

Chapter 12

CEMETERY

[HISTORY: Adopted by the Board of Trustees of the Village of Port Byron 11-12-2002 by Ord. No. 02-12-11 (Title 1, Ch. 3, Art. 2, of the 1993 Code). Amendments noted where applicable.]

§ 12-1. Boundaries.

- A. The following bounded and described lots, pieces or parcels of land situated in the Village of Port Byron, County of Rock Island and State of Illinois, to wit: the south 14 acres of the northwest quarter of the southeast quarter of Section 25 in Township 19 North Range 1 east of the fourth principal meridian subject to the public highway on the west end of said described land shall be a public village cemetery to be known as "Oak Grove," upon and after the due and proper transfer of said premises to said Village by the Oak Grove Cemetery Association.
- B. The following bounded and described lots, pieces or parcels of land situated in the Village of Port Byron, County of Rock Island and State of Illinois, to wit: the east 40 feet of Lot Number 8; and the unnumbered lot, dedicated for cemetery purposes, and bounded on the south by Cherry Street, on the west by Lot 10, on the north by Lot 8, and on the east by Lot 9; all in Belcher and Sigsworth's addition to the town (now Village) of Port Byron, Rock Island County, Illinois, shall be known as the "Old Village Cemetery" and shall be a public village cemetery to be maintained by said Village as a neglected cemetery, but no lots shall be sold therein.

§ 12-2. Board of Managers.

- A. There shall be a Board of Managers, which may be known as the "Oak Grove Cemetery Board" and which shall be appointed by the Mayor, President of the Board of Trustees with the advice and consent of the Board of Trustees, consisting of a board of not less than three persons (nor more than five) who shall not hold any other elective or appointive office in the Village, and the term of office of each of its members shall be three years, so staggered that the terms of at least one (but not more than two) shall expire on the first Monday in May of each successive year. Said Board of Managers shall select from its number a President, Secretary and Treasurer, excepting that the Treasurer may or may not be a member of said Board.
 - (1) Village Clerk. The Clerk of said Village shall have and perform the duties of such a Clerk as set forth in 65 ILCS 5/11-52.2-1.
 - (2) Treasurer appointed by the Board of Managers. The Treasurer of said Board shall have the custody of all money and property received in trust by said

Village and, in connection therewith, perform such duties as are set forth in said 65 ILCS 5/11-52.2-1.¹

B. Powers of Board of Managers.

- (1) The Board of Managers shall have the care, charge, management and control of such cemetery under the supervision of the Board of Trustees of said Village of Port Byron and including the following powers:
 - (a) To lay out and ornament for cemetery purposes the said ground and such grounds as the Village may hereafter acquire for cemetery purposes, to have the same surveyed and plats thereof made.
 - (b) To erect such buildings, tombs, enclosures or other structures as it may deem advisable.
 - (c) To construct drives, roads, avenues and alleys through said grounds and establish the course, width, grade and ornaments thereof.
 - (d) To enclose such grounds with a good and sufficient fence as said Board of Managers shall deem necessary from time to time.
 - (e) To determine the value of burial lots which are offered for sale and, as the agent of said cemetery, to sell and dispose of such lots, on such terms and with such conditions for the permanent care and preservation of said cemetery and all its parts, as it may think proper.
 - (f) To appoint a Sexton and other officers and employees, fix their compensation and prescribe their duties, and to make (as the agent of said cemetery) all necessary contracts for the purpose of utilizing and adorning said grounds; said Sexton shall be a special police and serve (without pay) when appointed as such by the Mayor and confirmed by the Village Board and shall be subject to the rules of the law enforcement department.²
 - (g) To make all necessary bylaws, rules or regulations governing said cemetery and from time to time to amend or repeal the same; to prescribe the rights and duties of owners of lots therein and properly control visitors to the cemetery; to prohibit the enclosure, adornment or use of lots in any manner it may deem improper; and in general to supervise and control the cemetery grounds and act in such ways as may be necessary in the premises; all the acts of the Board of Managers, nevertheless, being subject to revision and revocation by the Village Board.
- (2) The foregoing powers conferred upon the Board of Managers of said cemetery shall not be construed as giving to said Board power to make any contract requiring any expenditures of moneys over and above the amount

¹. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. VI).

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appropriated by the Village Board for such purposes and the revenue derived from the sale of lots, etc., in said cemetery.

C. Perpetual trusts.³

- (1) Said Treasurer appointed by the Board of Managers may receive, in perpetual trust, from the proprietors or owners of any lot in said cemetery or any person interested in the maintenance of the same, any gift, devise or bequest of any money or property of a value of \$100 and upwards which may be donated to said Board and thereby obligate said cemetery to give perpetual care to said lot or lots; such care in all cases shall include the maintenance and care of said lots and the graves thereon, but not of monuments or artificial erections or grading without special contract.
- (2) Said Treasurer appointed by the Board of Managers may also receive the perpetual care funds which may be transferred to it by the Oak Grove Cemetery Association now existing in the Village of Port Byron, Rock Island County, Illinois.
- (3) Said Treasurer appointed by the Board of Managers shall invest all funds given, devised and bequeathed to it in perpetual trust for the care of lots and graves as provided for investment of trust funds by Chapter 760, Trusts and Fiduciaries, Act 5, Trusts and Trustees Act, of the statutes of the State of Illinois, except that, in the case of all funds paid to the Oak Grove Cemetery Association of Port Byron, Illinois, heretofore, and by said association turned over to said Board of Managers as perpetual care funds, said funds shall be administered by said Treasurer appointed by the Board of Managers in accordance with the terms and conditions of the perpetual care fund contracts issued and signed by the said Oak Grove Cemetery Association and signed by the person or persons or estates having deposited said funds with said Oak Grove Cemetery Association.

§ 12-3. Records. ⁴

The Village Trustee (Head of the Cemetery Commission) shall cause to be kept in books provided for that purpose a full and complete record of all its meetings, proceedings, orders, rules and regulations; of all plats and surveys; of all purchases and sales of property, with the names of the purchasers thereto, and a record of the title papers in full; and a complete register of all the burials in said cemetery with the date of burial and names and ages of the dead, which books of record shall, at all proper times, be open for the inspection of those interested.

§ 12-4. Platting.

In laying out said cemetery grounds, the Managers shall cause the corners of the principal subdivisions to be indicated by substantial monuments to be fixed permanently in the

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ground as starting points for future measurements and surveys, and such monuments shall be plainly indicated on the plats aforesaid; said plats when completed shall be certified by the surveyor who made the same, authenticated by the corporation Seal of said Village, subscribed by the Mayor and Village Clerk, acknowledged before any officer authorized by law to take acknowledgments of deeds, and filed for record in the Recorder's Office in said Rock Island County, and the filing of such plats shall operate as a legal vacation of any former plats or subdivisions of said ground and of any streets, roads or avenues passing through said grounds. No change shall be made in the platting of lots sold or in any laying out of the avenues or alleys adjacent thereto without consent of the owners thereof.

§ 12-5. Transfers of lots. ⁵

The right of property to any burial lot which may be sold shall be vested in the purchaser and his heirs; a certificate of purchase, executed by and in the name of the Village of Port Byron, subscribed and acknowledged by the Mayor and Village Clerk and countersigned by the Clerk and Treasurer of the Board of Managers, shall be recorded in a book kept for that purpose. Every transfer of such lots shall be made by surrendering such certificate to the Clerk and Treasurer of said Board, who shall cancel the same, note such cancellation on the record and issue a new certificate in lieu thereof. Burial lots shall not be held and used for the purpose of speculation, and no lot owner shall permit interment in or upon any lot held by him for compensation.

§ 12-6. Proceeds of sales. ⁶

The proceeds arising from the sale of lots in said cemetery shall be known as the Cemetery Fund and shall be used by the Board of Managers to defray the expenses arising from the purchase, laying out, improvement, ornamentation and care of the cemetery and to the payment of any liabilities and charges that may be incurred in carrying out the provisions of said ordinance, and to no other purpose whatsoever, excepting the investment of surplus funds in its hands as provided in § 12-2 of this chapter as to the Board of Managers.

§ 12-7. Agreement for care. ⁷

Any lot owner aforesaid desiring to avail himself or herself of the provisions of § 12-6 as to perpetual trust funds may give, devise or bequeath said funds to said Board of Managers, which is hereby authorized to and shall give to such person so paying such sum of money a receipt and contract therefor substantially in the following form:

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The Oak Grove Cemetery Board
Village of Port Byron
Port Byron, Illinois

In consideration of \$_____ having been deposited with the Oak Grove Cemetery Board of the Village of Port Byron, for the perpetual care of lot _____ located as follows: lot no. _____ block no. _____ in the Oak Grove Cemetery, Port Byron, Illinois, to place the aforesaid amount at interest, the income only to be used, and as follows: 3/4 to be used in the care of lot _____ and 1/4 to go to the Oak Grove Cemetery Board to be used as it sees fit; and it is further agreed that if any part of the 3/4 income is not used within the fiscal year, the same is to be carried to the following year or years to be used in the care of aforesaid lot.

_____ President

_____ Secretary and Treasurer

Deposited by _____

§ 12-8. Burials. [Amended 12-13-2007 by Ord. No. V071012]

- A. Burial of the destitute. There shall be set apart a sufficient portion of said cemetery grounds as a free burial place for the interment of any destitute person who may die within the Village and whom it shall be necessary for the Village to bury. Said grounds shall be kept and ornamented as the said Board may deem proper out of any of the cemetery funds in its hands not otherwise appropriated.
- B. Number of remains in one grave site. There shall be a limit to the number of burial remains to a maximum of two per each grave site within the cemetery. This may consist of one full burial and one cremation, one full burial and one baby, or two cremations.

§ 12-9. Report of Managers. ⁸

The Board of Managers shall, between the first and 10th days of April in each year, report a detailed statement of all receipts and expenditures of money made by it during the preceding fiscal year or since the last report, respectively; the amount of money invested and the nature of the investment; and the amount of money on hand at the time of such report.

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