



## Office of the City Attorney

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### Memorandum

To: Common Council  
From: Brian Running  
Re: Proposed Amendments to Municipal Code §3.08(4)

The proposed amendments to Mun. Code §3.08 are coming up for the third reading at the February 18 Council meeting. You'll recall that at the second reading, there was discussion about adding a procedure for withdrawals of principal, and the revised draft accompanying this memo has language added to do that.

Please take a look at section (4)(d)(ii), which is completely new. It creates a three-step process: If the Cemetery Director determines that trust account income alone will not be sufficient to meet the maintenance needs of the cemetery or mausoleum, he or she reports that to the Cemetery Commission. The Commission then decides whether to agree with the Director and pass the matter on to the Finance Committee, or deny the request and address a budget shortfall in another way. If the Commission agrees with the Director, it sends a request to the Finance Committee, which then makes a recommendation to the Council. Finally, the Council decides whether the principal can be accessed or not.

This procedure involves every level of oversight of Cemetery funds. This should provide the most safeguards against misuse of the trust funds. The potential abuse we're concerned about is the diversion of cemetery care funds to other purposes, whether within the cemetery or in another City department. The funds that people have deposited with the City for the long-term care of their loved ones' graves can't be used for any other purposes, and this three-level process should provide plenty of opportunity for intervention if it appears that the money would not be used for proper purposes.

Of course, all of these procedures are of no use if they are not followed, so there still has to be active oversight over all Cemetery operations by the responsible bodies. Just having this procedure in place does not in itself prevent misuse of funds.

Please let me know if you have any questions.