

ORDINANCE NO. 9, 2006

**AN ORDINANCE AMENDING CHAPTER 92 OF THE
MUNICIPAL CODE OF THE CITY OF VALPARAISO
ESTABLISHING RULES AND REGULATIONS FOR
MUNICIPALLY OWNED CEMETERIES**

WHEREAS, the City of Valparaiso is empowered pursuant to I.C. 23-14-65.1-28 to own, operate and maintain municipal cemeteries; and

WHEREAS, the City of Valparaiso has implemented and otherwise utilized the aforementioned authority through ownership and operation of the Union, Maplewood and Memorial Park Cemeteries; and

WHEREAS, the Common Council of the City of Valparaiso previously adopted rules and regulations for operation and utilization of the aforementioned municipally owned cemeteries which are codified as Chapter 92 of the Valparaiso Municipal Code; and

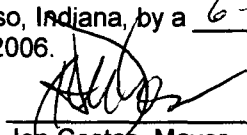
WHEREAS, the Common Council of the City of Valparaiso, upon the advice and recommendation of the City Administration, has determined there to be a need to modify, amend and supplement the aforementioned cemetery rules and regulations and is desirous of doing so by amending Chapter 92 of the Municipal Code of the City of Valparaiso.

NOW, THEREFORE, BE IT ORDAINED, by the Common Council of the City of Valparaiso that Chapter 92 of the Municipal Code of the City of Valparaiso should be and is hereby amended in its entirety to read as follows:

Attached hereto and incorporated herein as Exhibit A is the new Chapter 92 (as amended) of the Municipal Code of the City of Valparaiso.

The provisions of this ordinance shall take effect as prescribed by state statute.

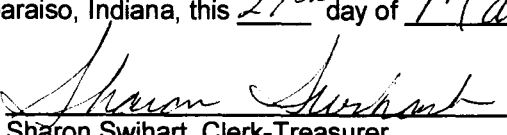
PASSED by the Common Council of the City of Valparaiso, Indiana, by a 6-0 vote of all members present and voting this 27th day of March, 2006.


Jon Costas, Mayor

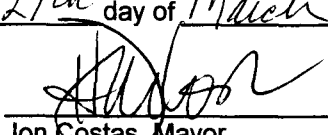
ATTEST:


Sharon Swihart, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana, this 27th day of March, 2006 at 8:00 o'clock p.m.


Sharon Swihart, Clerk-Treasurer

This Ordinance approved and signed by me this 27th day of March, 2006 at 8:00 o'clock PM


Jon Costas, Mayor

Chapter 92: City Cemeteries

City of Valparaiso Union, Maplewood and Memorial Park Cemeteries

Section

- 92.01 City Cemeteries Dedicated To Public Use
- 92.02 Duties Of Cemetery Superintendent
- 92.03 Duties Of Clerk-Treasurer
- 92.04 Sales And Conveyance
- 92.05 Price Of Lots: Interment Charges
- 92.06 Division Of Lots
- 92.07 Grave Dimensions
- 92.08 Cemetery Records
- 92.09 Burial Permits
- 92.10 Superintendent To Supervise Burials
- 92.11 Interment Prohibited When Delinquencies Exist
- 92.12 Interment Restricted
- 92.13 Disinterment Restrictions And Charges
- 92.14 Notice Of Interments And Disinterment
- 92.15 Vaults
- 92.16 Monuments, Headstones, Grave Markers And Foundations
- 92.17 Corner Posts
- 92.18 Enclosures And Trees Prohibited
- 92.19 Removal Of Obstacles And Obstructions
- 92.20 Grading Lots
- 92.21 Improvements By Private Parties
- 92.22 Access To Grounds
- 92.23 Donation Of Money To Cemetery Funds
- 92.24 Appointment And Removal Of Superintendent
- 92.25 Maintenance
- 92.26 Cemetery Rules And Amendments

City of Valparaiso
Union, Maplewood and Memorial Park Cemeteries

92.01 PUBLIC USE

The City Cemeteries as platted and recorded are dedicated for public use.

92.02 DUTIES OF CEMETERY SUPERINTENDENT

It shall be the duty of the Cemetery Superintendent to care for, improve and beautify the grounds; to open graves and to perform such other duties as may from time to time be assigned to him by the Board of Works.

92.03 DUTIES OF THE CLERK-TREASURER

It shall be the duty of the Clerk-Treasurer to receive all moneys collected for lots and graves in the cemeteries and the received shall be credited to the Cemetery Fund and shall be used for no other purposes than the care and maintenance of said cemetery.

92.04 SALES AND CONVEYANCES

All sales and conveyances of lots and graves shall be under the seal of the City and shall be signed by the Clerk-Treasurer and the Mayor.

92.04.01 Repurchase

City of Valparaiso will not repurchase burial rights. The City of Valparaiso cannot assume the role of broker to the extent of advertising, finding potential buyers, or negotiating terms of sale. The City of Valparaiso will provide the transfer deed to consummate the sale for which there is a fee. No sale is complete/valid unless it is properly registered with the City of Valparaiso.

92.04.02 Right to Sell

Patrons should be aware that Indiana Law prevents transfer of burial rights in some cases.

92.04.03 Address change

It is the duty of each lot owner to notify the City of Valparaiso of any change in mailing address. Notice sent to a lot owner at the last address on file in our office shall constitute sufficient and proper legal notification.

92.05.01 PRICE OF LOTS; INTERNMENT CHARGES

The price of lots purchased in Memorial Park Cemetery shall be Four Hundred Fifty Dollars (\$450.00) for each burial space with the exception of Block M - Lots 1, 2, 3, 4, 5, 6, 7, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 71, 72, 73, 74, 75, 76, 77, 88, 89, 90 which will be Two hundred Fifty Dollars (\$250.00) for each grave space allowing for two (2) cremation burials per grave space.

92.05.02 Internment Charges

Internment rates are established and approved by the Board of Works & Public Safety. Payments of charges must be made to the Clerk-Treasurer prior to the issuance of a permit.

92.06 DIVISION OF LOTS

Lots in Blocks A, C, D, E, F, G, H, K, L, and M of Memorial Park Cemetery may be divided and sold as single graves excluding Block M exception.

92.06.01 Pauper Lots

Lots 62 through 113 inclusive in Block A and Lots 1 through 37 in Block B as designated on the recorded plat of Memorial Park are set aside for the purpose of Pauper Burials.

92.06.02 Lots Dedicated To Patriotic Organizations

The following numbered lots in Memorial Park Cemetery are dedicated to the use of the patriotic organizations named:

- i. Grand Army of the Republic - Lots 109 and 111 Block E
- ii. Sons of Union Veterans - Lots 9 and 11 in Block H
- iii. American Legions - Lot 105 in Block F and Lot 110 in Block H
- iv. Spanish War Veterans - Lot 10 in Block H and Lot 23 in Block K
- v. Veterans of Foreign Wars - Lots 1 and 22 in Block K
- vi. Disabled American Veterans - Lots 106 and 127 in Block F

The lots herein dedicated shall be supervised and maintained by the organizations named as permanent and lasting memorials.

92.07 GRAVE DIMENSIONS

The dimensions of all graves at Memorial Park Cemetery shall be four (4) feet by twelve (12) feet excluding the Block M exceptions which will be four (4) feet by six (6) feet allowing for two (2) cremation burials per grave space.

92.08

CEMETERY RECORDS

The Clerk-Treasurer shall keep permanent records of all lots sold or transferred and of all interments and disinterments.

92.09

BURIAL PERMITS

No interment shall be allowed except upon the presentation to the Cemetery Superintendent or designee of a written permit issued by the Clerk-Treasurer. Prior to the issuance of a permit the following data is required: Name of deceased, sex, race, cause of death, name of parents or kindred, owner of lot, lot number, section, division and date of burial. The Clerk-Treasurer is directed and authorized to provide and purchase all necessary records and forms in connection herewith.

An original Indiana Burial Permit must accompany all bodies. No interment will take place without this permit.

92.10

SUPERINTENDENT TO SUPERVISE BURIALS

All internments, disinterments, improvements of grounds or lots shall be performed by the Superintendent or under his or her direction.

92.11

INTERMENT PROHIBITED WHERE DELINQUENCIES EXIST

No interment shall be allowed in any lot against which there are any charges due and unpaid.

92.12

INTERMENTS RESTRICTED

Only the person in whose name the deed is titled, or the person having control of the titled person's estate may determine who may be interred in graves. Written verification such a power of attorney may be required at the discretion of the Cemetery Superintendent.

92.12.01

Space For Burial Purposes Only

All Certificates of Burial Rights, when executed, shall be construed as granting the original purchaser the right to use the space for the interment of such purchaser and such other persons designated by the purchaser and such other persons designated by the purchaser or in accordance with the Indiana Cemetery Act.

92.12.02 Remains Per Space

The burial of one-casketed remains shall be permitted in a single burial space. Burials will not be permitted between spaces or in areas not specifically designated as burial spaces. With payment of an additional full burial fee two remains will be permitted in one burial space as deemed reasonable and legal by the City.

92.12.03 Purpose Of Burial Space

All burial space shall be used only for the interment of human remains.

92.13 DISINTERMENT RESTRICTION AND CHARGES

92.13.01 Permission

The City reserves the right to require the following signatures of consent prior to granting permission for any disinterment or removal:

- a. Spouse of deceased
- b. Children of deceased
- c. Parents of deceased
- d. Lot owner of present burial site.
- e. Person who provided written authorization for original burial.

If the City is unable to obtain the signed authorizations, no disinterment or removal shall be made without a judgment of the Circuit or Superior Courts of Porter County, State of Indiana or upon written order of the Coroner of Porter County, State of Indiana.

92.13.02 Care In Removal

The City will exercise all reasonable precautions in making a removal, but will be under no liability for damage to any casket, outer container or urn incurred in making such removal.

92.13.03 Disinterment Restrictions and Charges:

Disinterment rates are subject to the same charges as internments. Payments of charges must be made to the Clerk-Treasurer prior to the issuance of a permit.

92.13.04 Seasonal Restrictions

No disinterments shall be permitted between November 1 and March 30.

92.14 INTERNMENTS AND DISINTERMENTS

92.14.01 Notice of internments and disinterments

The City reserves the right to require a minimum of 48 hours prior notice of any internments, disinterment or removal.

92.14.02 Approval

All interments must be made at the time, in the manner, and with such charges as set and approved by the Board of Works & Safety.

92.14.03 Holidays

Interments and interment services shall be permitted on a typical workday, Monday through Friday, 7 a.m. - 3 p.m. and are permitted after hours, weekends and on holidays with approval. An additional fee will be charged for after hours, weekends and holidays. Holidays observed by the City include: Memorial Day, Fourth of July, Labor Day, Thanksgiving, Christmas, and New Year's Day.

92.14.04 Application for Interment

The City reserves the right to refuse to open any burial space for any purpose except on written application by the owner(s) or successor(s) in burial rights, on a form provided by the City of Valparaiso. When an interment is to be made on a lot, an authorized individual must come to the office of the Public Works Department a minimum of 48 hours in advance of the intended interment and locate the grave on the plat map. The City of Valparaiso will not be responsible for errors in location. In all cases where the party is unknown to the Clerk-Treasurer or where their responsibility is insufficient, a written notarized permit from the owner of the lot must be filed before a permit is issued.

92.14.05 Not responsible for identity:

The City of Valparaiso shall not be liable for the validity of information on the interment permit nor for the identity of the person sought to be interred.

92.14.06 Errors may be corrected:

The City of Valparaiso reserves the right to correct any error that may be made. Errors involving the description, transfer or granting of any interment space may be corrected by canceling such grant and substituting and granting other interment space of equal value and similar location if possible, or as may be selected by the City of Valparaiso. The City of Valparaiso, at their sole discretion, may elect to refund the amount of money paid for the burial rights in question. In the event any error shall involve an interment, the City of Valparaiso reserves the right to remove he remains and transfer them to other space of equal value and similar location.

92.14.07 Delays in interments or other activities caused by strikes, etc.:

The City of Valparaiso shall not be liable for any delay in the interment of a body, or for any delay in the fulfillment of any of its contract or legal obligations, including, but not limited to, maintenance, care memorial work or construction which may arise from causes beyond its reasonable control and, from delays caused by the elements, an act of God, common enemy, thieves, vandals, strikes, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority.

92.14.08 When City of Valparaiso not responsible:

The City of Valparaiso shall take precaution to protect owners of burial rights from loss or damage. The City of Valparaiso is not responsible for loss or damage for causes beyond its reasonable control. This includes, but is not limited to, damage caused by the elements, an act of God, thieves, vandals, strikers, explosions, accidents and riots.

92.14.09 Delays caused by protests:

The City of Valparaiso shall be in no way liable for any delay in the interment of any remains where a protest to the interment has been made, or where the City rules of the Cemetery have not been complied. The City of Valparaiso reserves the right, under such circumstances, to place the remains in a temporary holding area until the full rights have been determined. The City of Valparaiso shall be under no duty to recognize any protest of interment unless it is presented in writing.

92.15 OUTER BURIAL CONTAINER AND CASKET REQUIRED

Every earth interment shall be made in a casket and outer burial container of concrete or metal, or a combination thereof, of sufficient strength and durability to constitute a reasonably permanent support for the weight above said container. All cremains will require an urn of rigid, reasonably permanent construction and material for burial. Wood vaults are not permitted. Installation of the burial container shall be made by, or under the supervision of, employees of the Public Works Department.

92.16 MONUMENTS, HEADSTONES, GRAVE MARKERS AND FOUNDATIONS

Memorializing of graves is accomplished through temporary floral tributes, decorations and with markers and monuments. Memorializing is subject to the following conditions:

92.16.01 Approval:

The lot owners(s) or successor(s) in burial rights shall have the right to erect a proper memorial subject to the space available on the lot and in accordance with the Rules and Regulations of the Cemetery. Plans for all memorials must be submitted in writing to the City of Valparaiso.

92.16.02 Foundations:

The foundations of all monuments, headstones or grave markers must be of concrete and placed to a depth of thirty-six (36) inches. The total area of all foundations to be six (6) inches greater than the base of any monuments, headstones, grave markers or permanently attached vases, etc upon which it rests.

92.16.03 Monument, Material and Size:

All monuments, headstones, and grave markers shall be of granite, stone or metal of an indestructible nature. Ceramic photo tiles may be attached when adhered in a recessed panel. Steel alloy flower vases may be attached to a granite base if properly anchored to discourage theft.

Monuments, headstone or grave markers placed or erected shall not exceed four (4) feet in height above ground level.

Block M monuments, headstones or grave markers are not to exceed ground level.

92.16.03 Workmen:

Workers employed in placing or erecting memorials or bringing materials shall operate as independent contractors, but must do so by permission and with supervision and approval of the Cemetery Superintendent. An outside contractor must present a Certificate of Insurance to the City of Valparaiso Public Works Department office prior to the commencement of work. No work shall be done anywhere in the vicinity of a burial committal service in progress.

92.16.04 Erection:

Material or equipment used in the construction of vaults or monuments shall not be brought into the cemetery until the use or placing thereof is

imminent. Construction material shall not be placed on adjoining lots without special permission of the City of Valparaiso. Work must proceed promptly until the erection of the memorial is completed.

92.16.05 Inscription and Insignia:

The name or inscription on each monument, vault, marker, or urn must identify the person interred. No advertising or similar logos may be used on any memorial. Any memorial, inscription or device, which may be deemed improper, offensive or objectionable by the Board of Works and Safety, shall be removed. All corrections and/or deletions will be the sole financial responsibility of the lot owner.

92.16.06 Damage:

The City of Valparaiso is not responsible for damage to monuments and headstones or other decorations, permitted or not permitted, as a result of strikes, vandalism, theft, storm or other "acts of God", riots, insurrection, common enemy, pesticide use, or unavoidable accidents due to normal cemetery maintenance and interment activities, or due to other sources. Monuments, headstones and other decorations remain the property of the owner and his family and are placed on lots at the risk of the owner. Damage to lots, walks, roads, trees, shrubs, granite urns, granite benches, or other property caused by dealers, contractors, or their agents shall be repaired at the expense of such dealer, contractor, or their respective agents.

92.16.07 Removal:

Monuments or markers cannot be removed from the Cemetery except by written order of the lot owner(s) or successor(s) and the City of Valparaiso. Should any monument or memorial be determined to be offensive, improper, dangerous, injurious, or not meeting prescribed standards of the cemetery, the Superintendent has the right to remove such monument or memorial, and make reasonable efforts to notify owner(s) or successor(s) of said removal.

92.16.08 Cleaning:

Any person or firm engaged to clean a memorial must have written permission from the Cemetery Superintendent and submit Certificate of Insurance prior to commencement of work.

92.16.09 Vandalism:

Any person doing damage to or otherwise vandalizing any monument, headstone, gravesite or decoration shall be assessed a fine in an amount not to exceed \$2,500 per occurrence and shall be responsible for the cost for repairing the damage

92.17 CORNER POSTS

Corner posts to mark the boundaries of lots shall be cement, polymer plastic or concrete and have uniform dimensions and shall be so placed as not to extend above the surface of the ground. Corner posts shall be provided and installed by the city.

92.18 FLOWERS AND ENCLOSURES

All flowers, containers, decorations and any items placed at a grave are at the sole risk and responsibility of the lot owner(s) or successor(s). The City of Valparaiso assumes no liability for theft, vandalism or damage caused by workers, visitors or acts of nature.

92.18.01 Restrictions:

The Board of Works reserves the right to regulate and restrict the methods of decorating graves.

92.18.02 Prohibited:

In-ground plantings, bird feeders, bird baths, glass, bottles, jugs, digging of any kind, buildings, trellises, enclosures, arbors and other structures.

92.18.03 Permitted:

Candles, windmills, toy statutes, flags, windsocks, flag and windsock poles, kites, plastic flowers, live flowers, vases, and grave blankets. All items must be well maintained, and not infringe on others visitor's rights to enjoy the cemetery, and not create a safety hazard. If items are not maintained, infringe on visitors and are a safety hazard they will be removed and discarded. It is recommended that all decorations and flowers be placed on the monument or the monument foundation. If it is not possible to place the decorations and flowers on the monument or monument foundation then they must be placed against the monument foundation so as to not create a maintenance problem.

With permission of the Cemetery Superintendent, trees may be donated in memory of a certain individual or organization. The tree, if accepted, shall be planted in an agreed upon location.

92.18.04 Clean-up Periods:

The Superintendent will remove all decorations left on graves during spring clean up and fall clean up. Exact days will be published in advance and posted at the cemetery. All temporary grave markers will also be removed during clean up and may only be returned to a grave upon proof of monument order and a paid foundation application.

92.18.05 Flowers:

Fresh cut and silk flowers may be displayed on graves in acceptable vases, with a limit of 2 vases per memorial. Live plants and/or flowers may be displayed in approved granite, concrete or high impact plastic pots, urns, or containers.

92.18.06 Funeral Flowers:

Flowers remaining after a burial may be placed on the grave for up to 7 days or until they become unsightly, or cause damage to the turf.

92.18.07 Winter Decorations & Grave Blankets:

Wreaths of evergreen spray must be on easels, no taller than 48 inches, no larger than 24 inches in diameter and may not lie on the turf.

Grave blankets and winter decorations may only be placed on the grave from November 1 to April 1.

92.19 REMOVAL OF OBSTACLES AND OBSTRUCTIONS

The Superintendent may remove any fence, railings, coping, arbor or other structure, together with vines shrubbery, which may in any way interfere with proper care of the cemetery. The Superintendent shall remove any inscription or device, which may be deemed improper or offensive by the Board of Works. If decorations become unsightly or weathered, the Cemetery Superintendent may remove them. All flowers, containers, decorations or other items placed on a grave area are the sole responsibility of the lot owner or successors.

The City assumes no liability for vandalism or theft.

92.20 GRADING OF LOTS

Work in the Cemeteries: All grading, landscape work, improvements of any kind, care of the burial space, planting, trimming, cutting or removal of trees or flora of any kind, opening and closing of burial spaces, interments, disinterment and removals, and the construction of all foundations, vault or container installation, and vase or flower pole

installation shall be done by the employees and with the equipment of the City of Valparaiso Department of Public Works, or by outside contractors directly supervised by the City of Valparaiso. While a funeral or interment is being conducted nearby, all work of every description shall cease.

92.21 IMPROVEMENTS BY PRIVATE PARTIES

Any labor or service rendered by lot owners or others in care of improvement of any individual lot or lots shall be under the supervision and direction of the Cemetery Superintendent.

92.22 ACCESS TO GROUNDS

Visitors are allowed to enter the cemetery only by the main public entrance and only during daylight hours. The City of Valparaiso reserves the right to refuse admittance to any person violating these rules or whom it deems objectionable or whose presence is not in the best interest of the cemetery. Bicycles and motorcycles are permitted in the cemetery when there are no more than two per group and only in areas where there are no burial committal services taking place. Noisy or disruptive activity will not be permitted.

Motorcycles and bicycles are permitted in the cemetery as part of a funeral procession and for attending a burial ceremony.

92.22.01 Firearms:

Persons with firearms (other than law enforcement officials) will have permission to enter the cemetery only when participating in military funerals or exercises.

92.22.02 Alcohol:

Alcoholic beverages are not permitted on the cemetery grounds.

92.22.03 Children:

An adult who is responsible for their conduct must accompany children under twelve years of age.

92.22.03 Animals:

Pets are not permitted on any of the interment sections.

92.22.04 Soliciting:

Soliciting the sale of any commodity shall not be made within the confines of the cemetery without express written consent of the City of Valparaiso.

92.23

DONATIONS OF MONEY TO THE CEMETERY FUND

Any person desiring to give or donate money for the general care and upkeep of the City Cemeteries or for improving and beautifying the ground may do so by paying the same to the Clerk-Treasurer, who shall accredit the amount to the Cemetery Fund of the City. Money Belonging to the Cemetery Fund shall be used for no other purpose than the care and maintenance of the City Cemeteries.

92.24

APPOINTMENT AND REMOVAL OF SUPERINTENDENT

It shall be the duty of the Mayor to appoint a competent Superintendent who shall have immediate care and control of the Cemetery, and who shall act under the general management and direction of the Board of Works. The Mayor may at any time remove the Superintendent of the Cemetery.

92.25

MAINTENANCE

The Cemetery Superintendent or a designee will perform maintenance of cemeteries. The city reserves the right to regulate, restrict and remove any or all items placed in a city owned cemetery. If an item of items beyond typical flowers, broken vases and the like, the Board of Works will be the final governing body to remove the items. All non-typical items will be kept for a period of 30 days before being discarded.

92.26

CEMETERY RULE EXCEPTIONS AND AMENDMENTS

Special cases may arise which the literal enforcement of a rule may impose unnecessary hardship. The City of Valparaiso reserves the right without notice to make exceptions, suspensions or modifications in any of these Rules provided that no such exception, suspension or modification shall not be construed as affecting the general application of such rule. The City of Valparaiso reserves the right at any time to change, modify or add to these Rules whenever in their judgment the best interest of the Cemetery and owners of burial rights require it. Such changes may be made without the individual notification of existing lot owners.