

VILLAGE OF WESTFIELD CENTER, OHIO

ORDINANCE 2024-03

**AN ORDINANCE TO AMEND SECTION 1062.01(i)(2)
OF THE CODIFIED ORDINANCES OF THE VILLAGE
OF WESTFIELD CENTER, OHIO TO EXPAND
TRANSFERS OF CEMETERY LOTS**

WHEREAS, the Village Cemetery Committee has recommended Council approve an expansion to the existing transfer provisions related to the ownership of lots/niches located in the Village Cemetery (the “**Transfer Provisions**”);

WHEREAS, upon such recommendation of the Cemetery Committee and its own evaluation of the merits of the Transfer Provisions, the Council for the Village of Westfield Center, Ohio has determined the Transfer Provisions are in the best interest of the health, safety and general welfare of the residents of the Village of Westfield Center, Ohio and contribute to the orderly operation of the Village Cemetery

WHEREAS, due to the need to protect the public health, safety and general welfare of residents an emergency is present.

NOW THEREFORE, be it ordained by the Council for the Village of Westfield Center, Ohio that:

1. Section 1062.01(i)(2) of the Codified Ordinances of the Village of Westfield Center is hereby amended and restated in its entirety as follows:

(2) Transfers on death of owner. An owner of any Cemetery lot/niche may transfer their lot/niche upon death in accordance with the provisions of either paragraphs A or B, below:

A. Testate succession provision. A cemetery lot/niche within the Village Cemetery may be bequeathed by the Will of said lot/niche owner to an heir via a specific bequest in such owner’s will.

Upon said owner's death, the deed, along with a copy of the Will certified by the Probate Court of the jurisdiction where it was probated must be presented to the Cemetery Committee. Upon receipt of such documents, and verification of the specific bequest language in the Will, the Cemetery Committee will direct that a new deed be issued to the heir(s) to whom the specific bequest directed ownership of the lot/niche. The Clerk-Treasurer will then be notified by the Cemetery Committee and will record the transfer.

B. Non-probate transfer. As an alternative to the Testate succession provision, an owner of any cemetery lot(s)/niche within the Village Cemetery may designate a non-probate transferee of such lot/niche. Such designation shall be made by the lot/niche owner by completing a designation at any time subsequent to the owner's purchase of the lot/niche on a Lot/Niche Transfer on Death Designation Form established by the Cemetery Committee (the "TOD Form"). For a TOD Form to be valid, it must clearly identify the lot/niche to be transferred, state the name and relation of the intended transferee and must specifically state the owner's intention to replace, rescind, revoke and/or supersede any prior instruments or TOD Form(s) related to the transfer ownership of such lot/niche upon the owner's death. The Cemetery Committee shall also provide a form to rescind prior designations without appointing a new TOD recipient.

Upon an owner's death, the deed, together with a certified copy of the death certificate, and a TOD Form (if applicable) shall be delivered to the Cemetery Committee in connection with the proposed transfer (the "Non-Probate Transfer Documents").

If the Non-Probate Transfer Documents are accompanied by a copy of the deceased owner's Will, certified by the Probate Court of the jurisdiction where it was probated, and such Will is dated prior to the date of the latest TOD Form completed by owner or such Will does not contain any specific bequests related to the lot/niche identified on the owner's TOD Form, the Cemetery Committee shall immediately complete the transfer of the lot/niche to the transferee identified in the TOD Form. If a certified copy of the probated Will is not presented with the Non-Probate Transfer Documents, the Cemetery Committee shall complete the transfer of the lot/niche to the transferee identified in the TOD Form no less than six months from the owner's date of death in order to provide time for a probated will to be produced.

C. Additional provisions related to transfer on death. Upon the death of a lot/niche owner who has made designations under both A and B, above, the Cemetery Committee shall enforce the last valid designation made prior to such lot/niche owner's death. Any Lot/Niche Transfer on Death Designation Form that was executed but not actually delivered to and accepted by the Village prior to the date of owner's death shall be deemed invalid. Any transfers made in compliance with this Section 2 shall be completed at no cost to the lot/niche

owner or the heir/transferee. No transfer pursuant to this Section 2 shall be valid without the heirs or transferee presenting the documents and meeting the other requirements of paragraph A or B above (as the case may be) subsequent to such lot/niche owner's death. Incomplete transfers that are not completed by the heirs or transferee in accordance with the requirements of this Section 2 shall remain subject to the reversionary provisions as contained in Section 1062.04 of the Code.

2. This ordinance is declared to be an emergency measure necessary for the preservation of the public health, safety and general welfare. Therefore, this legislation shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise; at the earliest opportunity provided for by applicable law.

Passed: _____

Thomas Horwedel, Mayor

Deborah Runser, Fiscal Officer

Village Cemetery Lot/Niche Transfer Rescission

STATE OF OHIO _____)
) ss:
COUNTY OF _____)

The undersigned ("Affiant"), being first duly sworn according to law, state as follows:

1. Affiant is the owner of record of the Lot/Niche identified below and located in the Village Cemetery, Westfield Center, Ohio:

(Lot/Niche information)

2. Affiant wishes to rescind the transfer on death designation related to the transfer of Affiant's interest in the Lot/Niche identified in Item 1, above, to the individual transfer on death recipient identified in the TOD FORM executed by Affiant and accepted by the Village of Westfield on or about _____ (date of Village Acknowledgement of prior TOD FORM).
3. By signing below, Affiant acknowledges that this Affidavit, shall rescind the previously executed TOD Form and shall result in the above-identified Lot/Niche being owned solely in Affiant's name.

Affiant

SWORN TO AND SUBSCRIBED before me this ____ day of _____,
20__ by _____ (Affiant).

Notary Public

VILLAGE USE ONLY:

TOD FORM Received and Accepted on _____ (date received by village) by _____ (name of Village Representative).