Summary of Statutory Requirements for Cemeteries
Based on Iowa Code, Chapter 523I

Note: This document is intended for use by township or association owned cemeteries that do not have perpetual care funds nor sell cemetery merchandise or services.

Note: This document is based on the premise that the cemetery owners do not sell land, but that they sell the right to be buried on a specific piece of land (interment rights).

STATUTORY REQUIREMENTS

Prohibitions (523I.307)

1. It shall be unlawful for any organization subject to the provisions of this chapter to deny the privilege of interment of the remains of any deceased person in any cemetery solely because of the race, color, or national origin of such deceased person.

2. Any contract, agreement, deed, covenant, restriction, or charter provision at any time entered into, or bylaw, rule, or regulation adopted or put in force, either subsequent or prior to July 4, 1953, authorizing, permitting, or requiring any organization subject to the provisions of this chapter to deny such privilege of interment because of race, color, or national origin of such deceased person is hereby declared to be null and void and in conflict with the public policy of this state.

3. An organization subject to the provisions of this chapter or any director, officer, agent, employee, or trustee thereof, shall not be liable for damages or other relief, or be subjected to any action in any court of competent jurisdiction for refusing to commit any act unlawful under this chapter.

Disclosure of Prices and Fees (532I.301)

1. A cemetery shall disclose, prior to the sale of interment rights:
   a. Whether opening and closing of the interment space is included in the purchase of the interment rights.
   b. If opening and closing services are not included in the sale and the cemetery offers opening and closing services,
      i. the cemetery must disclose that the price for this service is subject to change and
      ii. disclose the current prices for opening and closing services provided by the cemetery.

2. The Cemetery shall fully disclose all fees required for interment, entombment, or inurnment of human remains.
   (Note: a sample “Fees” document is available for viewing and/or download from the Jasper County Cemetery Commission web site at iagenweb.org/jasper/cemeteries/pioneer/legal)

3. A person owning interment rights may sell those rights to third parties.
   a. The cemetery shall fully disclose, in the cemetery's rules, any requirements necessary to transfer title of interment rights to a third party.
   (Note: a sample “Ownership Transfer Certificate” document is available at the Iowa Insurance Division or for viewing and/or download from the Jasper County Cemetery Commission web site at iagenweb.org/jasper/cemeteries/pioneer/legal)
Sale of Interment Rights (532I.310)

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall issue a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price.

2. The interment rights in an interment space that is conveyed by a certificate of ownership or other instrument shall not be divided without the consent of the cemetery.

3. A conveyance of exclusive rights of interment shall be filed and recorded in the cemetery office. Any transfer of the ownership of interment rights shall be filed and recorded in the cemetery office. The cemetery may charge a reasonable recording fee to record the transfer of interment rights.

Disclosure Requirements – Interment Agreements. (523I.312)

1. Each nonperpetual care cemetery shall have printed or stamped at the head of all of its contracts, deeds, statements, letterheads, and advertising material, the legend: "This is a nonperpetual care cemetery", and shall not sell any lot or interment space in the cemetery unless the purchaser of the interment space is informed that the cemetery is a nonperpetual care cemetery.

2. An agreement for interment rights under this chapter shall be written in clear, understandable language and do all of the following:
   a. Identify the seller and purchaser.
   b. Identify the salesperson.
   c. Specify the interment rights to be provided and the cost of each item.
   d. State clearly the conditions on which substitution will be allowed.
   e. Set forth the total purchase price and the terms under which it is to be paid.
   f. State clearly whether the agreement is revocable or irrevocable, and if revocable, which parties have the authority to revoke the agreement.
   g. State the amount or percentage of money to be placed in the cemetery's care or maintenance fund.
   h. If the cemetery has a care fund, set forth an explanation that the care fund is an irrevocable trust, that deposits cannot be withdrawn even in the event of cancellation, and that the trust's income shall be used by the cemetery for its care.
   i. Set forth an explanation of any fees or expenses that may be charged.
   j. Set forth an explanation of whether amounts for perpetual care will be deposited in trust upon payment in full or on an allocable basis as payments are made.
   k. Set forth an explanation of whether initial payments on agreements for multiple items of funeral and cemetery merchandise or services, or both, will be allocated first to the purchase of an interment space. If such an allocation is to be made, the agreement shall provide for the immediate transfer of such interment rights upon payment in full and prominently state that any applicable trust deposits under chapter 523A will not be made until the cemetery has received payment in full for the interment rights. The transfer of an undeveloped interment space may be deferred until the interment space is ready for interment.
   l. If the transfer of an undeveloped interment space will be deferred until the interment space is ready for interment as permitted in paragraph "k", the agreement shall provide for some form of written acknowledgement upon payment in full, specify a reasonable time period for development of the interment space, describe what happens in the event of a death.
prior to development of the interment space, and provide for the immediate transfer of the interment rights when development of the interment space is complete.

m. Specify the purchaser's right to cancel and the damages payable for cancellation, if any.

n. State the name and address of the commissioner.

o. Written inquiries or complaints should be mailed to: Iowa Securities and regulated Industries Bureau, 330 Maple Street, Des Moines, Iowa 50319.

(Note: a sample “Certificate of Interment” document is available at the Iowa Insurance Division or for viewing and/or download from the Jasper County Cemetery Commission web site at iagenweb.org/jasper/cemeteries/pioneer/legal.)

Records of Interment Rights and Interment (532I.311)

1. For sales or transfers of interment rights made on or after July 1, 2005, a cemetery shall keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:
   a. The date the remains are interred.
   b. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

2. For interments made on or after July 1, 2005, a cemetery shall keep a record of each interment in a cemetery. The records shall include all of the following:
   a. The name and last known address of each owner or previous owner of interment rights.
   b. The date of each purchase or transfer of interment rights.
   c. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

3. (Note: Samples to satisfy these requirements can be viewed and/or download from the Jasper County Cemetery Commission web site at iagenweb.org/jasper/cemeteries/pioneer/legal.)

GOOD MANAGEMENT PRACTICES

Rulemaking (523I.304)

1. A cemetery may adopt, amend, and enforce rules for the use, care, control, management, restriction, and protection of the cemetery, as necessary for the proper conduct of the business of the cemetery, including, but not limited to, the use, care, and transfer of any interment space or right of interment.

2. A cemetery may restrict and limit the use of all property within the cemetery by rules that do, but are not limited to, the following:
   a. Prohibit the placement of memorials or memorialization, buildings, or other types of structures within any portion of the cemetery.
   b. Regulate the uniformity, class, and kind of memorials and memorialization and structures within the cemetery.
   c. Regulate the scattering or placement of cremated remains within the cemetery.
   d. Prohibit or regulate the placement of nonhuman remains within the cemetery.
   e. Prohibit or regulate the introduction or care of trees, shrubs, and other types of plants within the cemetery.
   f. Regulate the right of third parties to open, prepare for interment, and close interment spaces.
   g. Prohibit interment in any part of the cemetery not designated as an interment space.
h. Prevent the use of space for any purpose inconsistent with the use of the property as a cemetery.

3. A cemetery shall not adopt or enforce a rule that prohibits interment because of the race, color, or national origin of a decedent. A provision of a contract or a certificate of ownership or other instrument conveying interment rights that prohibits interment in a cemetery because of the race, color, or national origin of a decedent is void.

4. A cemetery's rules shall be plainly printed or typewritten and maintained for inspection in the office of the cemetery or, if the cemetery does not have an office, in another suitable place within the cemetery. The cemetery's rules shall be provided to owners of interment spaces upon request.

5. A cemetery's rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorialization are damaged or defaced by acts of vandalism.
   a. The rules may specify a multiyear restoration of an interment space, or a memorial or memorialization when the damage is extensive or when money available from the cemetery's trust fund is inadequate to complete repairs immediately.
   b. The owner of an interment space, or a memorial or memorialization that has been damaged or defaced shall be notified by the cemetery by restricted certified mail at the owner's last known address within sixty days of the discovery of the damage or defacement.
   c. The rules shall specify whether the owner is liable, in whole or in part, for the cost to repair or replace an interment space or a damaged or defaced memorial or memorialization.

6. The cemetery shall not approve any rule which unreasonably restricts competition, or which unreasonably increases the cost to the owner of interment rights in exercising these rights.

(Note: Sample rules and regulations can be viewed and/or download from the Jasper County Cemetery Commission web site at igenousweb.org/jasper/cemeteries/pioneer/legal.

Memorial and Memorialization (5231.305)

1. Authorization. A cemetery is entitled to determine whether a person requesting installation of a memorial is authorized to do so, to the extent that this can be determined from the records of the cemetery, as is consistent with the cemetery’s rules.

   The owner of an interment space or the owner’s agent may authorize a memorial dealer or independent third party to perform all necessary work related to preparation and installation of a memorial.

2. Conformity with cemetery rules. A person selling a memorial shall review the rules of the cemetery where the memorial is to be installed to ensure that the memorial will comply with those rules prior to ordering or manufacturing the memorial.

3. Specifications. Upon request, a cemetery shall provide reasonable written specifications and instructions governing installation of memorials, which shall apply to all installations whether performed by the cemetery or another person.