

# **RIVERSIDE CEMETERY**

## **RULES & REGULATIONS**

**Effective Date:  
June 1<sup>st</sup>, 2009**

## **INTRODUCTION**

### **Establishment of Riverside Cemetery**

Defiance once had a municipal cemetery located on the west bank of the Auglaize north of Fifth Street and a Catholic cemetery located on the south bank of the Maumee at the westerly end of Holgate Avenue. In 1843, citizens formed the Defiance Rural Cemetery Association and purchased 10 acres on the west bank of the Auglaize between Sunday Street and the ravine. The remains of those buried in the two earlier cemeteries were relocated to the new Auglaize Cemetery and additional lots were sold without regard to the purchasers' religious beliefs.

In 1871, the Defiance Rural Cemetery Association sought to improve and beautify the 10 acre parcel. This effort to provide the community with suitable burial grounds was constrained by the small size of the parcel. On September 13, 1883, the Cemetery Association transferred ownership of the old Auglaize Cemetery to the municipal government. The name was changed from Auglaize Cemetery to Riverside Cemetery and the City began condemnation proceedings to acquire additional acreage south of the ravine. The litigation lasted four years but resulted in acquisition of fifty acres stretching along the Auglaize from the ravine south to what is now Bassard Drive in 1888.

Much of the credit for the establishment of a viable cemetery belongs to George W. Bechel, Superintendent and Treasurer of the Defiance Rural Cemetery Association and father of the municipal expansion program. Expansion of the burial grounds into the larger tract has occurred incrementally. The southernmost acreage acquired in 1888 continues to be used as Tecumseh Park and City officials estimate that sufficient land remains to serve the community through 2030. Mr. Bechel was greatly assisted in the effort to beautify the expanded Riverside Cemetery grounds by Peter Murphy, who served as caretaker for 25 years, and C. Winterich, a Defiance florist who contributed horticultural knowledge to the landscape design. These efforts to beautify the grounds were continued by John Sherry, Superintendent from 1905 until his death in 1936, and his long serving successor, Clayton A. Hall.

### **Riverside Memorial Chapel**

One of the first improvements to be made following the 1888 expansion was the erection of a Gothic Revival Chapel. Completed in 1890 at a cost of \$8,500, the Chapel overlooks the ravine separating the old Auglaize Cemetery from the newly acquired land on which it was built and provided a place for funerals of those to be buried on both sides of the ravine. It thus served to unite the two properties in both appearance and function.

Riverside Memorial Chapel is one of the most significant structures in the City. In addition to being a pristine example of the Gothic Revival architectural style popular in the late-Victorian era, the basement features a vaulted masonry roof that supports the weight of the brick and stone structure. The unique design of this structural element has been extensively studied by the prestigious School of Architecture at New York City's Columbia University. Riverside Memorial Chapel has been listed on the National Register of Historic Places in recognition of its architectural significance. The municipal government has invested many times the initial construction cost to preserve the building and the Daughters of the American Revolution have generously provided for maintenance of the interior. The Chapel is easily seen from South

Clinton Street and the exterior may be approached for closer examination during daylight hours. The interior is opened to the public on special occasions and by appointment.

### **Riverside Memorial Mausoleum**

Construction of Riverside Memorial Mausoleum was begun in 1926 and completed in 1927 at a cost of approximately \$150,000. Exterior walls of the monolithic reinforced concrete structure are faced with smooth stone trimmed in bronze. The interior is impressively finished in polished white marble illuminated by art glass windows. The mausoleum is easily viewed from South Clinton Street and the exterior accessible during daylight hours. The mausoleum remains in active use and is opened for funerals, on special occasions and by appointment. The mausoleum is maintained at private expense.

### **Religious and Military Sections**

Riverside Cemetery continues to exemplify the spirit of religious tolerance that has prevailed since the merger of municipal and Catholic cemeteries in 1843. The Mausoleum and most of the grounds are open to and used by people of all faiths. Designated areas are also reserved for the exclusive use of those of Catholic and Jewish faith whose religious beliefs require burial in segregated grounds.

Veterans are buried throughout the cemetery. Their graves are marked with military insignia and decorated on patriotic holidays. Two areas have been set aside for the exclusive use of veterans and their spouses.

### *Soldiers' Circle*

Soldier's Circle is located in Section 29 and identified by the Civil War Memorial at its center. A veterans' organization known as Bishop Post of the Grand Army of the Republic led an effort to erect a community memorial to the Civil War and those who fought it. In 1888, a triangular parcel adjacent to the public school grounds and bounded by Clinton and Arabella Streets was designated Monument Park. The War Memorial was first erected and dedicated at that location. On May 25, 1896, the Veterans' Commission of DeWitt County purchased 206 burial lots for use by veterans and their spouses. Members of Bishop Post, G.A.R., asked that the War Memorial remain a focal point of downtown for as long as the war remained in living memory and then be moved to the newly established veterans' cemetery in tribute to those who had served the Union Cause to be buried there. The lots purchased by the Veterans' Commission were laid out in circular rows in anticipation of the eventual relocation of the War Memorial. In 1965, ceremonies commemorating the 100<sup>th</sup> anniversary of the end of the Civil War were conducted across the nation. The following year, the Civil War Memorial was moved from Monument Park to the center of Soldiers' Circle in accordance with the wishes of Bishop Post. Thirty years later, public donations enabled the statue to be disassembled, thoroughly refurbished and set on a new stone base. The Monument was rededicated in its current location on May 17, 1997. Although the statue commemorates the Civil War, Soldiers' Circle is not dedicated exclusively to veterans of that war. The members of Bishop Post have been joined and are outnumbered by veterans of the nation's later wars. The last to be buried in Soldiers' Circle were veterans of World War II, laid to rest in 1988.

### Veterans' Memorial Area

In 1985, City Council reserved an additional 843 grave sites in Section 6 for use by veterans and their spouses. Representatives of the community's various veterans' organizations planned the Veterans' Memorial Area and raised more than \$60,000 in private donations to construct the improvements. The Veteran's Memorial Area is identified by low stone-capped brick walls marking the corners, a central flagstaff and orderly rows of identical white marble headstones. The first burial in the Veterans' Memorial Area occurred on July 23, 1988. The section remains in active use.

### Section 25, Lot 25

A special white marble headstone marks the grave of Asel Hagerty, the only Medal of Honor recipient buried in Riverside Cemetery. Secretary of War Henry Stanton personally presented The Medal of Honor to Hagerty for valor at the Battle of Saylor's Creek on April 6, 1865. The citation recites that Hagerty was honored for, "capturing the flags from the enemy in the engagements resulting in the surrender of the Army of Northern Virginia".

Asel Hagerty was born in Canada on June 30, 1837. He was paid \$300.00 to enlist as a substitute for another man who had been drafted. On August 12, 1864, he enlisted in Company A, 61<sup>st</sup> New York Infantry, Grand Army of the Republic. He received The Medal of Honor at Washington, D.C., on May 10, 1865, and was discharged from the Army in July, 1865. He died at his home on Riverside Avenue on March 30, 1919. Details about the life and service of Asel Hagerty can be found at the Defiance Public Library and Defiance County Office of Veterans' Affairs.

### **Organizational Plan**

Riverside Cemetery is divided into Sections. Each Section is comprised of numbered burial lots. Cemetery records document the location of each grave by Section and Lot number. Once the Section and Lot number is verified, the grave of anyone buried in Riverside Cemetery can be located. Cemetery maps show the location of the Sections in relation to one another and other identifiable landmarks and each Section is identified by a sign displaying the Section number. Design drawings used to lay-out each Section serve as maps to the lots within that Section. Surveyors' cornerstones delineate the precise boundaries of each numbered lot.

Reference to the surveyors' cornerstones may be the only reliable way to verify the location of an unmarked grave but most graves in Riverside Cemetery are marked. More than 16,000 privately erected family monuments, headstones and markers grace the grounds. Monuments in the older Sections can be confusing because they often appear to be haphazardly arranged. In part, this reflects the once common practice of purchasing a cluster of lots for use by an extended family. A large monument was often erected near the center and headstones or markers placed within the perimeter boundary of the family plot to remember the individuals laid to rest in it. No one may be buried beneath the family monument and the individual headstones may or may not precisely mark the actual resting place of the people they commemorate. Time and weather also contribute to the less than orderly appearance of tombstones in older Sections as heavy monuments installed on insufficient foundations have shifted, settled and occasionally been toppled by freezing and thawing of the ground. Headstones and monuments in newer Sections of the cemetery are more orderly. Lots are arranged in parallel rows. Each lot has a

designated “head” and “foot” and headstones are required to be placed at the head of the lot. This assures that monuments are aligned with those on adjacent lots to form orderly rows. Heavy monuments are now required to be installed on an adequate foundation that extends beneath the frost line to insure that monuments remain up-right and stable.

### **Purpose and Effect of Cemetery Regulations**

Riverside Cemetery is one of the most inspired and inspiring places in the City. Knowledge of soil and climate conditions have been paired with horticultural expertise passed from generation to generation to create a landscape that is enlivened by more than fifty species of trees and acclaimed for its beauty in all seasons. The cemetery records are a repository of the community’s history and the genealogy of its residents. Continual expansion and development bears witness to a century and a half of community growth in population, sophistication and wealth. The grounds are a lasting memorial to those who contributed to that progress. The cemetery exemplifies a tradition of religious tolerance and serves as a constant reminder that religious and other freedoms have been secured by the sacrifices of others on battlefields from Virginia to Vietnam and are preserved by the continuing sacrifices of others around the globe.

Every effort is made to insure that Riverside Cemetery is maintained in a way that provides a dignified memorial to the departed and a contemplative place for recollection and remembrance by the living. These Regulations are part of that effort. They forbid activities that are acceptable on public lands devoted to recreational or commercial pursuits but likely to disrupt the privacy or endanger the safety of others in the unique setting of a cemetery. For example, lanes have been installed so that people may travel within the cemetery without trampling the lawns or disturbing the grave side meditations of others. The Regulations set a speed limit of 10 MPH and forbid the use of roller skates. The restrictions assure the lanes may be safely used by pedestrians, some of whom will undoubtedly be distracted by grief, keep engine noise to a minimum and distinguish the cemetery from recreational parks by prohibiting an activity that often leads to boisterous behavior that is inoffensive elsewhere but disturbing to a person in mourning. Cemetery rules of this kind have the same effect as municipal Ordinances and are punishable as any violation of Ordinance.

Other Regulations are intended to enhance the cemetery itself. For example, lots have been laid out so that Monuments will be aligned in orderly rows. This maximizes the area that can be mowed, minimizes the amount of hand trimming needed to maintain the grounds and improves the appearance of the cemetery by facilitating a higher standard of maintenance than would otherwise be attainable. The Regulations require that monuments and decorations be located within the “Monument Row” to preserve the benefits of the design. The burial rights conveyed by a Cemetery Deed are conditioned on compliance with rules of this type. Headstones, markers and other decorations that do not conform to the Regulations are not authorized by the deed and may be removed at the owner’s expense.

Valid reasons exist for all of the Regulations. Compliance with them is both required and sincerely appreciated.

## **REGULATION I PURCHASE AND TRANSFER OF CEMETERY LOTS**

A Cemetery Deed should not be confused with deeds that are used to buy and sell real estate. A Cemetery Deed does not transfer ownership of land. It is a special kind of deed that grants the purchaser an easement. An easement is a legal right to use land owned by another for a designated purpose. In the case of a Cemetery Deed, the easement entitles the purchaser to use the publicly owned land described in the deed for burial of human remains.

Riverside Cemetery is municipally-owned. All land in the cemetery is public property. When a cemetery lot is sold, the government issues a Cemetery Deed. This Cemetery Deed does not grant the purchaser ownership of the lot. The lot remains public land and the purchaser acquires the right to use that public land for burial of human remains. The easement to use the land for burial purposes is subject to various State laws, the Ordinances of the City and any Cemetery Regulations that may be adopted.

This difference between a Cemetery Deed and deeds used to convey ownership of land has practical significance. Most importantly, because ownership of the land is not transferred, the duty to maintain it remains with the government. This assures the purchaser that the grave will be cared for after the purchaser and purchaser's descendants have died. It also means that the government can adopt rules and regulations pertaining to the decoration of graves to facilitate maintenance at a reasonable cost.

Another important difference concerns resale of the Cemetery Lot. When a house, farm or other land is sold, the Deed conveying ownership of the land is recorded in the County Recorder's office. This establishes the purchaser's ownership and right to transfer that ownership to someone else by sale or gift. Because a Cemetery Deed does not affect the actual ownership of a cemetery lot, the Cemetery Deed is not recorded with the County Recorder. All records documenting the identity of the person who is entitled to use the easement for burial purposes created by the Cemetery Deed are maintained by the municipality. If the person to whom a Cemetery Deed is issued wishes to sell the easement, he or she cannot simply prepare a deed and deliver it to the purchaser as one might do if selling a house or farm. Instead, the City must be notified of the transfer and the municipal records must be changed to correctly identify the person who has acquired the burial rights. In Defiance, this has traditionally been done by cancelling the original Cemetery Deed and issuing an entirely new Cemetery Deed to the person who has purchased the easement. These Regulations require that this long standing practice be continued and provide specific instructions as to how the transaction is to be accomplished under various circumstances.

Ohio Law requires municipalities to provide for the burial of indigent municipal residents. These regulations are intended to fulfill that obligation.

The following Rules are established with respect to the purchase and transfer of burial rights in Riverside Cemetery:

General Requirements for Issuance of Cemetery Deeds

1. In the exercise of powers conferred by Sections 137.03 and 137.06 of the Codified Ordinances, the City Administrator shall determine the price of cemetery lots in accordance with the standards of Ohio Revised Code Section 759.13, shall adjust the prices from time to time as necessary to provide for maintenance and embellishment of the cemetery. The price charged non-residents of the municipality shall include a surcharge in an amount proportional to general municipal tax revenues expended to provide for the maintenance and embellishment of the grounds. For purposes of this Regulation, “non-resident” means a purchaser of burial rights who is not legally domiciled in the City of Defiance on the date of purchase. No surcharge shall be imposed on a non-resident purchasing a burial lot for immediate burial of a person domiciled in the municipality on the date of death.
2. The City Administrator’s determination of the price of cemetery lots and the amount of any non-resident surcharge to be imposed shall be approved by the Board of Control and a schedule of the approved charges shall be posted in the administrative office of Riverside Cemetery and on the municipal website for 7 days before any change takes effect. In the event an undeeded cemetery lot is provided for immediate interment of a municipal resident, the price charged for the Cemetery Deed shall be the price in effect on the date of burial.
3. No Cemetery Deed shall be issued for any lot until all charges established for that lot in accordance with paragraphs 1 and 2 of this Regulation have been fully paid.
4. The City Administrator shall designate employees authorized to issue receipts evidencing payment of the lot price and any surcharge. The City Administrator shall insure the City against loss resulting from the loss or misappropriation of funds by employees authorized to receive payments and no bond shall be required of those employees.

Requirements for Issuance of Cemetery Deeds to Lots in Section 6

5. Honorably Discharged veterans of the Armed Forces of the United States, any reserve component of the Armed Forces of the United States or the National Guard of any State or Territory of the United States shall be eligible for burial in the Veterans’ Memorial Area. For purposes of this regulation, a General Discharge under honorable conditions shall be deemed an Honorable Discharge.
6. The right to burial in Section 6 shall be denied any veteran who has been convicted of Subversive Activity against the United States or convicted of a Capital Crime for which a sentence of death or life imprisonment without possibility of parole has been imposed and any veterans who has avoided conviction of such offenses by flight to avoid prosecution.
7. No Cemetery Deed shall be issued to any lot in Section 6 for reburial of disinterred remains. This prohibition may be waived by the City Administrator if the deed is requested by the U.S. Department of Defense, the Commanding Officer of the National Guard of any State or Territory of the United States or the Defiance County Office of

Veterans' Affairs and for just cause in other cases with prior approval of the Veteran's Memorial Section Cemetery Perpetual Care Committee.

8. A Cemetery Deed to one lot in Section 6 shall be issued without charge to the surviving spouse or personal representative of a veteran eligible for burial in the Veterans' Memorial Section under Paragraphs 5-7 of this Regulation.
9. All lots in Section 6 shall Cemetery Deeds be deeded in sequential order. Cemetery Deeds issued pursuant to Paragraph 8 shall be issued only at the time of need.
10. At the time a Cemetery Deed is issued to facilitate immediate burial of an eligible veteran, a Cemetery Deed to the next adjacent lot may be issued without charge to the surviving spouse of the deceased veteran. Except as provided in this Paragraph, no lot in the Veterans' Memorial Area may be reserved in advance of use.
11. In the event a Cemetery Deed is issued pursuant to Paragraph 8 to enable immediate burial of a widowed veteran whose spouse has been cremated, a Cemetery Deed may be issued without charge to the lot immediately adjacent to the lot on which the widowed veteran is to be interred to enable burial of the spouse's remains. Alternatively, and in accordance with the deceased veteran's wishes, the ashes of a deceased spouse may be buried on the lot assigned for the veteran's burial.
12. The burial of a spouse to whom a Cemetery Deed has been issued pursuant to Paragraph 10 at any location other than the lot described by that deed shall be deemed conclusive evidence of the spouse's intent to abandon the burial easement. The Cemetery Deed issued to such spouse shall be cancelled and the lot described therein shall be deeded for use to the first eligible veteran on whose behalf application for burial is made following the City's receipt of notice of internment of the spouse at such other location.

*Issuance, Recording and Transfer of Cemetery Deeds*

13. Upon presentation of receipts evidencing payment of all established charges required by Paragraphs 1-3 of this Regulation, a Cemetery Deed shall be issued to the person from whom payment was received as evidenced by the receipt(s) or to such other person as that person may designate in writing.
14. Upon presentation of satisfactory evidence of eligibility for burial in Section 6 a Cemetery Deed shall be issued to the surviving spouse or personal representative of the veteran.
15. The Cemetery Deed shall describe the lot or lots to which the burial easement is granted by Section Number and Lot Number and shall be executed by the Cemetery Clerk and Mayor before two witnesses and acknowledged before a notary public. In the absence of the Mayor, the Cemetery Deed may be executed by the City Administrator, City Finance Director or City Law Director.

16. The Cemetery Clerk shall retain the Cemetery Deed and enter it in the Registry. A certified copy of the Cemetery Deed shall be delivered to the Grantee.
17. The Cemetery Deed Registry shall be conclusive evidence of the identity of the person entitled to exercise the burial easement granted by the Cemetery Deed and the price paid for the easement. No assignment of the easement shall be recognized or effective until the transfer is approved by a Member of the Municipal Board of Control. Upon such approval, the original Cemetery Deed shall be cancelled and a new Cemetery Deed shall be issued to the assignee and entered in the Registry. No Member of the Board of Control shall approve an assignment if the price paid by the assignee is greater than the price paid by the original purchaser. A reasonable service charge, not to exceed \$20.00, shall be imposed for the cancellation of an existing Cemetery Deed and issuance of a substitute Cemetery Deed pursuant to this Regulation.
18. Death of the Grantee named in the Cemetery Deed shall not extinguish the easement for burial purposes and interment of Grantee's remains at a location other than the lot described by the Cemetery Deed shall not, in and of itself, establish abandonment of the easement by the Grantee.
19. In the event the remains of the Grantee are interred at a place other than the burial lot described by the Cemetery Deed, the burial easement conveyed by the Cemetery Deed may be donated to the municipality and the deed cancelled upon receipt of written instructions of the Grantee's personal representative. No charge shall be imposed for the cancellation. Alternatively, the Cemetery Deed issued to the Grantee shall be cancelled and a substitute Cemetery Deed issued to the person or persons identified by directions given to the Cemetery Clerk by the Grantee's personal representative. Such assignment shall be made in the same manner and on the same terms as are provided by Paragraph 17 for assignment of the burial easement at the direction of the Grantee.
20. In the event the personal representative of a deceased Grantee of a Cemetery Deed who has been interred elsewhere should fail to take one of the actions authorized by paragraphs 18 and 19, the Cemetery Deed issued to such Grantee shall be cancelled and a substitute Cemetery Deed issued to the person or persons entitled to the same under general laws of inheritance upon application of any person named in the Last Will and Testament of the deceased Grantee or any person who claims to be an heir of the deceased Grantee under the Statute of Descent and Distribution. The City Law Director shall determine the person or persons entitled to be named as the Grantees in such deed under general laws of inheritance. It shall be the applicant's responsibility to provide all information reasonably required to establish the identity of those to whom the easement has passed under general law. The fee for cancellation of an existing Cemetery Deed and issuance of a substitute Cemetery Deed pursuant to this Paragraph shall be \$50 plus all costs and expenses actually incurred by the municipality to ascertain the identity of the Grantee or Grantees to be named in the substitute Cemetery Deed. In the event the Law Director determines that the identity of the Grantee or Grantees cannot be conclusively established without litigation, a deposit in the amount of the anticipated costs of such

proceeding, including reasonable attorney's fees, shall be posted before action is taken to determine the identity of the Grantee or Grantees.

21. In the event no person makes application for issuance of a substitute Cemetery Deed in the manner required by Paragraph 20 within 21 years following the date of the original Grantor's interment, the easement shall be deemed to have been abandoned by the Grantee and Grantee's legatees, devisees and heirs-at-law and the Cemetery Deed issued to the Grantee shall be cancelled..
22. Cemetery Deeds issued by the City of Defiance are granted subject to use of at least one lot described by the deed within 50 years following the date of issuance. The 50 year period may be extended without cost by giving written notice of the Grantee's continuing intent to use the easement to the Cemetery Clerk before expiration of the 50 year period. In the event such notice is given, the time within which the easement must be used shall be extended for an additional period of 50 years commencing on the date of receipt of the notice. Non-use of the burial easement prior to the expiration of the 50 year period or extension thereof shall result in cancellation of the Cemetery Deed and all rights conveyed by that Cemetery Deed shall lapse. An easement for burial purposes that is exercised by the burial of human remains on any part of the land described by the Cemetery Deed shall, subject to general laws, exist in perpetuity.

## **REGULATION II BURIALS**

23. For purposes of this regulation, "municipal resident" means a deceased person legally domiciled in the City of Defiance on the date of death.
24. In cases of immediate need, a cemetery lot shall be provided for burial of a municipal resident without pre-payment of the established price of the lot and without issuance of a Cemetery Deed. Internment shall not otherwise be permitted on any lot for which a Cemetery Deed has not been issued.
25. No internment shall be made without a burial permit.
26. Normal burial times shall be during municipal business hours Monday through Friday and before 1:00 o'clock PM on Saturday, legal holidays excepted.
27. In the exercise of powers conferred by Sections 137.03 and 137.06 of the Codified Ordinances, the City Administrator shall determine appropriate charges for municipal services relating to the opening and closing of graves and shall adjust such internment charges from time to time as necessary to provide for operation of the cemetery. Scheduled internment charges shall include a surcharge for the performance of services outside normal burial times in amounts sufficient to reimburse the City for all reasonably anticipated overtime labor expenses.

28. The City Administrator's determination of internment charges and surcharges shall be approved by the Board of Control and a schedule of the approved charges shall be posted in the administrative office of Riverside Cemetery and on the municipal website for 7 days before any change takes effect. Subject to general laws pertaining to the burial of indigents, scheduled charges shall be collected for the performance of all internment services including those relating to the burial of veterans and their spouses in Section 6.
29. The City Administrator shall designate employees authorized to issue receipts evidencing payment of internment charges levied pursuant to this Regulation and shall insure the City against loss resulting from loss or misappropriation of funds by such employees. No additional bond shall be required of those employees.
30. Opening and closing of graves and the time at which grave site services may be held shall be at the direction of the Cemetery Sexton. Burials may be performed outside normal burial hours, including Sundays and holidays, with prior approval of the Cemetery Sexton and payment of the appropriate surcharge. No services shall be performed on Thanksgiving Day or Christmas Day.
31. Funeral Directors making burial arrangements shall be deemed duly authorized agents of the owner of the burial easement and personal representative of the deceased and shall assume financial responsibility for all costs associated with errors in the location of graves or burial lots resulting from inaccurate instructions to cemetery personnel.
32. Funeral Directors making burial arrangements shall be financially responsible for timely payment of all internment charges for municipal services rendered at the Funeral Director's request. Funeral Directors maintaining a place of business in the City of Defiance may elect to be billed monthly for internment charges incurred for services rendered at their direction. Internment charges incurred for services rendered at the direction of a Funeral Director who does not maintain a place of business in the City of Defiance shall be paid at or before the time of burial.
33. Only one body may be interred on a cemetery lot. The cremated remains of one individual may be buried on a lot occupied by a human body. The cremated remains of up to four individuals may be buried on a single cemetery lot that is not occupied by the remains of a body buried without cremation.
34. The contractor engaged to install a vault shall be solely responsible for the proper setting of the vault and all work incidental thereto. The contractor shall employ adequate planking to protect the turf and shall remove all equipment, materials and rubbish immediately upon completion of the work. The contractor shall be financially responsible for all damage done to cemetery grounds and improvements directly or indirectly resulting from the contractor's activities.

### **REGULATION III MONUMENTS AND MARKERS**

35. As used in this regulation, the term “Monument” refers to any permanent memorial of stone or other material set perpendicular to the surface of the ground.
36. As used in this regulation, the term “Marker” refers to any permanent memorial of stone, concrete or other material that is set parallel to and flush with the surface of the ground.
37. No Monument, Marker or other permanent memorial shall be erected, and no foundation for such an improvement shall be installed on any lot for which a Cemetery Deed has not been issued. This rule shall not be construed to prohibit the decoration of an unmarked grave with cut flowers or other ornamentation permitted by these Regulations.
38. All monuments shall be set at the head of the burial lot (not grave).
39. All markers shall be set at the foot of the burial lot (not grave).
40. Only one monument shall be permitted on any lot.
41. All monuments and markers shall be set on a concrete foundation installed by an approved contractor. No concrete shall be mixed on cemetery grounds. Ready mix shall be obtained from a reputable supplier and shall conform to product specifications generally employed in the residential construction industry for poured concrete structural foundations installed in like weather conditions.
42. The Sexton shall determine the minimum depth, length and width of the foundation reasonably required to support a monument weighing less than 75 pounds and the minimum depth, length and width of the foundation reasonably required to support any marker. The Sexton’s determination shall be based on soil composition, drainage characteristics of the lot on which the monument or marker is to be installed, weight and material composition of the proposed memorial and, if a monument, the height, length, breadth and geometric stability of the proposed memorial. The Sexton’s determination shall establish the minimum specifications that must be met to obtain municipal permission to install the proposed monument or marker and shall not prohibit the installation of a more substantial foundation nor be construed as a recommendation to install a less substantial foundation. Any person who believes the Sexton has required the installation of a more costly foundation than is reasonably required to support the proposed memorial may request review of the Sexton’s determination by the City Administrator. The City Administrator’s determination shall be final.
43. Foundations installed to support a monument weighing 75 or more pounds shall be eight or more inches longer than the width of the proposed monument, eight or more inches wider than the thickness of the proposed monument and shall extend at least 36" below the established grade of the cemetery lot on which it is installed. The specifications of

this paragraph are the minimum specifications that must be met to obtain municipal permission to install the proposed monument and do not prohibit the installation of a more substantial foundation.

44. Foundations shall terminate at least 4" short of the boundary line defining each side of the lot on which the foundation is installed. If the Cemetery Deed describes two or more adjacent burial lots, all interior lot lines shall be disregarded for the purposes of this Paragraph and the adjacent lots shall be deemed a single lot.
45. Foundation forms shall be inspected by the Sexton, or by a municipal employee designated by the Sexton, to verify compliance with all requirements of Paragraphs 41-44 of this Regulation prior to the installation of concrete.
46. Monuments shall be sized with reference to the length and width of the foundation on which they are to be installed and shall leave at least 4" of foundation uncovered on all sides of the monument base.
47. Monuments shall be centered on the foundation.
48. All work undertaken by contractors engaged to form foundations and all work undertaken by monument companies to set and install monuments and markers shall be conducted during municipal business hours. Contractors and monument suppliers shall report to the Sexton prior to commencement of work and may be temporarily excluded from the grounds if, in the opinion of the Sexton, the proposed work will interfere with a scheduled funeral or the opening of a grave in preparation for a scheduled funeral.

*Monuments and Markers in Section 6*

49. No monument other than a government-issued white marble headstone shall be installed on a veteran's grave in Section 6. In the event the crematory remains of the veteran's spouse are buried on the same lot as the veteran's remains, the spouse's personal information may be engraved on the face of the stone opposite to the face on which the veteran's information is displayed.
50. No monument other than a white marble headstone identical to those issued by the United States' government for use on a veteran's grave shall be installed on the grave of a veteran's spouse.

*Responsibility for Payment of Costs of Monuments and Markers*

51. The City shall pay all costs, including foundation costs, incurred to install the government-issued headstone at the grave of a veteran buried in Section 6.
52. Except as provided in Paragraph 51, the City shall have no financial responsibility for payment of any cost incurred to procure, engrave or set any monument or marker in Riverside Cemetery.

*Removal of Non-compliant Monuments and Markers*

53. Monuments and markers not set in accordance with these regulations may be removed at the owner's expense.

**REGULATION IV  
CARE AND DECORATION OF LOTS**

54. The City will establish, and from time to time may alter, the grade of land in Riverside Cemetery, including that of cemetery lots, as necessary to provide for proper drainage or otherwise efficiently conduct cemetery operations.
55. Following burial, the City shall level the burial lot to grade and seed and maintain the lot. Additional material shall not be added by the Grantee of the Cemetery Deed or any other person to create a mound or otherwise elevate the lot above the grade established by the city.
56. No fence, edging, curb, hedge or other structure or planting shall be installed to create a barrier or to mark the location of a grave or the boundaries of a cemetery lot.
57. Permanent plantings are not permitted on grave sites. With prior permission of the Sexton, urns may be placed within the Monument Row for cultivation of flowering plants.
58. Decorative items may be placed within the monument row. Chairs, benches, statuary, urns and other decorations too large to be accommodated within the monument row may be installed with prior approval of the Sexton. Approval may be conditioned on installation of a proper foundation conforming to such specifications as to depth, length, width and composition as the Sexton may reasonably require. The Sexton may refuse permission to install or remove any item that, in the opinion of the Sexton: constitutes a commercial advertisement, depicts a profane or obscene subject, contains profane or obscene language or by words or illustration is purposely critical of or insulting to any person buried in the cemetery or the next of kin of any such person. Any person who believes the Sexton has unreasonably refused permission to install or removed a decorative item or has required the installation of a more costly foundation than is reasonably required to support the decoration may request review of the Sexton's determination by the City Administrator. The City Administrator's determination shall be final. As used in this rule, "monument row" means the strip of land at the head of a cemetery lot bounded by the front and back lines of the monument foundation and sidelines of the lot. If the Cemetery Deed describes two or more adjacent lots, interior sidelines shall be disregarded and the adjacent lots shall be deemed a single lot. If there is no monument foundation on the lot, the width and alignment of the monument row shall be shall be determined by extending the front and back lines of the foundation on the nearest lot to either side on which a foundation has been installed.

59. Decorative items installed without prior permission of the Sexton may be removed and disposed of without prior notice.
60. Decorative items shall be removed from the cemetery and disposed of without notice if not maintained to such a degree that they become, in the opinion of the Sexton, potentially dangerous or unsightly.

*Decorations in Section 6*

61. One universal flag holder will be provided to the grave of each veteran buried in Section 6 without charge. The flag holder may be modified or replaced by a substitute flag holder at private expense to display the insignia of the branch of service or military unit in which the deceased veteran served and/or the insignia of professional or civic organizations to which he or she belonged but all such memorabilia must be displayed from the rod of a single flag holder. Flags of the United States shall be flown from each flag holder from May through November each year.
62. No decoration other than a flag holder conforming to the requirements of Paragraph 62 and the American Flag flown from it shall be permitted in Section 6. This prohibition is absolute and forbids the installation of seats or benches, statuary, plants, cut flowers and wreaths. No decoration of any kind shall be laid upon or attached to a headstone in Section 6.

*Responsibility for Personal Property on Cemetery Grounds*

63. All personal property of any description, including, without limitation: all monuments, markers and decorative items are installed, placed or left on cemetery grounds at the risk of the person who has brought them onto the cemetery grounds. The City cannot and does not insure the safety of such property against theft, damage by vandals or loss to natural or other causes. The City will not assume financial responsibility for the loss of or damage to any such item unless it is established by clear and convincing evidence that the loss of or damage was directly caused by the negligence or willful misconduct of a municipal employee.
64. Each spring the City clears the cemetery of decorative items in order to prepare the grounds for the Memorial Day Holiday and summer use. Notice of the date the cemetery will be cleared of Christmas and other decorations will be posted at the Cemetery Entrance and published in the *Defiance Crescent News*. Any personal property remaining on the grounds after the published date shall be deemed abandoned and may be removed and disposed of without further notice.

## **REGULATION V: DISINTERMENT**

65. Disinterments shall be permitted only in accordance with statutory requirements.
66. All disinterments not pursuant to Court order shall be directed by a licensed funeral director.
67. In the exercise of powers conferred by Sections 137.03 and 137.06 of the Codified Ordinances, the City Administrator shall determine appropriate charges for municipal services relating to the opening and closing of graves and shall adjust such disinterment charges from time to time as necessary to provide for operation of the cemetery. Scheduled charges shall include a surcharge for the performance of services outside normal burial times in amounts sufficient to reimburse the City for all reasonably anticipated overtime labor expenses. All expenses incurred for contracted services associated with raising or opening a vault shall be in addition to the scheduled charges imposed for services provided by municipal personnel.
68. The City Administrator's determination of disinterment charges and surcharges shall be approved by the Board of Control and a schedule of the approved charges shall be posted in the administrative office of Riverside Cemetery and on the municipal website for 7 days before any change takes effect.
69. The City Administrator shall designate employees authorized to issue receipts evidencing payment of disinterment charges levied pursuant to this Regulation and shall insure the City against loss resulting from loss or misappropriation of funds by such employees. No additional bond shall be required of those employees.
70. Opening and closing of graves shall be at the direction of the Cemetery Sexton and, in the absence of a Court order specifying the time or date, shall be performed at the convenience of the City.
71. Funeral Directors making arrangements for the disinterment of any body shall be deemed duly authorized agents of the owner of the burial easement and personal representative or next of kin of the deceased and shall assume financial responsibility for all costs associated with errors in the location of graves resulting from inaccurate instructions to cemetery personnel.
72. Funeral Directors making disinterment arrangements shall be responsible for timely payment of all charges for municipal services rendered at the Funeral Director's request. Funeral Directors maintaining a place of business in the City of Defiance may elect to be billed monthly for charges for services rendered at their direction. Disinterment charges incurred for services rendered at the direction of a Funeral Director who does not maintain a place of business in the City of Defiance shall be paid at or before the time the services are rendered.

**REGULATION VI**  
**CONDUCT ON CEMETERY GROUNDS**

73. The cemetery is open for daily public use beginning one-half hour before sunrise and ending one hour after sunset. No person shall enter or remain on cemetery grounds during the hours the cemetery is not open to public use. Violators shall be subject to prosecution for criminal trespass.
74. No person shall enter the cemetery except through established entries providing vehicular access from South Clinton Street. Violators shall be subject to prosecution for criminal trespass.
75. Possession or use of alcohol or any drug of abuse is forbidden on cemetery grounds. Violators shall be subject to prosecution for criminal trespass in addition to any other applicable criminal charges.
76. No person shall enter or remain on cemetery grounds while under the influence of alcohol or a drug of abuse. Violators shall be subject to prosecution for criminal trespass.
77. No person shall allow a domesticated pet to run at large on cemetery grounds. Violators shall be subject to prosecution for criminal trespass in addition to criminal or civil sanctions imposed for violating statutes, ordinances or health regulations requiring the confinement or supervision of such animals.
78. No person shall walk a dog, cat or other domesticated animal on cemetery grounds. Pets brought onto cemetery grounds must remain confined in a motor vehicle. Guide dogs and other service animals actually employed to aid a person suffering from disabilities are exempt from this prohibition. Violators shall be subject to prosecution for criminal trespass.
79. Use of loud, profane, or taunting language on cemetery grounds shall be presumed to be cause inconvenience, annoyance or alarm to others and shall subject the offender to prosecution for disorderly conduct.
80. Use of skateboards and roller blades on cemetery grounds is prohibited. Violators shall be subject to prosecution for criminal trespass.
81. Defacing any monument, marker or other property within the cemetery grounds shall not be tolerated. Felony prosecution shall be instituted for vandalism in every case in which the conduct attributed to the violator is sufficient to sustain that charge and all other cases shall be subject to prosecution for criminal damaging and/or theft as the City Law Director deems appropriate. Picking live flowers from any tree, shrub or plant incorporated into the cemetery landscape and maintained by municipal personnel will be deemed to be defacing public property. Removing live or cut flowers from any grave other than in the course of maintenance of that grave by a person assuming legitimate responsibility for its decoration or care shall be deemed to be an act of theft.

82. Disposal of dried or spent flowers other than by depositing them in a public waste receptacle shall be deemed littering and shall be prosecuted as such.
83. No person shall run, walk, jog or drive a vehicle through a funeral procession or directly past a funeral service in progress. Such conduct shall be conclusively presumed to cause annoyance, inconvenience or alarm to others and shall subject the offender to prosecution for disorderly conduct.
84. Public demonstrations, other than funeral and memorial services, shall not be conducted on cemetery grounds without prior written approval of the Sexton. The determination to grant or refuse approval shall be made by the Sexton after appropriate consultation with the City Law Director and shall be made in accordance with general law. Any permit issued to authorize the conduct of a demonstration may restrict the time and place of the demonstration as needed to accommodate scheduled funerals. Any applicant who is denied a permit or is granted a permit containing restrictions that are unacceptable to the applicant shall seek judicial review of the determination. The conduct of a demonstration without making application for a permit, in violation of any restriction as to time and place contained in the permit or despite denial of the permit without first seeking judicial review of the denial shall be subject to prosecution for criminal trespass.
85. All traffic laws of the State of Ohio and traffic Ordinances of the City of Defiance shall be strictly enforced on cemetery grounds. The speed limit on all roads and lanes within the cemetery grounds shall be 10 miles per hour. Operation of any vehicle at a greater speed shall subject the violator to prosecution under general Ordinances relating to operation of a vehicle in excess of a posted speed limit. U-turns are prohibited on all cemetery roads and lands and any violation of this prohibition shall be prosecuted under general Ordinances.
86. No person shall use a cemetery road or lane for through travel without intention to stop for legitimate purposes within cemetery grounds. Violators shall be subject to prosecution for criminal trespass
87. Vehicles shall not be parked within the lanes in such a manner as to block the passage of other vehicles. Violators shall be subject to prosecution for obstruction of a public right of way in accordance with general Ordinance. Vehicle operators who desire to park the vehicle for legitimate purposes within the cemetery shall drive to the side of the lane and are authorized to drive onto the turf adjacent to the pavement. Except as provided in this Paragraph, any operation of a vehicle other than on the paved surfaces of the cemetery lanes and roads is forbidden and violators shall be subject to prosecution for criminal trespass.