 2) To any officer, director or trustee of such cemetery authority, or to any firm, corporation, association or partnership in which any officer, director or trustee of such cemetery authority has a controlling interest.
- 3) On or in any real estate, or in any note, bond, mortgage or deed of trust in which any officer, director or trustee of such cemetery authority has any financial interest.
- 4) On or in any unproductive real estate or real estate outside of this village or in permanent improvements of the cemetery or any of its facilities, unless specifically authorized by the

instrument whereby the principal fund was created. And no commission or brokerage fee for the purchase or sale of any property shall be paid in excess of that usual and customary at the time and in the locality where such purchase or sale is made and all such commissions and brokerage fees shall be fully reported in the next annual statement of such cemetery authority.

SECTION 4: Care Funds-instrument regarding care to be furnished by cemetery authority:

Whenever a cemetery authority owning, operating, controlling or managing a cemetery accepts care funds, either in connection with the sale or giving away at an imputed value of an interment right, entombment right or inurement right, or in pursuance of a contract, or whenever, as a condition precedent to the purchase or acceptance of an interment right, entombment right or inurement right, such cemetery authority requires the establishment of a care fund or a deposit in an already existing care fund, then such cemetery authority shall execute and deliver to the person from whom received an instrument in writing which shall specifically state (a) the nature and extent of the care to be furnished, and (b) that such care shall be furnished only in so far as the net income derived from the amount deposited in trust will permit (the income from the amount so deposited, less necessary expenditures of administering the trust, shall be deemed the net income), and (c) that not less than the following amounts will be set aside and deposited in trust, 50% to go to the perpetual care fund and 50% to go to maintenance of the cemetery:

Lot: The charge for each lot is \$650.00. The charge for burials shall be:

		Winter rates
Adult graves	\$ 500.00	\$ 650.00
Adult graves on Sunday	\$ 600.00	\$ 750.00
Adult graves on a Holiday	\$ 700.00	\$ 850.00
Infants, Limbs and Urns	\$ 200.00	\$ 300.00
Infants, Limbs and Urns on Sunday	\$ 300.00	\$ 400.00
Infants, Limbs and Urns on Holiday	\$ 400.00	\$ 500.00
Infants are determined to be the age of 2 and under.		
All Disinterment's		
\$1,000.00		

A location fee shall be added for both burial and
Headstone placement in the amount of \$ 75.00

As a municipally owned cemetery the decision as to who opens and closes graves shall be made by the Village President and Maintenance Superintendent.

Such setting aside and deposit shall be made by such cemetery authority not later than 30 days after the close of the month in which the cemetery authority received the funds. Such amount shall be held by such cemetery authority in trust in perpetuity for the specific purposes stated in said written instrument. For all care funds received by a cemetery authority, except for care funds received by a cemetery authority pursuant to a specific gift, grant, contribution, payment, legacy, or contract that are subject to investment restrictions more restrictive than the investment

provisions set forth in this ordinance, and except for care funds otherwise subject to a trust agreement executed by a person or persons responsible for transferring the specific gift, grant, contribution, payment, or legacy to the cemetery authority that contains investment restrictions more restrictive than the investment provisions set forth in this ordinance, the cemetery authority may, without the necessity of having to obtain prior approval from any court in this State, designate a new trustee in accordance with this ordinance and invest the care funds in accordance with this Section, notwithstanding any contrary limitation contained in the trust agreement.

Any such cemetery authority engaged in selling or giving away at an imputed value interment rights, entombment rights or inurnment rights, in conjunction with the selling or giving away at an imputed value any other merchandise or services not covered by this ordinance, shall be prohibited from increasing the sales price or imputed value of those items not requiring a care fund deposit under this ordinance with the purpose of allocating a lesser sales price or imputed value to items that require a care fund deposit.

In the event any sale that would require a deposit to such cemetery authority's care fund is made by a cemetery authority on an installment basis, and the installment contract is factored, discounted, or sold to a third party, the cemetery authority shall deposit the amount due to the care fund within 30 days after the close of the month in which the installment contract was factored, discounted, or sold. If, subsequent to such deposit, the purchaser defaults on the contract such that no care fund deposit on that contract would have been required, the cemetery authority may apply the amount deposited as a credit against future required deposits.

The trust authorized by this Section shall be a single purpose trust fund. In the event of the seller's bankruptcy, insolvency, or assignment for the benefit of creditors, the trust funds shall not be available to any creditor as assets of the cemetery authority or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery.

SECTION 5: Advertisements and representations regarding care maintenance to be furnished;

No cemetery authority, nor any agent, servant, or employee of it, nor any other person, shall advertise, represent, guarantee, promise or contract that perpetual care, permanent care, perpetual or permanent maintenance, care forever, continuous care, eternal care, everlasting care, or any similar or equivalent care, or care for any number of years of any cemetery or of any lot, grave, crypt or niche, or of any family mausoleum, memorial, marker, or monument will be furnished: Provided, however, that any cemetery authority may advertise, represent, guarantee, promise or contract that care will be furnished from the net income only derived from funds held in trust as provided in Section 3 of this ordinance; and may advertise, represent, guarantee, promise or contract that care will be given any lot, grave, crypt or niche, or any family mausoleum, memorial, marker, or monument for any definite number of years, such care to be furnished under a contract providing that the principal of the amount paid under the contract shall be used to furnish the care and further providing specifically the care to be given and the number of years for which it is to be given.

SECTION 6: Exemption of trust funds from taxation:

The trust funds authorized by Section 3 of this ordinance, and the income therefrom, and any funds received under a contract to furnish care of a burial space for a definite number of years, shall be held for the general benefit of the lot owners and are exempt from taxation. The trust funds authorized by the provisions of Section 3 of this ordinance, and the income therefrom, are exempt from the operation of all laws of mortmain and the laws against perpetuities and accumulations.

SECTION 7: License to hold care funds:

No cemetery authority owning, operating, controlling or managing a privately operated cemetery may accept the care funds authorized by the provisions of Section 3 of this ordinance without securing from the Comptroller of the State of Illinois a license to hold such funds. Such license shall be secured by such cemetery authority whether the care funds are held by the cemetery authority or by a trustee.

SECTION 8: Registration statement-issuance of license:

Every cemetery authority shall register with the Comptroller of the State of Illinois upon forms furnished by him. Such registration statement shall state that the cemetery is owned, operated, controlled or managed by municipality. Such registration statement shall be accompanied by a fee of \$5.00. Such fee shall be paid to the Comptroller and no registration statement shall be accepted by him without the payment of such fee.

The registration statement shall be accompanied by a fidelity bond in the amount required by Section 9 of this ordinance. Upon receipt of such application, statement and bond, the Comptroller shall issue a license to accept care funds authorized by the provision of Section 3 of this ordinance to the cemetery authority. However, the Comptroller shall issue a license without the filing of a bond where the filing of a bond is excused by Section 18 of this ordinance.

The license issued by the Comptroller shall remain in full force and effect until it is surrendered by the licensee or revoked by the Comptroller as hereinafter provided.

SECTION 8A: Termination of license:

Any cemetery authority operating a municipal cemetery which has been licensed under the provisions of this ordinance may have such license terminated and may cease to be governed by the licensing provisions of this ordinance if such cemetery authority:

- (1) Applied in writing to the Comptroller setting out facts to show the kind of cemetery operated;
- (2) Sets out facts in such written application identifying the license under which such authority is operating;

- (3) Requests that such license to be relinquished and terminated by the Comptroller.

Upon receipt of such statement, the Comptroller shall determine whether to grant such request. If the Comptroller grants the request to terminate, the license shall be relinquished and such cemetery authority shall cease to be governed by the licensing provisions of this ordinance. The Comptroller shall not deny such request without first granting hearing to the cemetery authority. The hearing and review provisions of Section 8 and 20 of this ordinance shall apply to the hearing provided for in this Section.

SECTION 9: Application for license-Bond:

- (a) Whenever a cemetery authority owning, operating, controlling or managing a privately operated cemetery is newly organized and such cemetery authority desires to be licensed to accept the care funds authorized by Section 3 of this ordinance, it shall make application for such license.
- (b) Applications for license shall be filed with the Comptroller. Applications shall be in writing under oath, signed by the applicant, and in the form furnished by the Comptroller. Each application shall contain the following:
- (1) The full name and address (both of residence and of place of business) of the applicant, if an individual; of every member, if the applicant is a partnership or association; of every officer, if the applicant is a corporation; and
 - (2) A detailed statement of the applicant's assets and liabilities; and
 - (3) As to the name of each individual person listed under (1) above, a detailed statement of each person's business experience for the 10 years immediately preceding the application; the present and previous conceding the application; the present and previous connection, if any, of each person with any other cemetery or cemetery authority; whether each person has ever been convicted of a felony or any misdemeanor of which an essential element is fraud or has been involved in any civil litigation in which a judgment has been entered against him or her based on fraud; whether such person has failed to satisfy any enforceable judgment entered by a court of competent jurisdiction in any civil proceedings against such individual; and
 - (4) The total amount in trust and now available from sales of lots, graves, crypts or niches where part of the sale price has been placed in trust; the amount of money placed in the care funds of each applicant; the amount set aside in care funds from the sale of lots, graves, crypts and niches for the general care of the cemetery and the amount available for that purpose; the amount received in trust by special agreement for special care and the amount available for that purpose; the amount of principal applicable to trust funds received by the applicant.

Such information shall be furnished whether the funds or amounts are held by the applicant or by a trustee. If such funds are not held by applicant but by a trustee, the name of the trustee holding them is also to be furnished by the applicant.

- (c) Applications for license shall also be accompanied by a fidelity bond issued by a bonding company or insurance company authorized to do business in this State, where such care funds exceed the sum of \$15,000. Such bonds shall run to the Comptroller and his or her successor for the benefit of the care funds held by such cemetery authority or by the trustee of the care funds of such cemetery authority. Such bonds shall be in an amount equal to 1/10 of such care funds. However, such bond shall not be in an amount less than \$1,000; the first \$15,000 of such care funds shall not be considered in computing the amount of such bond. No application shall be accepted by the Comptroller unless accompanied by such bond.

Applications for license by newly organized cemetery authorities after January 1, 1960 shall also be accompanied by evidence of a minimum care fund deposit in an amount to be determined as follows: If the number of inhabitants, either in the county in which the cemetery is to be located or in the area included within a 10 mile radius from the cemetery if the number of inhabitants therein is greater, is 25,000 or less, the deposit shall be \$7,500; if the number of inhabitants is 25,001 to 50,000, the deposit shall be \$10,000; if the number of inhabitants is 50,001 to 125,000, the deposit shall be \$15,000; if the number of inhabitants is over 125,000, the deposit shall be \$25,000.

After an amount equal to and in addition to the required minimum care fund deposit has been deposited in trust, the cemetery authority may withhold 50% of all future care funds until it has recovered that amount of the minimum care fund deposit.

- (d) The applicant shall have a permanent address and any license issued pursuant to the applications valid only at the address or at any new address approved by the Comptroller.
- (e) All bonds and bonding deposits made by any cemetery authority may be returned to the cemetery authority or cancelled as to care funds invested with an investment company.

SECTION 10: Issuance of license-Denial of application.

Upon receipt of such application for license, the Comptroller shall issue a license to the applicant unless the Comptroller determines that:

- (a) The applicant has made any misrepresentations or false statements or has concealed any essential or material fact, or
- (b) The applicant is insolvent; or
- (c) The applicant is or has been using practices in the conducting of the cemetery business that work or tend to work a fraud; or

- (d) The applicant has refused to furnish or give pertinent data to the Comptroller; or
- (e) The applicant has failed to notify the Comptroller with respect to any materials facts required in the application for license under the provisions of this ordinance; or
- (f) The applicant has failed to satisfy any enforceable judgment entered by the circuit court in any civil proceedings against such applicant; or
- (g) The applicant has conducted or is about to conduct its business in a fraudulent manner; or
- (h) As to the name of any individual listed, such individual has conducted or is about to conduct any business on behalf of the applicant in a fraudulent manner; or has been convicted of a felony or any misdemeanor of which an essential element is fraud; or has been involved in any civil litigation in which a judgment has been entered against him or her based on fraud; or has failed to satisfy any enforceable judgment entered by the circuit court in any civil proceedings against such individual.

If the Comptroller so determines, then he or she shall deny the application. However, no application shall be denied unless the applicant has had at least 10 days' notice of a hearing on the application and an opportunity to be heard thereon. If the application is denied, the Comptroller shall within 20 days thereafter prepare and keep on file in his or her office the transcript of the evidence taken and a written order of denial thereof, which shall contain his or her findings with respect thereto and the reasons supporting the denial, and shall send by United States mail a copy of the written order of denial to the applicant at the address set forth in the application, within 5 days after the filing of such order. A review of such decision may be had as provided in Section 20 of this ordinance.

The license issued by the Comptroller shall remain in full force and effect until it is surrendered by the licensee or revoked by the Comptroller as hereinafter provided.

SECTION 11: License-Display-Number of places-Change of Name:

Every license issued by the Comptroller shall state the number of the license and the address at which the business is to be conducted. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

No more than one place of business shall be maintained under the same license, but the Comptroller may issue more than one license to the same licensee upon compliance with the provisions of this ordinance governing an original issuance of a license, for each new license.

Whenever a licensee shall wish to change the name as originally set forth in his license, he shall give written notice thereof to the Comptroller together with the reasons for the change and if the change is approved by the Comptroller he shall issue a new license.

SECTION 12:

Annual reports:

Every licensee shall prepare a written report as of the end of the preceding calendar year or fiscal year, as the case may be, showing:

- (a) The amount of the principal of the care funds held by such licensee or by the trustee of the care funds of such licensee, at the beginning of such year and in addition thereto all moneys or property received during such year (1) under and by virtue of the sale of a lot, grave, crypt or niche; (2) under or by virtue of the terms of the contract authorized by the provisions of Section 3 of this ordinance; (3) under or by virtue of any gift, grant legacy, payment or other contribution made either prior to or subsequent to the effective date of this ordinance, and (4) under or by virtue of any contract or conveyance made either prior to or subsequent to the effective date of this ordinance.
- (b) The securities in which such care funds are invested and the cash on hand as of the date of the report;
- (c) The income received from such care funds during the preceding calendar year, or fiscal year, as the case may be;
- (d) The expenditures made from said income during the preceding calendar year, or fiscal year, as the case may be; and
- (e) The number of interments made during the preceding calendar year, or fiscal year, as the case may be.

Where any of the care funds of a licenses are held by a trustee, the report filed by the licensee shall contain a certificate signed by the trustee of the care funds of such licensee certifying to the truthfulness of the statements in the report as to (1) the total amount of principal of the care funds held by the trustee, (2) the securities in which such care funds are invested and the cash on hand as of the date of the report and (3) the income received from such care funds during the preceding calendar year, or fiscal year, as the case may be.

Such report shall be filed by such licensee on or before March 15 of each calendar year, in the Office of the Comptroller. If the fiscal year of such licensee is other than on a calendar year basis, then such licensee shall file the report required by this section within two and one-half months of the end of its fiscal year. The Comptroller shall for good cause shown grant an extension for the filing of the annual report upon the written request of the licensee. Such extension shall not exceed 60 days. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the licensee remains delinquent in submitting the annual report.

Such report shall be made under oath and shall be in the form furnished by the Comptroller.

If any annual report shows that the amount of the care funds held by such licensee or by the trustee of the care funds of such licensee at the end of the preceding calendar year, or fiscal year, as the case may be, has increased in amount of that shown by the next preceding report, then the fidelity bond theretofore filed, if it is in an amount less than \$100,000, shall be increased to the amount required by Section 9 of this ordinance. Such increased fidelity bond shall accompany the report and no report shall be accepted by the Comptroller unless accompanied by such bond, except where the filing of a bond is excused by Section 18 of this ordinance.

SECTION 13: Books, accounts and records:

Every licensee and the trustee of the care funds of every licensee shall be a resident of this State and shall keep in this State and sue in its business such books, accounts and records as will enable the Comptroller to determine whether such licensee or trustee is complying with the provisions of this ordinance with the rules, regulations and directions made by the Comptroller hereunder.

SECTION 14: Investigation of cemetery business of licensees-Costs-Schedules of charges-Annual reports:

The Comptroller may at any time investigate the cemetery business of every licensee with respect to its care funds. The Comptroller shall examine at least annually every licensee who holds \$250,000 or more in its care funds. For that purpose, the Comptroller shall have free access to the office and places of business and to such records of all licensees and of all trustees of the care funds of all licensees as shall relate to the care funds of all licensees as shall relate to the acceptance, use and investment of care funds. The Comptroller may require the attendance of and examine under oath all persons whose testimony he may require relative to such business and in such cases the Comptroller or any qualified representative of the Comptroller whom the Comptroller may designate, may administer oaths to all such persons called as witnesses, and the Comptroller, or any such qualified representative of the Comptroller, may conduct such examinations. The cost of such examinations shall be borne by the cemetery authority if it has \$50,000 or more in such fund; otherwise, by the Comptroller. The charge made by the Comptroller for such examination shall be based upon the total amount of care funds held by the cemetery authority as of the end of the calendar or fiscal year for which the report is required by Section 12 of this ordinance and shall be in accordance with the following schedule:

Less than \$50,000	\$ 10.00
\$50,000 or more but less than \$100,000	40.00
\$100,000 or more but less than \$250,000	80.00
\$250,000 or more	100.00

Any licensee which is not required to be examined annually shall submit an annual report to the Comptroller containing such information as the Comptroller reasonably may request.

SECTION 15: Revocation of license-Grounds

The Comptroller may, upon 10 days' notice to the licensee, by United States mail directed to the licensee at the address set forth in the license, stating the contemplated action and, in general, the grounds therefore, and upon reasonable opportunity to be heard prior to such action, revoke any license issued hereunder if he finds that:

- (a) The licensee has failed to make the annual report or to maintain in effect the required bond or to comply with and order, decision, or finding of the Comptroller made pursuant to the State of Illinois Cemetery Care Act: or that
- (b) The licensee has violated any provision of this Act of any regulation or direction made by the Comptroller under the Act; or that
- (c) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Comptroller in refusing the issuance of the license.

SECTION 15.1: Revocation of particular or all licenses issued to licensee:

The Comptroller may, in accordance with Section 15, revoke only the particular license with respect to which grounds for revocation may occur or exist, or if he finds that such grounds for revocation are of general application to all offices or to more than one office operated by such licensee, he may revoke all of the licenses issued to such licensee or such number of licenses to which grounds apply, as the case may be.

Whenever a license is revoked by the Comptroller he shall apply to the Circuit Court of the county wherein such licensee is located for a receiver to administer the care funds of such licensee.

SECTION 15.2: Surrender of license:

A licensee may surrender any license by delivering to the Comptroller written notice that he thereby surrenders such license but such surrender shall not affect such licensee's civil or criminal liability for acts committed prior to such surrender, or affect his bond. The Comptroller shall not permit a license to be surrendered by a licensee unless and until such licensee has furnished to the Comptroller satisfactory evidence of his release and discharge from all trust liabilities and obligations and unless and until the care funds of such licensee have been transferred to a successor licensee who shall be licensed by the Comptroller in conformity with the provisions of this ordinance.

However, the Comptroller shall accept the surrender of a license held by a cemetery authority that is a cemetery association or corporation owning, operating or controlling a cemetery not for profit, whose cemetery has been conveyed to and accepted by any city, village, incorporated town, township or county, upon: (a) the licensee submitting to the Comptroller a copy of the act, resolution or ordinance under which the political subdivision accepted or is charged with the responsibility of operating and controlling the cemetery; (b) the making and filing with and approval by the Comptroller of a final account for care funds from the date of last report made by the licensee to the Comptroller to the date of transfer to the successor cemetery authority; (c) the furnishing of a copy of the instrument of appointment or certificate of election of trustees of the public graveyard or managers of the municipal cemetery authorized to hold care funds or trust funds for care, and the receipt of such trustee of the public graveyard or managers of the municipal cemetery for the care fund investments listed in the final account; and (d) the return of the Cemetery Authority License to the Comptroller for cancellation. Upon satisfactory performance of the foregoing by a licensee, the same shall be deemed satisfactory evidence of the licensee's release and discharge from all trust liabilities and obligations and transfer of the licensee's care funds to an authorized successor within the meaning and intent of the Act and this ordinance.

SECTION 15.3: New license:

Every license issued hereunder shall remain in force until the same has been surrendered or revoked in accordance with the Act, but the Comptroller may on his own motion, issue new licenses to a licensee whose license or licenses have been revoked if no fact or condition then exists which clearly would have warranted the Comptroller in refusing originally the issuance of such license under the Act.

SECTION 15.4: Revocation of license-Notice and hearing Review

No license shall be revoked until the licensee has had at least 10 day notice of a hearing thereon and an opportunity to be heard. When any license is so revoked, the Comptroller shall within 20 days thereafter, prepare and keep on file in his office the transcript of the evidence taken and a written order or decision of revocation, and shall send by United State mail a copy of such order or decision of revocation to the licensee at that address set forth in the license within 5 days after the filing in his office of such order, finding or decision. A review of any such order, finding or decision may be had as provided in Section 19 of this ordinance.

SECTION 15A: Dissolution-Disposition of care fund-Sales-Liability of purchaser for shortages:

Where any cemetery authority owning, operation, controlling or managing a privately operated cemetery or any trustee for the same has accepted care funds within the meaning of this ordinance, and dissolution is sought by such cemetery authority in any manner, by resolution of such cemetery authority, or the trustees thereof, notice shall be given to the Comptroller of such intention to dissolve, and proper disposition shall be made of the care funds so held for the general benefit of such lot owners by or for the benefit of such cemetery authority, as provided by lase, or in accordance with the trust provisions of any gift, grant, contribution, payment,

legacy or pursuant to any contract whereby such funds were created. The Comptroller represented by the Attorney General may apply to the circuit court for the appointment of a receiver, trustee, successor in trust, or for directions of such court as to the proper disposition to be made of such care funds, to the end that the uses and purposes for which such trust or care funds were created may be accomplished.

In the case of a sale of any privately operated cemetery or any part thereof or of any related personal property by a cemetery authority to a purchaser, except the sale of burial rights, services or merchandise to a person for his or her personal or family burial or interment, the purchase is liable for any shortages existing before or after the sale in the care fund required to be maintained in trust pursuant to this ordinance.

SECTION 16: Neglect to make report-Violations-Orders-Proceedings:

Whenever a licensee refuses or neglects to make a required report or whenever it appears to the Comptroller from any report or examination that such licensee has committed a violation of law or that the care funds have not been administered properly or that it is unsafe or inexpedient for such licensee or the trustee of the care funds of such cemetery authority to continue to administer such funds or that any officer of such licensee or of the trustee of the care funds of such licensee has abused his trust or has been guilty of misconduct or malversation in his official position injurious to such licensee or that such licensee has suffered as to its care funds a serious loss by larceny, embezzlement, burglary, repudiation or otherwise, the Comptroller shall by an order direct the discontinuance of such illegal, unsafe or unauthorized practices and shall direct strict conformity within the requirements of the law and safety and security in its transactions and may apply to the Circuit Court of the county wherein such licensee is located to prevent any disbursements or expenditures by such licensee until the care funds are in such condition that it would not be jeopardized thereby and the Comptroller shall communicate the facts to the Attorney General of the State of Illinois who shall thereupon institute such proceedings against the licensee or its trustee or the officers of either or both as the nature of the case may require.

SECTION 17: Additional bonds:

If the Comptroller finds at any time that the bond is insecure or exhausted or otherwise doubtful, an additional bond in a like amount to be approved by the Comptroller shall be filed by the licensee within 30 days after written demand therefor upon the licensee by the Comptroller.

SECTION 18: Application-Bond unnecessary when:

The provisions of the Act to the (a) registration, (b) application for license, (c) filing of a fidelity bond, (d) filing of an annual report, and (e) examination by the Comptroller, apply to a cemetery authority owning, operating, controlling or managing a privately operated cemetery whether the care funds are held by such cemetery authority or by any trustee for the same. However, no bond needs to be filed with the Comptroller as to care funds of such cemetery authority held as trustee by a bank or trust company authorized to do business in this State as a trust company in accordance with Section 2a of "An Act to provide for and regulate the administration of trusts by trust companies," approved June 15, 1987, as amended, or held by an investment company.

Upon application by such cemetery authority to the Comptroller, and upon a showing that all of the care funds of such cemetery authority are held by such bank or trust company as custodian or agent for such cemetery authority pursuant to an agreement in writing approved from time to time by the Comptroller for the handling and management of all of the care funds of such cemetery authority, or are held by an investment company, the Comptroller in writing may permit the licensee to operate without the filing of any bond as to such care funds except such fidelity bonds as he may require for the protection of such cemetery authority against defaults by its employees engaged in the handling and collection of funds.

SECTION 19: Regulations and amendments-Copies of orders, decisions and findings:

The Comptroller may make, amend, rescind and enforce such rules and regulations and amendments thereof, as may be necessary for the purpose of carrying out this Act. However, the Comptroller may not make or amend any rule or regulation without holding a hearing thereon and without first giving all cemetery authorities licensed to hold care funds at least 10 days' notice of such hearing, the notice to set forth the proposed rules, regulations or the proposed amendments thereof. Among other things, the Comptroller may, for the purposes of this Act, prescribe the form or forms in which required information shall be set forth, the items or details to be shown in any statement or report, and the methods to be followed in the preparation of accounts and in the appraisal or evaluation of assets and liabilities. When any regulations or amendments thereto are made after such hearing, a written order setting forth the regulations or amendments shall be prepared by the Comptroller and kept on file in his office and a copy of each such order shall be sent by the Comptroller by United States mail to all cemetery authorities within 5 days after the filing in his office of such order. No regulations or amendments shall become effective until 10 days after the mailing of such order. Copies of all other orders, decisions and findings shall be mailed to the cemetery authorities affected thereby by United States mail within 5 days of such filing. All regulations and all amendments thereto and all orders, decisions and findings shall be filed and entered by the Comptroller in an indexed permanent book or record, with the effective date thereof suitably indicated, and such book or record is a public document. A review of all orders, decisions and findings, including orders making regulations or amendments, may be had under this Administrative Review Law, as now or hereafter amended.

SECTION 20: Review of orders, decisions and findings

(Section 20 Repealed in its entirety in the Cemetery Care Act)

SECTION 21: Notice, manner of giving:

Except as otherwise provided for in this ordinance or the Act, whenever the Comptroller is required to give notice to any applicant or licensee, such requirement shall be considered complied with if, within the time fixed herein, such notice is enclosed in an envelope plainly addressed to such applicant or licensee as the case may be, United States postage fully prepaid, and deposited, registered, in the United States mail.

SECTION 22: Obligations of contracts not to be impaired:

Nothing in the Act shall be construed to impair the obligation of any existing contract.

SECTION 23: Perjury or subornation of perjury:

Every person having taken an oath or affirmation in any proceeding or matter wherein an oath is required by the Act, who shall swear willfully, corruptly and falsely in a mater material to the issue or point in question or shall suborn any other person to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided in the statute relative to perjury and subornation of perjury.

SECTION 24: Violations-Punishment:

Whoever intentionally violates any provision of the Act or this ordinance except the provisions of Section 23 shall be guilty of a Class 4 felony, and each day such provisions are violated shall constitute a separate offense.

If any person intentionally violates the Act or this ordinance or fails or refuses to comply with any order of the Comptroller or any part of any order that has become final to such person and is still in effect, the Comptroller may, after notice and hearing at which it is determined that a violation of the Act or such order has been committed, further order that such person shall forfeit and pay to the State of Illinois a sum not to exceed \$5,000 for each violation. Such liability shall be enforced in an action brought in any court of competent jurisdiction y the Comptroller in the name of the People of the State of Illinois.

In addition to the other penalties and remedies provided in the Act the Comptroller may bring a civil action in the county of evidence of the licensee or any person accepting care funds to enjoin any violation or threatened violation of the Act.

The powers vested in the Comptroller by this Section are additional to any and all other powers and remedies vested in the Comptroller by law.

SECTION 25: Cremains burial

The maximum number of cremains in one grave shall be 4 and shall be put in numerical sequence. The sequence shall be as follows: while standing at the foot of the grave facing the headstone, beginning left to right closest to headstone shall be 1 & 2 and the foot of the grave shall be left to right 3 & 4. Cremains may be within the same grave as a full burial.

SECTION 26: Headstone specifications

All headstones shall be placed on a concrete pad at least 4" larger than the width and length of the stone. Concrete pillars shall be placed in 6" diameter holes and 4'6" deep under the concrete pad which includes 3' long #4 rebar. A diagram will be attached to this ordinance.

SECTION 27: Rules for the New Addition on West side of cemetery

- (1) Only markers flushed with ground level and no headstones may be installed
- (2) Only one item per grave-a 3" PVC pipe will be provided and installed by the Village of Wyandot for each grave
- (3) Any item placed on the grave must fit into the 3" pipe (ex. shepherd's hook must fit into the 3" pipe)
- (4) Any small statues must set on the marker
- (5) During the months beginning November 1 thru March 1 wreaths and grave blankets will be acceptable

SECTION 28: Use of vaults

The Village President and Board of Trustees have approved removal of the requirement for the use of vaults in either the New Addition or Old Sections of the cemetery.

SECTION 29: Cemetery clean up dates

Permanent dates to clean the cemetery shall be the Fourth Monday in March and the First Monday in November. All items will be removed from graves with the exception of shepherd's hooks. Items that people wish to keep must be removed prior to Sunset on the Sunday before clean up.

EFFECTIVE DATE:

This ordinance shall be in full force and effect from and after its passage and publication according to law.

SEPARABILITY:

It is the intention of the Village Board that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the Village Board that if any provisions of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

Presented, passed and approve on a roll call vote this 14th day of July, 2020.

	AYE	NAY	ABSENT	ABSTAIN
Board of Trustees:				
Dave Bickett	X			
Joe Law	X			
Amanda Johnson	X			
Adam Kurzac	X			
Cory Peterson	X			
Lynette Thompson	X			

APPROVED:

By: Bruce Hand
Bruce Hand, Village President

ATTEST:

By: Shelly Teske
Shelly Teske, Village Clerk