

CHAPTER 385
FORMERLY
HOUSE BILL NO. 476

AN ACT TO AMEND TITLE 9 OF THE DELAWARE CODE RELATING TO MAINTENANCE OF FOR-PROFIT CEMETERIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Part I, Title 9 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

CHAPTER 10. FOR-PROFIT CEMETERIES

§ 1001 Purpose.

The purpose of this chapter is to prevent the deterioration of for-profit cemeteries in each county and to empower each county to enforce maintenance regulations and penalties for the failure to follow such regulations.

§ 1002 Definitions.

As used in this subchapter:

(1) "Cemetery" means land or structure used or intended to be used for the interment/entombment of human remains, including facilities used for the final disposition of cremated remains.

(2) "For-Profit Cemetery" means any person, partnership, corporation, or business entity operating a cemetery for purposes of generating a profit, specifically excluding churches, religious organizations, any non-profit entities, and veteran organizations.

§ 1003 Maintenance of For-Profit Cemeteries.

(a) The government of each county may establish regulations regarding maintenance of for-profit cemeteries, including:

(1) Trimming or mowing grass, pruning shrubs, or trimming trees in and around the cemetery.

(2) Trimming or mowing grass to a level where flat markers of individual graves can be seen.

(3) Suppressing or removing weeds on cemetery property.

(4) Repairing or restoring improvements, structures, or fences on cemetery property.

(5) Maintaining cemetery roads accessible to the public and repairing road and sidewalk surfacing that presents safety hazards.

(6) Maintaining occupied crypts and niches properly sealed or closed.

(7) Refilling or resetting settled graves or markers annually or within 120 days of the cemetery operator or cemetery employees becoming aware of the issue.

(8) Repairing any grave markers, monuments, or burial vaults that are damaged by the negligence of the cemetery, the cemetery employees, or contractors employed by the cemetery.

(9) Supplying and emptying trash receptacles when filled.

(10) Maintaining public areas of the cemetery grounds and water features on cemetery property to ensure they are free of trash and debris.

(11) Providing clear delineation of undeveloped cemetery property with the use of signage.

(12) Controlling vermin and insect problems on cemetery property.

(b) Nothing contained in the recommended maintenance requirements of § 1003(a) should be construed to require specific topography, structures or other cemetery-related items on the property.

(c) Sections within a cemetery that are specifically established and intended to be maintained in a natural condition are not subject to the recommended maintenance requirements of § 1003(a).

(d) Sections of a cemetery that do not include burial lots that have been sold, transferred, or are available for sale with perpetual care should be exempt from the recommended maintenance requirements of § 1003(a).

(e) Any person, partnership or corporation engaged in the business of selling burial lots with perpetual care for profit should maintain written minimum standards for the maintenance of the cemetery property that conform with or exceed the recommended maintenance requirements of § 1003 (a)(1)-(10).

(f) Consumers should be furnished with a copy of the maintenance standards prior to settlement on a burial lot or lots.

(g) A written copy of the maintenance standards should be kept on file at the cemetery office and should be made available within 30 days upon request.

(h) Each county may impose penalties upon a for-profit cemetery who fails to comply with the county's maintenance requirements.

Approved August 28, 2018