

CHAPTER 7: CEMETERIES

Article

I. IN GENERAL

II. SALE OF LOTS

III. RULES AND REGULATIONS

Notes

- ¹ Statutory reference:
Cemeteries, G.S. §§ 160A-341 et seq.; regulation of city cemeteries, G.S. § 160A-348.

ARTICLE I: IN GENERAL

Section

- 7-100 Authority to purchase; applicability of provisions
- 7-101 Control of the town cemetery; covenant
- 7-102 Superintendent
- 7-103 Burial regulated
- 7-104 Interment; disinterment
- 7-105 Plantings
- 7-106 Family monument
- 7-107 Trees, shrubbery
- 7-108 Landscaping
- 7-109 Structures
- 7-110 Conduct; hours
- 7-111 Vehicles
- 7-112 Rubbish, and the like
 - 7-112.1 Construction materials
- 7-113 Damaging gravestones or other monuments
- 7-114 Cleaning after funerals
- 7-115 Burial permits
- 7-116 Prerequisite to a burial permit
- 7-117 Number of bodies to buried in one grave
- 7-118 Vault or grave liner required
- 7-119 Flower regulations and cleaning after funerals
- 7-120 Animals prohibited
- 7-121 Ornamentation
- 7-122 to 7-199 Reserved

§ 7-100 AUTHORITY TO PURCHASE; APPLICABILITY OF PROVISIONS.

(A) As used in this article, and except as provided in subsection (C) below, the terms **CEMETERY** and **TOWN CEMETERY** shall refer to any, and all, cemeteries owned, and/or operated, by the town.

(B) The town may acquire real estate to be used for cemetery purposes.

(C) The following sections apply to all cemeteries within the town: §§7-103, 7-112, 7-113, and 7-120. The remaining sections of this article apply only to cemeteries owned, and/or operated, by the town.

(Ord. 26-94, passed 11-7-1994)

§ 7-101 CONTROL OF THE TOWN CEMETERY; COVENANT.

All lots within the town's cemetery, and within any extension of the cemetery at any time hereafter made, whether owned by the town, or by any other person, shall be subject to, and regulated and controlled by, the provisions of this article, and in all deeds of conveyance by the town to any person for any lot, the following provisions shall be included therein as a covenant running with the land:

"This conveyance is made subject to an ordinance of the Town of Maiden adopting rules and regulations for the control of the cemetery and providing penalties in relation thereto. The grantee herein, his heirs and assigns agree that upon the breach of any of its provisions, the title to said property shall revert to the Town of Maiden. This lot may not be sold to any other person, except with the written permission of the town manager, and it shall not be sold for more than the original purchase price of the lot."

(Code 1976, § 9.49) (Ord. 12-75, passed 10-20-1975)

§ 7-102 SUPERINTENDENT.

(A) It shall be the duty of the Town Manager to appoint some suitable person as superintendent of the cemetery.

(B) The superintendent shall have such powers and duties, as shall be conferred upon him or her, by this section, and any ordinance, resolution, or order of the Town Council at any time hereafter adopted or made.

(C) The superintendent shall:

- (1) Have charge of the upkeep, protection, and preservation of the cemetery;
- (2) Supervise the digging of all graves, the interment and disinterment of bodies, and the erection of monuments and markers;
- (3) Supervise the planting of any, and all, shrubbery, trees, and flowers; and
- (4) Make provision for the entrance, and exit, of persons and vehicles to, and from, the cemetery.

(Code 1976, § 9.38) (Ord. 12-75, passed 10-20-1975)

§ 7-103 BURIAL REGULATED.

(A) It shall be unlawful for any person to bury any human being on any lot, or premises, within the corporate limits, except within an approved cemetery, and in accordance with all applicable laws and regulations.

(B) No person shall dig any grave, put up any gravestone or board, or make any erections, or dig up any sod on any private burial lot, except under the direction, or by the consent, of the owner thereof.

(Code 1976, § 9.51) (Ord. 12-75, passed 10-20-1975) Penalty, see §1-111

§ 7-104 INTERMENT; DISINTERMENT.

All graves shall be dug under the supervision of the superintendent.

(Code 1976, § 9.39) (Ord. 12-75, passed 10-20-1975)

§ 7-105 PLANTINGS.

No person shall plant or set any tree, shrub, flower, grass, or other plant of any kind in the cemetery except with the approval of, and under the supervision of, the superintendent.

(Code 1976, § 9.40) (Ord. 12-75, passed 10-20-1975)

§ 7-106 FAMILY MONUMENT.

(A) Only one family marker shall be allowed on a family plot. Individual grave markers are allowed, but shall not exceed two feet in length, and one foot in width. Individual grave markers shall be placed at the end of the grave farthest from the family marker.

(B) All markers (with the exception of markers in the old section on Cemetery Street) in all town-maintained cemeteries (whether individual grave marker or family marker) shall be laid flush with the ground. No coping, fencing, hedging, grave mounds, borders, or curb of any kind shall be allowed on any burial lot.

(Code 1976, § 9.41) (Ord. 12-75, passed 10-20-1975)

§ 7-107 TREES, SHRUBBERY.

The pruning or cutting of all trees and shrubbery is hereby prohibited unless done under the immediate supervision of the

superintendent.

(Code 1976, § 9.42) (Ord. 12-75, passed 10-20-1975)

§ 7-108 LANDSCAPING.

All grading, landscaping, and improvements of every kind shall be made, or done, by the town only.

(Code 1976, § 9.43) (Ord. 12-75, passed 10-20-1975)

§ 7-109 STRUCTURES.

No mausoleum, tomb, building, or other structure of any kind shall be erected on any lot within the cemetery, or within any extension of the cemetery; provided, however, mausoleums and tombs may be constructed on lots which may be designated on the plat and plan of the cemetery, from time to time by the Council, as lots to be used exclusively for mausoleums and tombs. Should any mausoleum, monument, or tomb at any time become unsafe, unsightly, or in need of repair or resetting, the superintendent shall so notify the owner of such lot, or any person having an interest in such lot, and shall request such person to make the needed repairs under his or her supervision, and if such person shall fail to make such repairs, within 30 days thereafter, the Council may order such repairs to be made, or remove the same from such lot as the Council may elect.

(Code 1976, § 9.44) (Ord. 12-75, passed 10-20-1975)

§ 7-110 CONDUCT; HOURS.

(A) No person shall disturb the quiet, repose, and good order of the cemetery, nor shall any person deface, remove, disturb, injure, or destroy any tree, plant, or shrub therein, except in the manner provided in this article.

(B) No person shall remove the stakes from a burial lot.

(C) Trespassing within the cemetery is hereby prohibited.

(D) The hours of the cemetery shall be from sun up to sunset.

(Code 1976, § 9.46) (Ord. 12-75, passed 10-20-1975; Ord. 23-92A, passed 11-2-1992)

§ 7-111 VEHICLES.

Vehicles shall be driven only upon the roadways within the cemetery, and at a rate of speed not in excess of 15 mph. No vehicles shall enter the cemetery except for the purpose of attending funerals, visiting graves, or other lawful mission.

(Code 1976, § 9.47) (Ord. 12-75, passed 10-20-1975)

Cross-reference:

Traffic and Motor Vehicles, Ch. 20.

§ 7-112 RUBBISH, AND THE LIKE.

(A) Pursuant to G.S. § 14-148, it is unlawful to willfully:

(1) Throw, place, or put any refuse, garbage, or trash in, or on, any cemetery;

(2) Take away, disturb, vandalize, destroy, or change the location of any stone, brick, iron, or other material, or fence enclosing a cemetery, without authorization of law or consent of the town, or in the case of cemeteries not own, and/or operated, by the town, the surviving spouse, or next of kin of the deceased; and/or

(3) Take away, disturb, vandalize, destroy, or tamper with any shrubbery, flowers, plants, or other articles planted, or placed, within any cemetery to designate where human remains are interred, or to preserve, and perpetuate, the memory and name of any person, without authorization of law, or the consent of the surviving spouse or next of kin.

(B) The provisions of this section shall not apply to:

(1) Ordinary maintenance, and care, of a cemetery by the owner, caretaker, or other person acting to facilitate cemetery operations by keeping the cemetery free from accumulated debris, or other signs of neglect; or

(2) A professional archaeologist, as defined in G.S. § 70-28(4), acting pursuant to the provisions of G.S. Chapter 70, Article 3.

(C) Violation of this section is a Class I felony if the damage caused by the violation is \$1,000 or more. Any other violation of this section is a Class 1 misdemeanor.

Penalty, see § 1-111

§ 7-112.1 CONSTRUCTION MATERIALS.

All materials carried within the cemetery, and not used in the erection of monuments, markers, or other lawful structures authorized herein, shall be promptly removed therefrom by the owner of the lot upon which such monument, marker, or

structure shall be located.

(Code 1976, § 9.48) (Ord. 12-75, passed 10-20-1975)

§ 7-113 DAMAGING GRAVESTONES OR OTHER MONUMENTS.

(A) Pursuant to G.S. § 14-149, it is a Class I felony, without authorization of law, or the consent of the surviving spouse or next of kin of the deceased, to knowingly, and willfully:

(1) Open, disturb, destroy, remove, vandalize, or desecrate any casket, or other repository of any human remains, by any means including plowing under, tearing up, covering over, or otherwise obliterating, or removing any grave, or any portion thereof;

(2) Take away, disturb, vandalize, destroy, tamper with, or deface any tombstone, headstone, monument, grave marker, grave ornamentation, or grave artifacts erected, or placed, within any cemetery to designate the place where human remains are interred, or to preserve, and perpetuate, the memory, and the name, of any person. This subsection (A)(2) shall not apply to the ordinary maintenance, and care, of a cemetery.

(B) Pursuant to G.S. § 14-149, it is a Class H felony, without authorization of law, or the consent of the surviving spouse or next of kin of the deceased, to knowingly and willfully disturb, destroy, remove, vandalize, or desecrate any human remains that have been interred in a cemetery.

(C) The provisions of this section shall not apply to a professional archaeologist, as defined in G.S. § 70-28(4), acting pursuant to the provisions of G.S. Chapter 70, Article 3.

(Code 1976, § 9.52) (Ord. 12-75, passed 10-20-1975)

Cross-reference:

Garbage and refuse, Ch. 11.

Statutory reference:

Defacing, or desecrating, grave sites, G.S. § 14-148; desecrating, plowing over, or covering up graves, G.S. § 14-149.

§ 7-114 CLEANING AFTER FUNERALS.

[Repealed]

(Code 1976, § 9.53) (Ord. 12-75, passed 10-20-75)

§ 7-115 BURIAL PERMITS.

No dead body of any human being, the cremated remains of a human being, an empty casket, or an empty cremation urn shall be interred, or otherwise disposed of, in any tomb or vault without a permit from the Town Clerk, and no person shall conduct a funeral service on the grounds for the purpose of disposing of any human body, or cremated remains thereof, without having filed said permit with the town.

(Ord. 26-94, passed 11-7-1994)

§ 7-116 PREREQUISITE TO A BURIAL PERMIT.

A permit will be issued for burial of a dead human body within the town cemetery upon complying with the following requirements:

(A) The grave shall be fully paid for before any usage is made of same;

(B) The town retains ownership of the real estate, but issues a deed granting permission for use of the grave site;

(C) The uppermost part of the burial vault, or other encasement, for each grave shall be a minimum of four feet in depth below the ground surface, except that for the remains of cremated bodies the uppermost part of the burial vault, or other encasement, shall be a minimum of 28 inches in depth below the ground surface; and

(D) All bodies interred shall be interred in a vault using a concrete liner or a metal vault, except that the remains of cremated bodies may also be interred in basic poly-urethane used by the crematory, or a concrete, marble, or steel enclosure.

(Ord. 26-94, passed 11-7-1994; Ord. 6-99, passed 4-19-1999)

§ 7-117 NUMBER OF BODIES TO BE BURIED IN ONE GRAVE.

(A) Only one dead body of a human being shall be interred in any one grave of any town cemetery. Up to two dead, uncremated human bodies may be interred in any one grave in the following cemeteries: none at this time.

(B) The remains from up to three cremations may be interred in any one grave of a town cemetery. Each cremation burial shall be identified using a 12- by 18-inch flat foot-marker.

(C) No cremation remains may be placed in the same grave as the uncremated remains of a human being under any circumstances.

(Ord. 26-94, passed 11-7-1994; Ord. 6-99, passed 4-19-1999)

§ 7-118 VAULT OR GRAVE LINER REQUIRED.

[Repealed]

(Ord. 26-94, passed 11-7-1994; Ord. 6-99, passed 4-19-1999)

§ 7-119 FLOWER REGULATIONS AND CLEANING AFTER FUNERALS.

(A) Floral decorations, frames, and toys shall be removed from the grave site within five days of the interment by those legally entitled to them. Any unclaimed placements will be removed, and disposed of, by the town personnel.

(B) Flower arrangements will be removed twice per year at specified dates, as will be established by the cemetery supervisor. The first flower cleanup of the year will be approximately four weeks before Easter, at which time all Christmas flowers will be removed from lots. The second flower cleanup of the year will be four weeks before Thanksgiving, at which time all Easter, spring, and summer arrangements will be removed from the lots. Notification of specific dates will be posted, and notices placed in local newspapers. Owners who want to save arrangements should remove them prior to schedule dates of clean up.

(C) Cut flowers, potted plants, memorial wreaths, sprays, baskets, or toys may be placed on graves at any time, but must be placed on the headstone. The cemetery supervisor shall have the authority to removal floral designs, flowers, plants, and containers from lots when, in his or her judgment, they become faded, unsightly, or weather damaged, and distract from the general appearance of the cemetery.

(D) Glass containers for floral, or other, arrangements will not be allowed in the cemetery, and will be disposed of when found. (See § 7-121.)

(Ord. 26-94, passed 11-7-1994)

§ 7-120 ANIMALS PROHIBITED.

(A) It shall be unlawful for any owner, or person having the care or custody of an animal, to allow said animal to enter, or remain, in a graveyard or cemetery that is owned, or operated, by the town. This section shall not apply to, or prohibit, the use of animals that are service and/or assistance animals for handicapped persons, pursuant to G.S. § 168-4.2 or federal law.

(B) Violations of this section may be enforced by any one, all, or a combination of the remedies and penalties set forth in § 1-111, including, but not limited to, a civil penalty in the amount of \$50 to be recovered by the town in a civil action in the nature of a debt if the offender does not pay the penalty within ten calendar days, or such longer period of time, as may be prescribed, after he or she has been cited for violation of this section.

(Ord. 2-2018, passed 1-15-2018) Penalty, see §1-111

§ 7-121 ORNAMENTATION.

Glass, or breakable vessels and/or vases, shall not be allowed. No boxes, shells, glassware, sprinkling cans, receptacles, or similar articles shall be permitted on any grave, lot, or tree. No wooden or cast-iron bench or chair, or any wooden or wire trellis, shall be permitted to be brought upon the grounds. Chairs may be permitted during an interment to be removed as soon as service is concluded.

(Ord. 26-94, passed 11-7-1994)

§§ 7-122 TO 7-199 RESERVED.

ARTICLE II: SALE OF LOTS

Section

7-201 Deed for lot

7-202 Transfer of lots

7-203 Lot charges

7-204 to 7-210 Reserved

§ 7-201 DEED FOR LOT.

(A) All persons desiring to purchase a lot in the town cemetery shall apply to the Town Manager on an appropriate application form provided by the town.

(B) In the event a lot is being purchased for immediate use, the adjoining lot(s) may be held for a period of time not to

exceed 60 days from original purchase, at which time payment in full shall be tendered. No more than three lots will be held at a time.

(C) The Town Clerk shall issue, in the name of the purchaser, a certificate of sale showing the lot number and the section, or map, number of the burial space referring to a map, or plat, thereof. A record of the sale, the lot purchased, and the name of the purchaser shall be kept in a permanent record book in the town office.

(D) No certificate of ownership for a grave site shall be issued until the full purchase price has been paid.

(E) A resident of the town shall be allowed to purchase, at resident rates, a maximum number of cemetery lots equal to four lots, or the number of members of the resident's immediate family residing in the home of the resident/purchaser at the time of purchase, whichever is greater.

(1) **IMMEDIATE FAMILY** is defined as spouse, child, and/or dependent.

(2) Persons buried in said lot(s) shall not be limited to the resident, or his or her immediate family member(s).

(Code 1976, § 9.37) (Ord. 12-75, passed 10-20-1975; Ord. 26-94, passed 11-7-1994; Ord. 2-2000, passed 2-7-2000; Ord. 15-02, passed 4-15-2002)

§ 7-202 TRANSFER OF LOTS.

No person who shall purchase any lot in the cemetery from the town shall thereafter convey or alienate, the same to any other person, except upon the written permission of the Town Manager, nor in any event for a greater consideration than that paid for the same lot by the grantor.

(Code 1976, § 9.45) (Ord. 12-75, passed 10-20-1975; Ord. 2-2000, passed 2-7-2000)

§ 7-203 LOT CHARGES.

(A) The Town Council shall adopt fees for the purchase of lots in the town-operated cemetery.

(B) The prices for lots are set out in the fee schedule in Appendix G.

(Code 1976, § 9.50) (Ord. 12-75, passed 10-20-1975)

§§ 7-204 TO 7-210 RESERVED.

ARTICLE III: RULES AND REGULATIONS

Section

7-301 Generally

7-302 Modifications and amendments

§ 7-301 GENERALLY.

In addition to the rules and regulations set forth above, the following shall also apply to the town cemetery:

(A) The town shall not be responsible for theft, or damage, to anything placed on graves, or lots;

(B) The town, and its agents, shall have the authority to enter any lot, and to remove any objectionable thing, or any erection, that may have been placed there contrary to the regulations of said cemetery, and the town may remove any dead, or damaged, tree, shrub, or vine, or any of same which has taken over the grave, or covered the monument;

(C) All persons are reminded that the grounds are sacredly devoted to the burial of the dead, and that the provisions, and penalties, of law, as provided by statute, will be strictly enforced in all cases of wanton injury, disturbance, and disregard of the rules;

(D) No digging shall be allowed, other than authorized by burial permit;

(E) No children will be permitted in the cemetery unless attended by an adult who will be responsible for their conduct. They will not be allowed to run over the graves or lots;

(F) No person may intentionally disrupt any funeral service, or disturb the quiet and good order of the cemetery, by extremely loud or boisterous conduct. Except in the case of military funerals and veterans, or military commemorative exercises, no person may carry, or discharge, firearms in the cemetery;

(G) No person may post, or attach, any bills, posters, placards, pictures, or other form of political, or commercial, advertising within any cemetery, or on the inside, or outside, of any wall or fence enclosing the same;

(H) No person may engage in recreational activities in the cemetery. For purposes of this section, recreational activities shall include, but not be limited to, the throwing of balls or Frisbees, playing games or engaging in sports activities, running or jogging, walking dogs, allowing dogs, or other animals, to run at large, and other similar activities inconsistent with the use of a cemetery as a cemetery;

(I) The Town Council reserves the right to change this section, and the regulations contained herein, at any time; and

(J) The town is not liable for geological, hydrological, or any other natural conditions that may prevent burial in any grave.

(Ord. 26-94, passed 11-7-1994)

§ 7-302 MODIFICATIONS AND AMENDMENTS.

The town may, and hereby expressly reserves the right, at any time or times, with or without notice to owners, to adopt new rules and regulations, or to amend, alter, and/or repeal any rule, regulation, and/or article, section, paragraph, and/or sentence in this chapter.

(Ord. 26-94, passed 11-7-1994)