

BY-LAWS OF MT. ISRAEL CEMETERY ASSOCIATION

Revised August 14, 2020

ARTICLE I. NAME

This Association, a non-profit corporation chartered on November 1, 1986, under the laws of the state of West Virginia, shall be known as "Mt. Israel Cemetery Association".

ARTICLE II. ADMINISTRATION

Section 1. Officers

The executive officers of the Association shall be President, Vice-President, Secretary and Treasurer. All officers shall be elected by the members of the Association at the first meeting held after the adoption of these by-laws and each year thereafter. The Office of President and Secretary shall be elected for a two year term and on alternating years the Office of Vice-President and Treasurer shall be elected for a two year term. The officers shall hold office until their respective successors shall have been elected and qualified.

Officers (Trustees) shall keep a record of the names and addresses of all interested persons in the Mt. Israel Cemetery Association and mail a free-will donation letter annually.

Section 2. President

President presides at all meetings of the active members. President shall sign and execute for and on behalf of and in the name of the Association. All authorized contracts and other papers require the signature or execution of the President. President shall sign, with the Secretary, all legal papers issued by the Association and President shall perform other duties and have further authority as the members of the Association may from time to time prescribe. President is an exofficio member of all appointed committees.

Section 3. Vice-President

Vice-President shall perform the duties of the President, in their absence. Vice President shall perform other duties and have further authority as the members of the Association may from time to time prescribe.

Section 4. Secretary

Secretary shall keep the minutes of the Association in a book, or books to be kept for that purpose. Secretary shall attend to the giving of all notices of meetings and for any other purpose. Secretary shall perform other duties and have other authority as the members of the Association may from time to time prescribe.

Section 5. Treasurer

Treasurer shall have custody of all monies, funds, securities, and other valuable papers of the Association.

Treasurer shall receive and disperse all monies and funds. Treasurer shall perform other duties and have further authority as the members of the Association may from time to time prescribe.

All disbursements shall be made by checks of the Association, drawn and signed by the Treasurer, and to be countersigned by the President or Vice-President.

Treasurer shall enter regularly in the books of the Association. Full and accurate accounts of all monies received and disbursed by the Treasurer and shall provide the books to any member of the Association or officer whenever called upon to do so. Treasurer shall also publicly post, semi-annually, a report of accounts.

Due to the Federal Privacy Act and the legal ramification, the Treasurer shall no longer divulge or post the names or amount contributed by any person(s).

ARTICLE III. MEMBERSHIP AND QUALIFICATION

All persons interested in the Mt. Israel Cemetery Association that makes an annual donation prior to the third Sunday of August of each year shall be considered members. Members are permitted to vote for officers and take an active part in all meetings..

ARTICLE IV. MEETINGS

Section 1. Annual Meeting of Members

A meeting of the members of this Association shall be held annually at the Mt. Israel Fellowship Hall or as otherwise designated in the notice to be given of any such meeting. The meeting is to be held on the third Sunday in August in each year beginning in 1972 for the purpose of electing officers and for the transaction of any other business that may be brought before the meeting. This being the only meeting where By-Laws for the Mt. Israel Cemetery Association may be changed.

Section 2. Business Meetings

Monthly meetings of the Officers and members shall be held on the third Thursday of each month at Mt. Israel Fellowship Hall to conduct ongoing business of the Association unless otherwise cancelled or changed.

Section 3. Special Meetings

The president may call a special meeting of the members to be held at the Mt. Israel Fellowship Hall when deemed necessary. The request of such meeting, as well as a notice or call of meeting shall state briefly the purpose or object, and no business shall be transacted except as is therein specified.

Section 4. Notice of Meetings

Written notice of the Annual Meeting and of all special meetings stating the time and place thereof shall be posted by the Secretary at least ten days prior to the meeting.

Section 5. Quorum

At any meeting of the members, the number present, in person, shall constitute a quorum for the transaction of business. A two-thirds vote of the quorum being necessary for the passing of motions.

ARTICLE V. LOTS

Section 1. Lots

Lot prices may be changed at any regular monthly meetings of the Trustees with two-thirds vote of the members present. (See Appendix for Lot Prices.)

All purchasers of lots may mark them with permanent markers placed at all corners of the lot(s) level with the ground with the approval of the Caretaker.

Section 2. Rules and Regulations

- The owner shall not be permitted to plant any shrubbery or trees, build fences, gratings, curbs, ornaments on or around said lot(s).
- All bouquets shall be in metal or plastic containers near the monuments – no glass, pottery, or extra items shall be permitted.
- After burial is completed, the excess dirt shall be removed.
- Christmas decorations shall be removed by March 1st, decorations may be replaced by April 2nd.
- Artificial floral arrangements shall be removed by owners by October 15th otherwise they shall be removed by the Caretaker or Volunteers.

- All monuments shall be set on a cement base eight (8) inches larger than the base, a depth of 8-12 inches level with the ground. All foot markers, name plates, or other markers shall be set level with the ground.
- All headstones must be placed at the head of a regulation length grave, ie., in general line with the other markers.

The Association shall reserve the right to prohibit any and all procedures which would be detrimental to the maintenance and beauty in the continuance of the cemetery.

ARTICLE VI. CARE OF CEMETERY

Officers and Members: The Executive Officers and Members of the Association shall determine the care and improvements needed for the Cemetery. Members of the Association may make their suggestions at the meetings, by mail, or by contacting an executive officer.

ARTICLE VII. FUNDS FOR CARE AND MAINTENANCE OF CEMETERY

A general fund, maintained through checking, savings, and other financial investments, shall be maintained at the discretion of the board.

The Mt. Israel Cemetery Association has established the MT. ISRAEL CEMETERY PERPETUAL ENDOWMENT FUND (the ENDOWMENT) with the United Methodist Foundation of West Virginia, Inc., as trustee, to provide a perpetual financial resource to be used as for the maintenance and upkeep of the grounds of its cemetery. Distributions from the ENDOWMENT shall be governed by the laws of the State of West Virginia for managing perpetual, institutional endowment funds

DEFINITION: An **endowment** is any asset donated to and for the **perpetual** benefit of a non- profit institution. The donation is usually made with the requirement that the principal remain intact and money earned from investing the principal be used for a specific purpose.

Section 1. Funding of General Fund

- Annual donations by members
- Donations made for care and maintenance
- Lot Sales
- Special Project donations
- Fund raising activities
- An annual prudent distribution from the Perpetual Endowment Fund when needed, as determined by the laws of the State of West Virginia governing distributions from perpetual, institutional funds.

Section 2. Funding of Perpetual Endowment Fund

- Ten percent of the gross sales proceeds, whichever is greater, received from the sale of any burial right or lot shall be placed in the permanent endowment care fund not later than thirty days following the month in which the entire gross sales proceeds are received. (2012 West Virginia Code §35-5A-4)
- Donations from members' memorials, estates, etc
- Fund raising activities
- Surplus funds accrued from the General Fund at the end of the calendar year may be transferred at the discretion of the board
- Any amount of the annual prudent distribution not used shall be reinvested after December 31st.

Section 3. Investments

Monies for the Perpetual Endowment Fund shall be invested in a balanced portfolio to provide a reasonable return on investment without unreasonable risk.

ARTICLE VIII. ORDER OF BUSINESS

Unless otherwise ordered, and so far as the same may be applicable, the order of business at all Association meetings shall be as follows:

- Reading of the minutes of the previous meetings
- Reports and statements of the officers and committees
- Unfinished business
- Election of Officers (Annual Meeting Only)
- New or Miscellaneous business

APPENDIX

ARTICLE V. SECTION 1. LOTS

GRAVE SITE PRICES

Single Grave Site.....	\$ 500.00 plus 10%
Double Grave Site.....	\$1000.00 plus 10%

An Additional Ten Percent Charge for Perpetual Endowment Fund (Article VII. Section 2) Effective August 20, 2023.

(Price Subject To Change**)**

2012 West Virginia Code

CHAPTER 35. PROPERTY OF RELIGIOUS, EDUCATIONAL

ARTICLE 5A. PERPETUAL CARE OF AND TRUST FUNDS FOR CEMETERIES.

§35-5A-1. Definitions.

Universal Citation: [WV Code § 35-5A-1 \(through 1st Spec. Sess. 2012\)](#)

The following words and phrases as used in this article, unless a different meaning is clearly indicated by the context, shall have the following meanings:

- (a) "Person" means any corporation, company, partnership, individual, association or other entity owning or operating a cemetery for the disposition of human remains.
- (b) "Perpetual care cemetery" means a cemetery which advertises or represents to the public in any manner that it provides perpetual care or maintenance for burial grounds, mausoleums or columbaria and the fixtures attached thereto or which sells or offers to sell any interment right which is to be perpetually cared for or maintained.
- (c) "Interment" means the disposition of human remains by earth burial, entombment or inurnment.
- (d) "Burial right" means the right of earth interment.
- (e) "Entombment right" means the right of entombment in a mausoleum.
- (f) "Columbarium right" means the right of inurnment in a columbarium for cremated remains.
- (g) "Permanent endowment care fund" means a fund held in an irrevocable trust separate and apart from all other assets of the cemetery and dedicated for the exclusive use of perpetual care and maintenance of such cemetery.

§35-5A-2. Objects and purposes.

Universal Citation: [WV Code § 35-5A-2 \(through 1st Spec. Sess. 2012\)](#)

No person shall operate or continue to operate a perpetual care cemetery in West Virginia unless a permanent endowment care fund has been established, maintained and administered as required by this article. The income from the permanent endowment care fund so established shall be used only as permitted by this article.

§35-5A-3. Establishment of permanent endowment care funds.

Universal Citation: [WV Code § 35-5A-3 \(through 1st Spec. Sess. 2012\)](#)

No person desiring to organize, develop and operate a perpetual care cemetery in West Virginia after the first day of July, one thousand nine hundred seventy-three, shall offer to sell or sell any burial lot, burial right, entombment right or columbarium right in such cemetery, without first establishing a permanent endowment trust fund, segregated from all other assets, and placing therein a minimum of ten thousand dollars in cash, or in bonds of the United States government or of the state of West Virginia.

Whenever any such person has placed an additional ten thousand dollars in the permanent endowment care fund out of gross sales proceeds or from any other source, such person after submitting satisfactory proof of this fact to its trustee may withdraw the original sum of ten thousand dollars from the permanent endowment care fund.

No person operating an established perpetual care cemetery in West Virginia on or before the first day of July, one thousand nine hundred seventy-three, shall continue to operate such cemetery without creating a permanent endowment fund and making regular deposits to such fund as required in section four of this article and entrusting the administration of such fund as required in section five of this article.

§35-5A-4. Additional funding of permanent endowment care funds.

Universal Citation: [WV Code § 35-5A-4 \(through 1st Spec. Sess. 2012\)](#)

No person shall operate or continue to operate any perpetual care cemetery in the state of West Virginia after the first day of July, one thousand nine hundred seventy-three, without placing into a permanent endowment care fund ten dollars or ten percent of the gross sales proceeds, whichever is greater, received from the sale of any burial right or lot and not less than five percent of the gross sales proceeds from the sale of any entombment right or columbarium right. This sum shall be

placed in the permanent endowment care fund not later than thirty days following the month in which the entire gross sales proceeds are received. **§35-5A-5.**

Trustee of the permanent endowment care funds.

Universal Citation: [WV Code § 35-5A-5 \(through 1st Spec. Sess. 2012\)](#)

The trustee of the permanent endowment care fund shall be a federally insured trust company or a federally insured banking institution with fiduciary powers authorized and qualified to exercise trust powers under and subject to the provisions of article four, chapter thirty-one-a of this code, or of the corresponding law of another state. A nonresident federally insured trust company or nonresident federally insured banking institution so authorized and qualified may become a trustee of

a permanent endowment care fund notwithstanding the provision of section seven, article eight-a, chapter thirty-one-a of this code. When a nonresident trust company or nonresident banking institution becomes a trustee of a permanent endowment care fund for a perpetual care cemetery in this state, said nonresident trust company or nonresident banking institution thereby constitutes the secretary of state as its true and lawful attorney-in-fact upon whom service of notice and process

in any action or proceeding against it as trustee, and acceptance of such trust by said nonresident trust company or nonresident banking institution shall be a manifestation of agreement that any notice or process, which is served in the manner hereinafter provided in this section, shall be of the same legal force and validity

as though such nonresident trust company or nonresident banking institution was personally served with notice and process within this state. Service of such notice

and process and the manner of acceptance of the same by the secretary of state shall be in accordance with the provisions of section fifteen, article one, chapter thirty-one of this code.

Any nonresident trust company or nonresident banking institution appointed as trustee of a permanent endowment care fund shall immediately upon acceptance of the trust give bond in accordance with the provisions of section five, article five, chapter thirty-five of this code.

The trustee shall invest such permanent endowment care funds for the purpose of providing an income to be used for the maintenance, improvement and preservation of the grounds, lots, buildings, equipment, records, statuary, and other real and personal property of the cemetery, and shall acquire, invest, reinvest, exchange, retain, sell and manage all property now or hereafter coming into such trustee's care or control.

The trustee shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence, exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.

Within the limitations of the foregoing standard, any such trustee is authorized to acquire and retain without any order of any court, every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account.

The trustee shall prepare an annual report of all of the assets and investments of the permanent endowment care fund. One copy shall be maintained at the office of

the cemetery and shall be available for inspection at reasonable times by owners of interment rights in the cemetery.

The trustee shall pay over to the cemetery all income derived from the permanent endowment care fund semiannually to be expended only for the maintenance, improvement and preservation of the grounds, lots, buildings, equipment, records, statuary and other real and personal property of the cemetery.

§35-5A-6. Cemeteries exempted.

Universal Citation: [WV Code § 35-5A-6 \(through 1st Spec. Sess. 2012\)](#)

This article does not apply to any private or family cemetery wherein lots or spaces are not offered for public sale or to any cemetery which is owned and operated entirely and exclusively by churches, religious societies, established fraternal organizations, municipalities or other subdivisions of the state or a national cemetery.

§35-5A-7. Inconsistent provisions.

Universal Citation: [WV Code § 35-5A-7 \(through 1st Spec. Sess. 2012\)](#)

The provisions and requirements of this article shall take precedence over and shall supersede any other provisions of this code which may be inconsistent therewith.

§35-5A-8. Penalties for violation.

Universal Citation: [WV Code § 35-5A-8 \(through 1st Spec. Sess. 2012\)](#)

Any person and any officer, director, agent or employee of such person who violates or participates in the violation of this article shall be guilty of a misdemeanor, and,

upon conviction thereof, shall be fined not more than one thousand dollars, or imprisoned in the county jail not more than one year, or both fined and imprisone