

## CEMETERIES

### Chapter 18 CEMETERIES

#### ARTICLE I. IN GENERAL

**Secs. 18-1—18-18. Reserved.**

#### ARTICLE II. MUNICIPAL CEMETERY\*

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\*State law reference—Municipal cemeteries, Minn. Stats. § 412.221, subd. 9.  
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##### **Sec. 18-19. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved outside container* means a burial vault of material, construction and design approved by the City Manager.

*Interment* means the permanent disposition of the remains of the deceased person by entombment or burial.

*Lot, plot or burial place* means and shall be used interchangeably and shall apply with like effect to one or more than one adjoining grave.

*Memorial* means and includes a monument, tombstone, marker, tablet or headstone for family or individual use.

(Code 1987, § 240.05)

##### **Sec. 18-20. Established.**

(a) A public cemetery has been established and is continued upon land owned by the city and described as follows:

Commencing at the intersection of the west line of Government Lot No. 5, Section 22, Township 117, Range 24 with the north line of County Road 110; thence north 545 feet; thence east 468 feet; thence south to the north line of said county road; thence westerly along the north line of said county road to the beginning.

(b) A plat of the cemetery has been placed on file in the office of the City Clerk and is hereby adopted as the official plat of the cemetery that shall be designated the "Mound Cemetery." No persons shall lay out or establish any cemetery or use any lot or land within the city for the burial of the dead except in the Mound Union Cemetery or other tract of land duly designated by ordinance of the city as a cemetery.

(Code 1987, § 240.01)

##### **Sec. 18-21. Use of lots.**

No lots shall be used for any purpose other than the burial of human remains and the placing of appropriate memorials.

(Code 1987, § 240.10)

**Sec. 18-22. Purchase payments options.**

Upon payment in full of the purchase price of the lot, the cemetery will issue a deed conveying the lot executed by the Mayor and the Manager, and the deed shall be recorded in the records of the city. An interim receipt may be issued at that time which may be exchanged for the completed deed that will be ready for delivery within 30 days. Lots may be purchased on a deferred payment contract. Such contract shall be signed by the purchaser and approved by the City Manager. This contract shall stipulate the amount paid and the terms for payment of the balance. Deferred payments shall bear interest at the rate of six percent per annum from the date of execution of the contract. Before a burial is permitted, an amount equal to the actual space used plus the interment and disinterment charges must be paid. No memorial may be installed on the lots purchased on deferred payments until the full purchase price has been paid.

(Code 1987, § 240.15)

**Sec. 18-23. Sole ownership.**

No lots will be sold in joint ownership or common ownership. The title must stand in one name, but where two or more persons join in paying for a lot, their respective interests and rights may be protected by placing the lot in trust; said trust conveys the lot to the cemetery to be held as a place of burial for the persons specified in the trust agreement. No lot may be placed in trust until the full purchase price has been paid.

(Code 1987, § 240.20)

**Sec. 18-24. Subdivision prohibited, transfer, resale, reassignment restricted.**

No lots shall be subdivided by the owner. No transfer, resale, reassignment, or other disposition may be made by a lot owner of any interest in his lot except by will under the governing laws of the state without securing the written consent of the City Manager, and the city reserves the first option to repurchase the lot or fractional lot at the original sale price. No lot will be permitted to be resold, disposed of, or otherwise used until the purchase price and all unpaid charges, including charges for permanent or special care have been paid in full.

(Code 1987, § 240.25)

**Sec. 18-25. Conditions of sale.**

The instrument of conveyance and the rules and regulations of this article, and any amendments thereto constitute the sole agreement between the cemetery and the lot owner. The statement of any employee or agent, unless confirmed in writing by the cemetery, shall not be binding. Lot owners are granted only the right of interment in their lots.

(Code 1987, § 240.30)

**Sec. 18-26. Right to establish and revise cemetery rights-of-way and utilities retained.**

No easement nor right of interment is granted to any plot owner in any road, drive, or alley, or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery as long as the cemetery devotes it to that purpose. The right to enlarge, reduce, replat, or change the boundaries or grading of the cemetery or of a section from time to time, including the right to modify or change the locations of or remove or regrade roads, drives, or walks, or any part thereof, is hereby reserved. The right to lay, maintain, and operate or alter or change pipe lines for sprinkling systems, drainage, etc., is also expressly reserved, as well as is the right to use cemetery property not sold to individual plot owners for cemetery purposes, including interment of the dead, or for anything necessarily incidental or convenient thereto. The cemetery reserves to itself and to those lawfully entitled thereto, the perpetual right of ingress, egress over the lots for the passing to and from other lots. Only the lot owner and his relatives

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shall be permitted on the cemetery lot. Any other person shall be considered as a trespasser, and the cemetery shall owe no duty to the trespasser to keep the property or any memorial or structure thereon in a reasonably safe condition.

(Code 1987, § 240.35)

### **Sec. 18-27. Owner's mailing address.**

It is the duty of the lot owner to notify the cemetery of any change in his post office address.

(Code 1987, § 240.40)

### **Sec. 18-28. Right to correct errors retained.**

The cemetery reserves and shall have a right to correct any errors that may be made by it, either in making interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conferring in lieu thereof, other interment property of equal value in a similar location as far as possible, or as may be selected by the cemetery or by returning the amount of money paid on account of such purchase. In the event such error shall involve the interment of the remains of any person in such property, the cemetery reserves and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

(Code 1987, § 240.45)

### **Sec. 18-29. Superintendent.**

The City Manager or its designee shall act as superintendent of the cemetery and shall have control and management of the cemetery and duties as are prescribed by state law and by the City Council. He shall be the actuary of the cemetery, and shall keep a register of all interments and disinterments, including the name, age, place of birth, residence, marital status, name and address of next relative, cause of death and time of interment, disinterment and reinterment.

(Code 1987, § 240.50)

### **Sec. 18-30. Establishment of rules and regulations.**

The City Council shall from time to time adopt by resolution, appropriate rules and regulations governing the rights and duties of visitors, lot owners, and of cemetery personnel. The city personnel shall effect compliance with said rules, but violations of any such rules adopted by resolution shall not constitute a misdemeanor.

(Code 1987, § 240.60)

### **Sec. 18-31. Burial permits.**

Prior to any interment in the city cemetery, a burial permit shall be obtained from the Manager or his designee. This application for burial permit shall be accompanied by a death certificate and statement showing the name, age, and last residence of the deceased, the date, place, and cause of death, the intended place of burial and such other information as required by the state board of health. No permit for burial shall be issued until the application and death certificate have been properly completed and presented. The interment permit shall be obtained from the City Manager after the burial permit has been obtained. The body of a deceased person shall not be brought into the city for burial unless accompanied by a death certificate and permit for removal issued by the city health officer in the district wherein the death occurred.

(Code 1987, § 240.65)

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### **Sec. 18-32. Regulation of interments.**

Regulations governing interments are as follows:

- (1) No interment other than that of an immediate relative or heir of the lot owner may be made in any lot without the written consent of the lot owner. The City will refer to the MN Statute 524.2-103 to determine the status of a living heir who can authorize use of a grave lot without original written consent. The living heir must submit a notarized document attesting to its living heir status to the former holder of original written consent and a statement that they will be responsible for any and all costs associated with any future dispute involving their living heir status and use of the grave lot.
- (2) All orders for interments in lots must be signed by the owner of the lot, its legal representative or living heir.
- (3) Lot owners shall not allow interments in their lots in return for a remuneration of any kind.
- (4) No interment of two or more bodies shall be made in one grave except in the case of mother and child or two infants buried in one casket; or in the case where one urn of cremated remains is buried with one casket or two urns of cremated remains are buried.
- (5) When an interment is to be made in the lot, the location of such interment shall be designated by the lot owner. Should the lot owner fail or neglect to make such designation, the cemetery reserves the right to make the interment in a location designated by the superintendent.
- (6) The superintendent and his employees or his designees at the cemetery are the only persons who will be permitted to open graves except when the coroner directs a disinterment.
- (7) In order to maintain a high standard of care and to eliminate sunken graves, it is required that all burials whether in a casket or in an urn, must be made in approved outside containers. All such containers must be made and installed as to meet specifications established by the cemetery.
- (8) All charges for interment and/or services in connection therewith shall be paid to the cemetery before interment, and the cemetery will issue a receipt for these charges upon request.
- (9) No interment may be made in the cemetery unless all laws, ordinances, rules and regulations have been complied with and the purchase price of the lot to be used has been paid.
- (10) Interment in a single grave area must be made in regular order. No choice of location is permissible in single grave sections nor can single graves be purchased or reserved in advance of need. However, single graves may be procured in preferred locations by the purchase of one grave in a two-grave lot. These may be purchased in advance of need. Purchasers of single graves or preferred single graves will be given the location card but no deed will be issued therefor.
- (11) All interments must be made at the time and in a manner upon the charges fixed by the cemetery.
- (12) Cemetery personnel will not be responsible for any order given by

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telephone or for any mistake occurring from the want of precise and proper instruction as to the particular space, size of grave, and location in a plot where interment is desired. Cemetery personnel will be in no way liable for any delay in the interment of a body when a protest to the interment has been made or where the rules and regulations have not been complied with and reserves the right under such circumstances to delay burial until the full rights have been determined. All protests on interments shall be filed in the cemetery office.

- (13) The cemetery will not be liable for the identity of the person to be interred.

(Code 1987, § 240.70; Ord. No. 08-2015, 11-22-2015)

### **Sec. 18-33. Opening of graves and disinterment.**

(a) Written permission of the lot owner and the next of kin of the decedent shall be filed with the cemetery office, a permit from the City Manager or his designee shall be secured and submitted, and the required fees paid before a grave may be opened. These actions shall be completed two days in advance of disinterment.

(b) Disinterments may be made in order to place the body in a larger or better lot in the cemetery after there has been an exchange or purchase of lots for that purpose. However, the body may not be removed from the cemetery without the permission of the city health officer. A removal contrary to the expressed or implied wish of the original lot owner is forbidden.

(c) All removals must be made by the superintendent, his employees, or his designees after the proper permits have been filed and the required fees paid and a receipt issued.

(d) When the coroner directs the disinterment for the purpose of holding an inquest and has filed with the cemetery his signed authorization to release the body to himself and his lawful agents, the disinterment may be made. In such cases, the disinterment must be made by the coroner or his lawful agents. No cemetery personnel will assist the coroner or his agents in such disinterment.

(e) The cemetery assumes no liability for damage to any casket or outside container in making a removal. When, in the opinion of the superintendent, a new outside container is needed at the time of removal, it must be provided for by the person arranging for the removal.

(Code 1987, § 240.75)

### **Sec. 18-34. Maintenance and care.**

(a) *Grounds not structures.* The general care of the cemetery includes the cutting and sprinkling of the grass at reasonable intervals, the raking and cleaning of the grounds, and the pruning of shrubs and trees that may be placed by the cemetery, meaning and intending the general preservation of the lots and grounds, walks, roadways, boundaries and structures, to the end that said grounds shall remain and be reasonably cared for as cemetery grounds forever. The general care shall in no case mean the maintenance, repair or replacement of any memorial, structure placed or erected upon lots; nor the doing of any special or unusual work in the cemetery, including work caused by poor soil; nor does it mean the reconstruction of any marble, granite, bronze or concrete work on any lot, or any portion or portions thereof in the cemetery, caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or by the order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

(b) *Additional care permitted.* Lot owners desiring additional care of their lots may

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arrange for such care with the cemetery office, which shall give an estimate of the cost of the work desired. This may be provided for by annual payments made by the lot owner.

(c) *Planting on lots.* Planting of flowers, flower beds, small plants, shrubs or trees will not be permitted, but the cemetery will provide general beautification of the area which will result in a more orderly arrangement and will harmonize with the general plan. Flower vases and potted plants are not permitted. However, cut flowers are permitted, and lot owners may install bouquet holders which are recessed in the ground and which can be inverted when empty. The cemetery reserves the right to revise and remove any and all shrubbery and trees as it deems necessary, without the obligation of replacement in kind or amount in order to maintain the harmonious design of the cemetery.

(Code 1987, § 240.80)

### **Sec. 18-35. Memorials.**

(a) *Erection; fees.* Lot owners shall provide for the erection of a grave marker in the space designated by the superintendent after the burial. No memorial shall be placed until the price of the space used for burial and all burial fees have been paid. All placements of memorials or markers must be conducted by a City approved designee. No markers may be delivered or installed between November 1 and April 1.

(b) *Materials.* All markers placed shall be of bronze or natural stone. Limestone, sandstone, or other material which will not assure relative permanency shall not be used. All stone shall be first grade clear stone for memorial purposes, shall be free from sap or other impurities which will cause rust stain, etc.; that it will not chip or crack; and agree that should such faults develop within five years from day of setting, the memorial will be replaced, without cost to the cemetery or the lot owner. No artificial stone of any description is allowed. Bronze content shall be not less than 85 percent copper and not more than five percent lead, ten percent zinc, five percent tin, all case from virgin material, average thickness of three-sixteenths-inch to one-quarter-inch.

(c) *Lettering and carving.* Raised lettering and carving shall not be less than three-sixteenths-inch raised, incised lettering may be used, but no skinned carving will be allowed. All markers must be in one piece and set level with the ground.

(d) *Size and quantity.* The markers installed on single graves and lots may not exceed the following base sizes:

- (1) Children's single grave sections, 24 inches by 12 inches with a 4" concrete border.
- (2) Adult's single grave sections, up to 24 inches by 14 inches with a 4" concrete border.
- (3) Two single grave markers for a family double grave can be mounted in a single concrete block and treated as one double marker. These dimensions could then be 30" x 15" plus 4" of concrete in between. A 4" concrete border then surrounds both markers for a total combined length of 38".
- (4) Only one grave marker will be allowed per grave lot and no marker shall bear more than one inscription unless more than one body was interred in the grave.
- (5) All markers will be flush with the ground with the exception of those grave lots in Division A.

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(e) *Marker foundations.* All foundations must be of sufficient depth as to support the marker.

(f) *Marker placement.* All markers shall be placed parallel to and two inches from the lot line nearest the roadway or pathway perpendicular to the subject graves. Where two separate and opposite roadways or pathways are equal distance from said lot, the Council will, by resolution, designate the lot end for marker placement.

(g) *Conformance to section provisions.* Markers conforming hereto may be used throughout the cemetery. Monuments, tombstones, tablets or headstones shall not be used except in that part of the cemetery described as lying within the limits of the City of Minnetrista.

(Code 1987, § 240.8; Ord. No. 08-2015, 11-22-2015; Ord. No. 15-2016, 12-04-2016; Ord. No. 03-2019, 12-22-2019)