



To: PACC

From: Cindi Wight, Director of Parks, Recreation & Waterfront

Date: September 26, 2022

Re: Proposed Ordinance Change – Perpetual Care Fund

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**Executive Summary:**

Parks, Recreation & Waterfront request:

- Update the City ordinance related to Perpetual Care Fund use at the cemeteries.

**Background:**

The City currently collects 5% from each lot sale and places it into a Perpetual Care Fund to ensure funds for maintaining our city cemeteries will exist even when all three are closed in the future for burials. The City invests the money in certificates of deposits or municipal bonds through the C/T Office. Currently, Elmwood and Greenmount no longer have any lots available for sale but we do have available lots at Lakeview. In addition, Lakeview has two undeveloped areas for future layouts.

Per City ordinance §9-50, the income from the Perpetual Care Fund may only be used to maintain a lot. The income is the amount the investment grows through increased value and not the amount deposited each year from lot sales.

The City's ordinance language on the use of the funds currently limits us to using the income for maintaining only the lots. The limitation makes it a burden on other infrastructure in the cemetery that needs improvements. The other areas include buildings, developing new burial areas and roads. The state statute for perpetual care recognizes all the necessary infrastructure that needs maintenance and improvement in a cemetery. The Department recommendation is to change the City perpetual care language to match the state statute.

The Perpetual Care Fund currently has \$1,331,790.94 in the fund and the income each year is approximately \$28,000 – \$31,000. In 2019 as part of the City's revised investment policy, the City changed the investment strategy to increase the income generated annually.

The cemeteries do not cover all their expenses but all three are open to the general public to visit and provide a quiet "park-like" experience for our residents. We encourage the use of the cemeteries and have partnered with Fletcher Free Library recently for programming at Lakeview and with the Old East End Neighborhood Coalition for a historical walk through the back end of Greenmount, next to Schmanska Park. We also have left Elmwood unlocked over the past two years to allow the community to access it for use.



The Cemetery Commission approved the change at the June 16, 2022 meeting with a 3-2 vote.

### Current City ordinance

#### 9-50 Charges for perpetual care.

(a) Lot owners will secure a bond from the City of Burlington, through the superintendent, for the perpetual care of their lot. The money paid for perpetual care shall be placed with the city treasurer to be invested and the income therefrom shall be used for the maintenance of a lot. This shall include keeping the grass cut, maintaining a greensward, leveling the depressed areas and other work of similar nature.

(b) Perpetual care, as provided for herein, means that there will not be further expense to the lot owner in caring for his lot.

### Current State statute

18 V.S.A. § 5306

§ 5306. Perpetual care funds

An agency engaged in the cemetery business shall have the right to acquire by gift, devise, or otherwise, land and property of every name and nature and to set aside surplus funds, to be held in trust as a perpetual care fund, the income thereof to be used according to the directions of the trust, where such directions are given, and where no specific directions are given, or, where given, and the purpose is incapable of performance, or there is a surplus of income after the directions of the trust have been fully complied with and performed, to use the same for the **purpose of building, repairing, maintaining, adorning, and beautifying buildings or parts thereof, fences, graves, vaults, mausoleums, monuments, walks, cemetery lots, grounds, drives, or avenues, as the interests of the lot owners and cemetery shall appear.** The duty upon all agencies organized to establish a perpetual care fund according to the terms hereinafter set forth is hereby imposed.

Suggested ordinance change:

#### 9-50 Charges for perpetual care.

(a) Lot owners will secure a bond from the City of Burlington, through the superintendent, for the perpetual care of their lot. The money paid for perpetual care shall be placed with the city treasurer to be invested and the income therefrom shall be used as set forth in 18 V.S.A. § 5306, to include for the maintenance of a lot. This shall include ~~keeping the grass cut, maintaining a greensward, leveling the depressed areas and other work of similar nature.~~ **purpose of building, repairing, maintaining, adorning, and beautifying buildings or parts thereof, fences, graves, vaults, mausoleums, monuments, walks, cemetery lots, grounds, drives, or avenues, as the interests of the lot owners and cemetery shall appear.**

(b) Perpetual care, as provided for herein, means that there will not be further expense to the lot owner in caring for their lot.

