

**CITY OF ALBION
ORDINANCE #2018-02**

AN ORDINANCE TO AMEND CHAPTER 30, ARTICLE II, SECTION(S) 30-26 through 30-28, 30-30 through 30-36, TO ADD SECTIONS 30-37 through 30-39 to ARTICLE II OF CHAPTER 30.

Purpose and Finding:

The Albion City Council recognizes and concludes that the proper and reasonable maintenance, appearance, and use of the cemetery owned and controlled by the City is an important function of the City. It is also important that burials, disinterments, and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the health, safety, and welfare of the community. The Albion City Council believes this ordinance to be in the best interests of the City.

THE CITY OF ALBION ORDAINS:

30-26: Definitions

"Cemetery" shall mean Riverside Cemetery, as established, and any other public cemetery owned, managed or controlled by the city.

"Cemetery Plot" shall mean an area in Riverside Cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area of at least thirty-eight (38) inches wide and ninety-six (96) inches in length.

"Cemetery Half Plot" shall mean an area in Riverside Cemetery sufficient to accommodate one burial space for one deceased infant, the burial of cremains, or the burial of pets (excluding livestock). It shall consist of a land area of at least thirty-eight (38) inches wide and forty-eight (48) inches long.

"Cemetery Sexton" shall mean a city official appointed by the City Manager who is primarily responsible for cemetery operations within the City of Albion.

"City" shall mean the City of Albion.

"Monument" shall be defined as any marker, memorial, mausoleum, statue or similar item which exceeds thirty (30) inches in height above normal ground level or which has a ground surface area exceeding thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation.

"Plot" shall mean a cemetery plot or a cemetery half plot.

30-27: Sale of Plots

- a. Plots shall be sold by the City for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- b. All sales and transfers of plots shall be made on a Burial Right Certificate approved by the City Council and signed by a designated City official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the City Clerk or City Official and shall constitute a permit when approved.
- c. Plots may be sold by the City to any resident or taxpayer of the City. The Cemetery Sexton/City Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the City through previous residence in the City or relationship to persons interred in the cemetery. Any such decision by the Sexton/City Clerk (either granting or denying such variance) may be overturned by the City Manager pursuant to Section 30-39.
- d. At the time of purchase from the City, each plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must either be a resident or taxpayer of the City, or be a member of the immediate family of a qualified purchaser. If the owner of a plot desires to effectuate a name change regarding the assigned plot, that person must complete the designated form and pay the fee associated with transferring a plot.
- e. Plots are nontransferable without prior written approval by the City, but may be sold back for the price designated by the City.
- f. The City Council shall have the authority to place a limit on the number of plots sold to a particular person, as well as such person's family and relatives. Furthermore, the City shall have the absolute right and discretion to determine whether a particular plot or plots will be sold to a specific person and where such cemetery plot or plots will be located. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant plots available and whether family or relatives of the person seeking to purchase a plot or plots are buried adjacent or nearby the plot or plots requested.
- g. The City shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any plot, either by canceling the permit for a particular vacant plot or plots and substituting and conveying in lieu thereof another vacant plot or plots in a similar location within the cemetery or by refunding the money paid for the plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the City shall have the right to remove and transfer the remains so interred to another plot in a similar location in the cemetery in accordance with law.

30-28: Purchase Price for Plots and Charges

- a. Each plot cost shall be defined in a fee schedule that is approved by City Council. A portion of this fee will go into the cemetery perpetual care fund. The lawful owner of any plot within the City shall promptly provide the City with any change in that owner's mailing address and contact information.
- b. All charges shall be paid to the City Finance Director.
- c. The City Council may by resolution modify fee schedule in subsection (a) to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.
- d. The City may charge reasonable fees for the opening and closing of any plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the City Council, defined in a fee schedule, and payable to the City.
- e. No plot shall be opened or closed except under the direction and control of the cemetery Sexton or such other individual as is designated by the City Council. The Sexton shall be given at least forty-eight (48) hours prior notice of when such grave opening or closing will occur. This subsection shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities.

30-30: Memorials, Markers, or Mausoleums

- a. All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them. Any marker or memorial must also be in line with the other markers in that row, unless authorized by the sexton or city official.
- b. Only one (1) up-right marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial, however additional flush mount markers may be allowed on that space if room allows.
- c. Markers shall be no more than thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation.
- d. Individual markers for cremains shall be flush with the ground and shall be no more than twelve (12) inches by twenty-four (24) inches in size. Any marker on a half grave space must be a flush mount type, unless authorized by the Sexton or a city official.
- e. Any Persons wishing to place a monument that exceeds the above listed dimensions, must have prior authorization from the City

- f. The footing or foundation upon which any marker or memorial must be placed shall be constructed by the City, or such person(s) as may be designated by the City Council.
- g. Should any monument or memorial become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the City shall have the right, at the expense of the owner of the plot, to correct the condition or remove the same. The City shall make reasonable attempts to contact the owner of the plot prior to any such work beginning.
- h. The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the sole responsibility of the heirs or family of the person buried at that location. The City has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

30-31: Interment Regulations

- a. Only one (1) person shall be buried in a plot, except for a parent and infant child or two (2) children buried at the same time when approved by the City.
- b. As many as 6 cremations may be placed in a grave space depending on space available in said grave, this will be determined by the Sexton or City Official.
- c. The City shall be given at least 48 hours' notice in advance of any funeral to allow for the opening of the plot. The opening and closing of plots shall be done only by the City or such person or persons as are designated by the City.
- d. The appropriate form issued by the City for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the Cemetery Sexton or the City Clerk (or designated City official) prior to interment. In the event such permit or form has been lost or destroyed, the City Clerk must be satisfied, from his or her records, that the deceased person to be buried in the plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- e. If a winter burial cannot occur due to inclement weather, frozen ground or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. There must be a storage authorization form completed and filed. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
 - i. The City is not responsible for winter storage of a body.
 - ii. The City may charge additional fees for winter burials.
 - iii. No winter burials shall occur without the prior consent of the Cemetery Sexton or city official.

- f. Cremains must be buried in a non-biodegradable container approved by the City in a plot or in a columbarium that has been installed by the City within the cemetery.
- g. No cremains shall be scattered or dispersed within the cemetery without prior consent of the Sexton.
- h. All burials shall be within a standard concrete vault, that complies all applicable Federal, State, and local laws, installed or constructed in each plot before interment. The City shall have the discretion to allow vaults of other suitable materials to be used.

30-32: Disinterment Regulations

- a. No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the City.
- b. The City Council shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a City disinterment permit for the same) if the disinterment or digging up of an occupied grave is not done pursuant to a court order or does not have a reasonable basis.

30-33: Grounds Maintenance

- a. Flower pots, urns and grave blankets may be placed and maintained in line with head stones of graves no earlier than April 1 and must be removed no later than November 1 of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- b. No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Cemetery Sexton or city official. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Sexton.
- c. No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without City approval shall be removed by the City or the Sexton.
- d. The City reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and use of the cemetery.
- e. Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.

- f. The Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- g. Surfaces other than earth or sod are prohibited.
- h. All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within ten (10) days after a burial.
- i. No glass containers or items are allowed.
- j. Except for markers, memorials, flowers, and urns expressly allowed by this Ordinance, and flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within the cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the City.

30-34: Forfeiture of Vacant Plots or Burial Spaces, Repurchase of Plots

- a. Plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for twenty-five (25) years or more from the date of their sale shall automatically revert to the City upon the occurrence of the following events:
 - i. Notice shall be sent by the City Clerk by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 25-year period and that all rights with respect to said plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the City Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights.
 - ii. No written response to said notice indicating a desire to retain the plots or burial spaces in question is received by the City Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.
- b. The City may repurchase any plot from the owner for a price set by the City Council, upon the written request of said owner or his or her legal heirs or representatives.

30-35: Records

- a. The City Clerk and/or the Sexton shall maintain records concerning all burials, plots, issuance of burial permits and any other records of the City related to

Riverside Cemetery, and the same shall be open to public inspection at all reasonable business hours.

30-36: Cemetery Hours

- a. Unless otherwise specified by the City Council by resolution, Riverside Cemetery shall be opened from dawn to dusk. During closed hours, no person shall be present in the cemetery. Such prohibition on being present in the cemetery during the time when the cemetery is closed shall not apply to the Cemetery Sexton, any City official, a person accompanied by the Sexton or other City official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.
- b. The Cemetery Office hours will be Monday through Friday from 7am-3:30pm, except on holiday.

30-37: Prohibited Activities and Penalties

- a. The following prohibitions shall apply within Riverside Cemetery:
 - i. No vehicles shall be permitted to drive on lawns or cemetery plots in the cemetery.
 - ii. There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
 - iii. There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in the cemetery except those expressly allowed by this Ordinance.
 - iv. There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
 - v. There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
 - vi. There shall be no off-road motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
 - vii. There shall be no gathering of persons in excess of 50 people without prior City approval (except during or incidental to a funeral occurring concurrent with burial).
 - viii. There shall be no disinterment or grave openings unless approved by the City.
 - ix. There shall be no possession or consumption of any alcoholic beverage.
 - x. There shall be no picnicking without prior City approval.

- xi. There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
 - xii. There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
 - xiii. There shall be no littering or dumping.
 - xiv. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
 - xv. There shall be no private signs, lighting, moving displays or changeable copy on a sign.
 - xvi. There shall be no fires, candles or open flames without prior approval from the Sexton or a City official.
 - xvii. No children under twelve (12) years of age shall be allowed in the cemetery unless accompanied by an adult and are properly supervised by an adult.
 - xviii. There shall be no exceeding of posted speed limits.
 - xix. There shall be no loose domestic animals of any kind or unleashed pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.
 - xx. No firearms or archery arrows shall be discharged or shot; except a military or other veterans organization who may carry arms for the purpose of firing over the grave at the burial of a member.
 - xxi. Remains or ashes of a deceased person shall not be scattered or dispersed without prior approval from the Sexton or city official.
 - xxii. There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- b. Each day during which any violation continues shall be deemed to constitute a separate offense.
 - c. Unless otherwise set forth herein, a violation of any section of Chapter 30 shall constitute a misdemeanor punishable by up to 90 days in jail, up to \$500 in fines, or both.
 - d. The following violations of Chapter 30 shall constitute a municipal civil infraction, with a first offense being punishable by a fine of \$100, a second offense being punishable by a fine of \$200.00, and any subsequent offense punishable by a fine of \$500.00:
 - a. 30-37(a)(i)
 - b. 30-37(a)(ii)
 - c. 30-37(a)(iii)
 - d. 30-37(a)(iv)

- e. 30-37(a)(v)
- f. 30-37(a)(vi)
- g. 30-37(a)(vii)
- h. 30-37(a)(x)
- i. 30-37(a)(xi)
- j. 30-37(a)(xii)
- k. 30-37(a)(xiii)
- l. 30-37(a)(xiv)
- m. 30-37(a)(xv)
- n. 30-37(a)(xvi)
- o. 30-37(a)(xvii)
- p. 30-37(a)(xviii)
- q. 30-37(a)(xix)
- r. 30-37(a)(xxii)

30-38: Cemetery Sexton

- a. The City shall appoint a Cemetery Sexton, who shall serve at the discretion of the City Manager.
- b. The Cemetery Sexton shall be primarily responsible for the enforcement and administration of this Ordinance.
- c. The following city officials shall be authorized to assist the Cemetery Sexton with the enforcement and administration of this Ordinances when necessary:
 - a. City Manager;
 - b. Director of Public Services;
 - c. Deputy Director of Public Services;
 - d. City Clerk;
 - e. Any Albion Department of Public Safety Officer;
- d. The Cemetery Sexton shall have such duties and obligations with regard to the cemetery as may be specified from time to time by the City Manager, Director of Public Services and/or Deputy Director of Public Services.

30-39: Appeals to the City Manager

- a. Any party aggrieved by any interpretation or decision made by the Cemetery Sexton, agent or contractor pursuant to this Ordinance, as well as any matter relating to the cemetery, rights to a plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to

the City Manager. Any such appeal shall be in writing and shall be filed with the City Clerk within thirty (30) days of the date of the decision, determination or other matter being appealed from. The decision of the City Manager on any such appeal shall be final.

Repealer: All other ordinances in conflict or inconsistent with this ordinance are hereby repealed.

Severability: The provisions of this Ordinance are deemed to be severable and should any provision, section, or party thereof be declared to be invalid, the remainder of the ordinances shall continue in full force and effect.

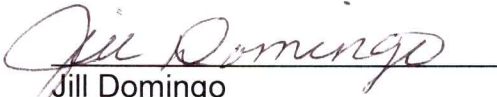
This Ordinance shall take effect after publication on May 2, 2018.

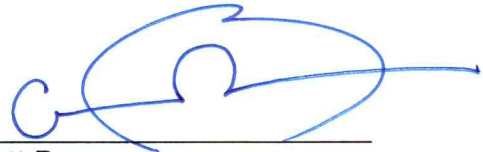
First Reading:
March 19, 2018

Ayes 7
Nays 0
Absent 0

Second Reading & Adoption:
April 2, 2018

Ayes 17
Nays 0
Absent 0


Jill Domingo
City Clerk


Garrett Brown,
Mayor