

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADDING A NEW)	ORDINANCE NO. 04-1038A
CHAPTER 10.04 "PIONEER CEMETERIES" TO)	
METRO CODE TITLE X - REGIONAL PARKS)	
AND GREENSPACES PROVIDING FOR THE)	
MANAGEMENT OF METRO'S PIONEER)	Introduced by Michael Jordan, Chief
CEMETERIES, AND REPEALING METRO)	Operating Officer, with the concurrence of
CODE SECTION 10.02.050, AND DECLARING)	Council President David Bragdon
<u>AN EMERGENCY</u>)	

WHEREAS, Metro assumed responsibility for the operation and perpetual care of 14 Pioneer Cemeteries when it accepted the transfer of parks facilities, Glendoveer Golf Course and the Expo Center from Multnomah County in 1994; and

WHEREAS, the Metro Parks and Greenspaces Department manages and maintains the Pioneer Cemeteries, marketing gravesites and grave services in each of the cemeteries;

WHEREAS, presently there are no Metro Code provisions governing the management, maintenance, protection and preservation of Metro's Pioneer Cemeteries, with the exception of Metro Code Section 10.02.050, which sets forth fees for graves and memorials;

WHEREAS, this Ordinance No. 04-1038 enacts a new Metro Code Chapter 10.04 "Pioneer Cemeteries" vesting management authority over the Pioneer Cemeteries in the Chief Operating Officer and directing that the management, maintenance and operation of Metro's Pioneer Cemeteries be managed in compliance with state law, operated to maximize financial benefit and long term stability, maintained as a community asset, and appropriately protected and preserved in keeping with their historically significant nature;

WHEREAS, the proposed Metro Code Chapter 10.04 would also provide for the establishment of Pioneer Cemeteries rules addressing management and maintenance issues such as: the transfer of grave licenses without Metro's knowledge or approval; multi-grave purchase issues; the placement of different types and shapes of headstones; installing fences, blocks and bricks to enclose graves; and the planting of flowers, trees and shrubs throughout the Pioneer Cemeteries; and

WHEREAS, Ordinance No. 04-1038 will repeal Metro Code Section 10.02.050 "Fees for Memorials and Cemeteries" and vest authority in the Chief Operating Officer to establish and periodically adjust rates for the sale of graves and niches, and set fees for burial services; and now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

Section 1. A new Metro Code Chapter 10.04 "Pioneer Cemeteries" is added to and made a part of Metro Code Title X - Metro Regional Parks and Greenspaces as follows:

"10.04.010 Purpose

The purpose of this chapter is to provide for the management and efficient operation, maintenance, protection and preservation of Metro's Pioneer Cemeteries.

10.04.020 Policy

The Metro Council has determined that it is necessary to adopt these code provisions in order to ensure the long-term stability of that Metro's Pioneer Cemeteries, which shall be achieved by cemeteries being are managed;

- (a) ~~In compliance with applicable state laws;~~
- (b) ~~are operated to maximize financial benefit and long term stability, are maintained as a community assets;~~
- (c) In a manner that will maximize public financial benefit and long-term stability; and
- (d) ~~are appropriately protected and preserved in keeping with their historically~~ To protect and preserve their historically significant nature.

In the management of Metro's Pioneer Cemeteries, all of these four above objectives are to be considered and no one has priority above the others.

10.04.030 Operating Authority

Management and operation of the Pioneer Cemeteries shall be by authority of the Chief Operating Officer, as delegated to the Parks Director.

10.04.040 Enforcement Authority/Cemetery Rules

Upon the direction of the Chief Operating Officer, the Parks Director shall establish Pioneer Cemeteries rules consistent with the provisions of this chapter (hereafter, "Pioneer Cemeteries Rules").

(a) The Pioneer Cemeteries Rules shall be in writing, filed with the Metro Council and available on Metro's internet website. Copies of the Pioneer Cemeteries Rules shall be available at the Pioneer Cemetery offices and shall be given to each grave or niche purchaser.

(b) Person(s) violating any Pioneer Cemeteries Rule shall be subject to exclusion or enforcement as set forth herein.

The enforcement of all provisions of this chapter, including but not limited to the authority to enforce any Pioneer Cemeteries rules established pursuant hereto, shall be by authority of the Chief Operating Officer, as delegated to the Parks Director.

10.04.050 Rates and Fees for Graves, Memorials and Services

(a) Upon the direction of the Chief Operating Officer, the Parks Director shall establish rates for the sale of graves and niches and shall set fees and charges for Pioneer Cemetery services, including burial

and other required or optional services. Said rates, fees and charges shall be designed to recover all costs of operating the Pioneer Cemeteries and may be adjusted from time to time without notice, to reflect market rates and to ensure the solvency and financial stability of the Pioneer Cemeteries. Grave and niche purchasers shall pay the rate, fees and surcharge on the date of purchase. No options to purchase graves or niches or other prospective rights to interment in the Pioneer Cemeteries shall be granted unless approved by resolution of the Metro Council setting forth the terms and conditions of said option or prospective right. Grave prices, fees and charges for services may vary among Pioneer Cemeteries, as determined by the Chief Operating Officer.

(b) A surcharge of 15% for each grave sold and 5% for each niche sold shall be charged and deposited in the Cemetery Perpetual Care Fund.

(c) Bulk grave rates shall be established for interment of wards of the Multnomah county conservator. Excepting the foregoing, bulk sales of graves or niches must be approved by a resolution of the Metro Council setting forth the terms and conditions of said bulk sales, including rates and the terms of resale. Bulk sales of graves or niches occurring prior to the effective date of this ordinance are exempt from this section.

(d) The Parks Director may waive rates, fees and surcharges for grave sales and burial services in situations of extreme financial hardship. All waivers or exemptions shall be applied by written order setting forth the facts justifying the waiver or exemption

10.04.060 Ejectment, Exclusion, Citation and Arrest

Upon the authority of the Chief Operating Officer as delegated to the Parks Director, the Parks Director and authorized Parks personnel may:

(a) Eject and exclude from the Pioneer Cemeteries any person acting in violation of this chapter, the Pioneer Cemetery Rules, Metro Code Chapter 10.02 or the laws of the state of Oregon for a period of 30 days, or in case of repeated violations, permanently exclude said violators;

and/or

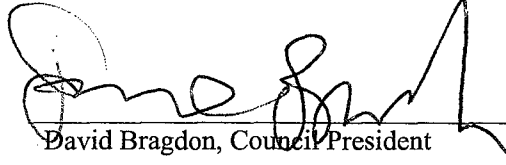
(b) Arrest or cite in lieu of arrest any person acting in violation of Metro Code Chapter 10.01 or the laws of the State of Oregon in the Pioneer Cemeteries.”

Section 2. Metro Code Section 10.02.50 “Fees for Memorials and Cemeteries” is hereby repealed.

Section 3. That this Ordinance being necessary for the health, safety, and welfare of the Metro area, an emergency is declared to exist, and this Ordinance shall take effect immediately, pursuant to Metro Charter Section 39(1).

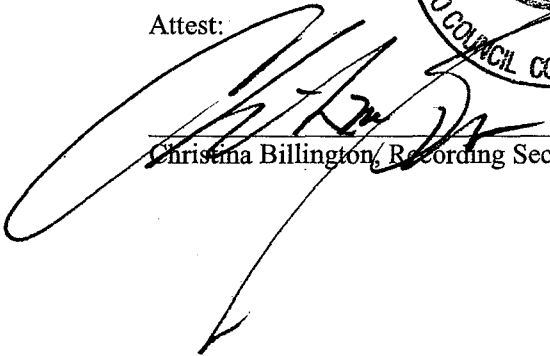
ADOPTED by the Metro Council this 24th day of June, 2004.

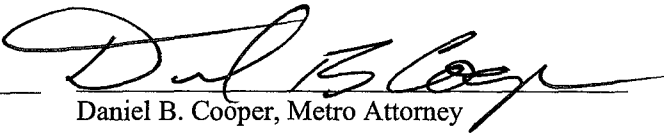



David Bragdon, Council President

Attest:

Approved as to Form:


Christina Billington, Recording Secretary


Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 04-1038A, FOR THE PURPOSE OF ADDING A NEW CHAPTER 10.04 "PIONEER CEMETERIES" TO METRO CODE TITLE X - REGIONAL PARKS AND GREENSPACES PROVIDING FOR THE MANAGEMENT OF METRO'S PIONEER CEMETERIES AND REPEALING METRO CODE SECTION 10.02.050

Date: June 24, 2004

Prepared by: Jim Desmond
Dan Kromer

BACKGROUND

When the Multnomah County Parks Department merged with Metro in 1994, Metro assumed responsibility for the operation and perpetual care of 14 Pioneer Cemeteries. Metro, through the Parks and Greenspaces Department, currently manages these facilities and actively markets gravesites and grave services in each of these cemeteries. Three-year average annual sales and services for these areas are 151 and 187, respectively. The agency will spend a total (gross) amount of approximately \$295,000 in FY 03-04 operating the cemeteries and generate approximately \$342,000 in revenue this fiscal year.

Presently the Metro Code contains no regulations directing the management of Metro's Pioneer Cemeteries. The regulations proposed in this ordinance will ensure that the Pioneer Cemeteries are managed in compliance with state law, are operated to maximize public financial benefit and long term stability, are maintained as a community asset, and are appropriately protected and preserved in keeping with their historically significant nature. The ordinance vests authority to manage and operate these cemeteries in the Chief Operating Officer, who must establish rules consistent with the provisions of this ordinance to address management and maintenance issues such as: transferring grave licenses without Metro's knowledge or approval; multi-grave purchase issues; the placement of different types and shapes of headstones; installing fences, blocks and bricks to enclose graves; and the planting of flowers, trees and shrubs throughout the Pioneer Cemeteries.

Cemeteries Regulations

The regulations contained in this ordinance are similar to and in some cases, based on the cemetery regulations adopted by other local jurisdictions (cities of Oregon City, Canby, Ashland, Medford and Vancouver, WA).

Repeal of Metro Code 10.02.050

Ordinance No. 04-1038A will repeal Metro Code 10.02.050 "Fees for Memorials and Cemeteries" and vest in the Chief Operating Officer the authority to establish and periodically adjust rates for the sale of graves and niches and set fees for burial services, making it possible to increase rates and fees commensurate with the market without amending the Metro Code in each instance.

ANALYSIS/INFORMATION

1. Known Opposition

Eastside Jewish Community of Portland, Oregon will seek assurances that the adoption of these new regulations will not prevent the sale of a large bulk of graves over an extended period of many years at the Douglass Pioneer Cemetery for the purpose of creating an exclusive section for their organization.

2. Legal Antecedents

The Metro Council passed Metro Code Title X, Chapter 10.01, establishing Metro Regional Parks and Greenspaces Regulations, in 1996. Subsequent Metro Code Title X regulations include Chapter 10.02 "Regional Park Fees" and Chapter 10.03 "Conservation Easements." Oregon Revised Statutes 97.010 – 97.992 provide basic guidelines on the establishment and operation of cemeteries in the State of Oregon.

3. Anticipated Effects

Ordinance No. 04-1038A will establish a new Metro Code Chapter 10.04 "Pioneer Cemeteries" to provide for the operation, management and maintenance of Metro's Pioneer Cemeteries in a fashion equivalent to other publicly owned cemeteries in the region and state, while recognizing and preserving their unique and valuable heritage. The ordinance also repeals Metro Code Section 10.02.050 "Fees for Memorials and Cemeteries" and grants the Chief Operating Officer the authority to establish and enforce cemetery rules and set rates for graves and memorials.

4. Budget Impacts

No budgetary impacts are anticipated from this ordinance.

RECOMMENDED ACTION

Michael Jordan, Chief Operating Officer, with the concurrence of the Council President David Bragdon, recommends adoption of Ordinance No. 04-1038A.

BEFORE THE METRO COUNCIL

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ADOPTED by the Metro Council this _____ day of _____, 2004.

David Bragdon, Council President

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Date: June 4, 2004

Prepared by: Jim Desmond
Dan Kromer

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4. Budget Impacts

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RECOMMENDED ACTION

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