

## TITLE 6. CEMETERIES\*

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### Chapter 1. In General

- 6-1-1. Definitions.
- 6-1-2. The Name.
- 6-1-3. Cemeteries Covered.

**6-1-1. Definitions.** The following words or phrases shall have the following meanings unless the context otherwise clearly requires:

(1) The term "**lot owner**" or "purchaser" and "grave owner or purchaser" shall mean the owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a deed or burial right for a described lot or by proved and recognized descent or devise from the original owner.

(2) The term "**lot**" shall include the partial lots or single graves in the municipal cemetery.

*History: 9/84*

**6-1-2. The Name.** The burial ground of this city shall be known and designated by the name of Clinton City Cemetery.

*History: 9/84*

**6-1-3. Cemeteries Covered.** All cemeteries owned and/or maintained by the city or which may hereafter be acquired by the municipality

wherever situated are hereby declared subject to the provisions of this chapter.

*History: 9/84*

### Chapter 2. Cemetery Superintendent

- 6-2-1. Office of Cemetery Superintendent.
- 6-2-2. Duties of Cemetery Superintendent.

**6-2-1. Office of Cemetery Superintendent.** There is hereby created the position of cemetery superintendent.

*History: 9/84*

**6-2-2. Duties of Cemetery Superintendent.** The cemetery superintendent shall have the general supervision and administration of the municipal cemetery including but not limited to:

(1) Recommending to the governing body such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery.

(2) Subdividing the cemetery into lots and grave sites.

(3) Maintaining a record of the location of the graves and preventing any lot from being used beyond its capacity.

(4) Keeping in proper repair the enclosure around the cemetery and preventing its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein.

(5) Keeping a duplicate plat of the cemetery and, at the request of any person wishing to purchase any of the lots or parts of lots, pointing out any of the lots or parts of lots for sale; and upon disposal of any lots or part thereof, notifying the recorder of such fact. The recorder shall, after payment of the lot price has been received in the treasury issue a certificate of burial rights which shall describe the lot or grave to which the right to burial is granted. The certificate shall be signed by the city manager and the recorder.

(6) Opening any graves in the cemetery upon application to him being made by the recorder or by any person having the right to make such application and being responsible for closing all graves.

(7) Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be removed sooner than seven (7) days after original placement except in emergency.

(8) Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.

(9) Erecting a suitable marker firmly set upon the northwest corner of each block with the number of the block inscribed thereon and which location shall be shown on the cemetery records.

*History: 9/84*

### **Chapter 3. Regulation of Cemetery and Burials**

- 6-3-1. Interments--Duties of Cemetery Superintendent—Records of Interments--Information Filed with Local Registrar.
- 6-3-2. Burials and Disinterment.
- 6-3-3. Vaults Required.
- 6-3-4. Religious and Fraternal Organizations.
- 6-3-5. Sale Subject to Rules.
- 6-3-6. Care Reserved.
- 6-3-7. Orders and Responsibilities for Errors.
- 6-3-8. Traffic Rules.
- 6-3-9. Children.
- 6-3-10. Animals Prohibited.
- 6-3-11. Decorum.
- 6-3-12. Injury to Cemetery Property Prohibited.
- 6-3-13. Landscaping by Private Persons.
- 6-3-14. Placement of Markers.
- 6-3-15. Additional Rules and Regulations.

**6-3-1. Interments--Duties of Cemetery Superintendent--Records of Interments--Information Filed with Local Registrar.** (1) The cemetery superintendent shall not inter or permit the interment of any body unless the interment is

made by a licensed funeral director or person with a burial-transit permit.

(2) The cemetery superintendent shall keep a record of all interments made in the premises under his charge, stating the name of the decedent, place of death, date of burial, and name and address of the funeral director or other person making the interment. This record shall be open to public inspection. A city clerk shall maintain the interment records.

(3) Not later than the tenth (10th) day of each month every cemetery superintendent shall send to the local registrar and the Utah Vital Statistics Department a list of all interments made in the premises under his charge during the preceding month. The list shall be on forms provided by the state registrar.

*History: 9/84*

**6-3-2. Burials and Disinterment.** (1) It is a class C misdemeanor for any person to:

(a) Disinter any body buried in any cemetery, except under the direction of the cemetery superintendent who shall, before disinterment, require a written permission from both the city health officer and the owner of the lot or his or her heirs, which written authorization shall be filed and preserved in a record kept for such purposes.

(b) Disinter or remove the body of a person who has died from a contagious disease within two (2) years after the date of burial, unless the body was buried in a hermetically sealed casket or vault and is found to be so encased at the time of disinterment.

(2) It is a class C misdemeanor to inter anything other than the remains of human bodies in cemeteries.

(3) It is a class C misdemeanor to bury the body of any person within this city except in the city cemetery or a private cemetery, unless by special permission of the governing body under such rules and regulations that it may prescribe.

*History: 9/84, 05/99*

**6-3-3. Vaults Required.** (1) Unless in writing waived by the cemetery superintendent, it shall be unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel, or brick-lined or of such other material approved by the governing body, substantially constructed and covered with a similar durable material.

(2) No wood shall be used as a permanent part of the construction of any part of the vault.

*History: 9/84*

**6-3-4. Religious and Fraternal Organizations.** The city may contract with religious and fraternal organizations to designate a reasonable portion of the cemetery in which burials may be restricted to members of such religious and fraternal organizations and their families.

*History: 9/84*

**6-3-5. Sale Subject to Rules.** Every lot or single grave sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of lot owners, the remains of the dead, and the preservation of the cemetery.

*History: 9/84*

**6-3-6. Care Reserved.** The city reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemeteries.

*History: 9/84*

**6-3-7. Orders and Responsibilities for Errors.** Under no circumstances will the city assume responsibilities for errors in opening graves when orders are given by telephone.

*History: 9/84*

**6-3-8. Traffic Rules.** (1) The provisions of the city traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as herein otherwise modified by this ordinance.

(2) It shall be unlawful for any person to ride or drive within the city cemetery at a speed greater than ten (10) miles per hour.

*History: 9/84*

**6-3-9. Children.** Children under the age of 16 years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles.

*History: 9/84*

**6-3-10. Animals Prohibited.** No animal shall be allowed in any cemetery except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery.

*History: 9/84*

**6-3-11. Decorum.** Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

*History: 9/84*

**6-3-12. Injury to Cemetery Property Prohibited.** (1) It is a class C misdemeanor for any person to tie or attempt to tie any horse, animal or motor vehicle to any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery for the purpose of injuring, defacing or attempting the removal of same.

(2) It shall be a class C misdemeanor for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery.

*History: 9/84, 05/99*

**6-3-13. Landscaping by Private Persons.** Except as provided by the rules and regulations of the governing body, it shall be unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley or walk in the cemetery or to grade the ground or land thereof. The cemetery superintendent shall, whenever required, furnish the true lines of any lots according to official survey, shall prevent and prohibit any markings of the same except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land.

*History: 9/84*

**6-3-14. Placement of Markers.** It shall be unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in cemetery in violation of the rules and regulations promulgated by the governing body regarding the placement, construction, and design of all such markers.

*History: 9/84*

**6-3-15. Additional Rules and Regulations.** (1) The governing body may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.

(2) The mayor may from time to time as the governing body deems necessary direct and publish a booklet of rules and regulations for the convenience of the purchasers of lots in the city cemetery. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the cemetery and shall form a supplement to this ordinance after they have been adopted as official by resolution of the governing body.

(3) Any changes in the rules and regulations shall be adopted by the governing body before such changes shall be official.

*History: 9/84*

## Chapter 4. Fees and Charges

6-4-1. Collection of Fees.

6-4-2. Fee to be Paid for Opening Grave.

6-4-3. Purchaser Price and Fees.

**6-4-1. Collection of Fees.** The recorder, and such other persons as the governing body may designate, are hereby authorized and required to collect in advance prices and fees for the opening and closing of graves or other services which shall include but not be limited to properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as are determined by the governing body from time to time by resolution.

*History: 9/84*

**6-4-2. Fee to be Paid for Opening Grave.** (1) No grave shall be opened in the city cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.

(2) The presentation of a receipt from the recorder or person designated by the governing body when presented to the cemetery superintendent, shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the municipality wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the recorder or authorized person may give the cemetery superintendent authority to open graves without the presentation of a receipt from the recorder or authorized person.

*History: 9/84*

**6-4-3. Purchaser Price and Fees.** The governing body shall from time to time by resolution fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services to be provided.

*History: 9/84*

## Chapter 5. Sale of Lots

6-5-1. Sale.

6-5-2. Restrictions of Resale.

**6-5-1. Sale.** (1) The recorder, and such other person as the governing body may designate, are hereby authorized to sell the use of lots in the city cemetery for burial purposes only and to collect all sums arising from the sale. The recorder shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefore. The recorder or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price, and the type of maintenance services which are to be provided, e.g., perpetual care, prepaid continued maintenance, or currently paid services.

(2) A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant to this section shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.

(3) Perpetual care, or prepaid continued maintenance shall be deemed to include the filling of the grave, the placing of top soil upon the grave, seeding the grave with grass, and watering and cutting the grass. No other services are included.

(4) No other improvements, changes, or service, except perpetual care or prepaid continued maintenance shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the cemetery superintendent, written approval for such improvements, changes

or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the governing body.

*History: 9/84*

**6-5-2. Restrictions of Resale.** (1) From and after August 28, 1984, the lots sold by this city shall not be further sold, transferred, conveyed or assigned to any person except the city. The city may buy back unused cemetery plots upon request from the owner, or by all living heirs, at the buyback price established by resolution of the City Council.

(2) Whenever a certificate to burial rights or lots reverts to the city, as provided for in this section, or becomes vested in the city for any reason, before new certificates are issued, the original certificate shall be cancelled or an assignment given, and the record shall be so changed.

(3) The certificates shall be issued and signed by the mayor and shall be attested by the recorder. All lots, or parts of lots as provided in this section, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.

*History: 9/84, 9/05*

## Chapter 6. Perpetual Care

6-6-1. Contracting for Perpetual Care.

6-6-2. Care Included.

**6-6-1. Contracting for Perpetual Care.** (1) No grave shall be hereafter opened in the cemetery of this city until perpetual care upon the lot where the grave is to be opened shall have been contracted for with this city, or perpetual care thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and perpetual care shall not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price for perpetual care or enter into a contract wherein payment shall be agreed.

(2) The agreement shall provide for a down payment in the amount of 20 percent of the total

purchase price of the cost of the lot, and shall further provide for the payment of monthly installments over a period not to exceed 20 months. The monthly installments shall be in the amounts equal to the balance of the contract divided by the number of months which the contract is to run, plus two (2) months extra payment to pay for the privilege of making the payments in installments or six percent (6%) of the balance, whichever is less.

(3) The installment contract for perpetual care of, or purchase of a lot with perpetual care, shall provide for collection by the city in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with a reasonable attorney's fee to the city, and shall also pay interest at the rate of eight percent per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments provided, however, that when perpetual care for any lot in the city cemetery of portion thereof, has not been paid for a period of ten (10) years, then, and in such an event, the unused portion of the lot shall thereafter escheat to this city, and the title thereof shall revert to this city, which shall thereafter have the right, option, and privilege to sell and dispose of unused cemetery property, as is in this chapter provided, upon condition that this city shall thereafter maintain perpetually without cost of fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to this city.

(4) This city shall have power to fix, by resolution, a fee from any person now owning a cemetery lot or portion thereof for the annual maintenance and care thereof. Until such time as the fee shall be fixed by resolution, said person shall pay a fee equal to \$15.00 per year for such care and maintenance. The fee shall continue to be paid until such time as a further or additional interment shall be made on the lot, at which time the provisions of this subpart relating to perpetual care and maintenance and to payment of fees and costs pertaining thereto shall take effect and apply.

*History: 9/84*

**6-6-2. Care Included.** The essential perpetual care that the city agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all lots and graves at reasonable intervals, re-sodding, seeding and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the city.

*History: 9/84*

## Chapter 7. Perpetual Care Fund

- 6-7-1. Perpetual Care Fund Created.
- 6-7-2. Duties of Treasurer.
- 6-7-3. Duty of Governing Body.
- 6-7-4. Income.

**6-7-1. Perpetual Care Fund Created.** (1) There hereby is established a perpetual care fund according to the laws of the State of Utah and this chapter. All funds received from the sale of perpetual care services shall be placed in a special perpetual care fund, invested in compliance with the laws of the State of Utah and used for the purposes herein provided.

(2) The income from the perpetual care fund shall be used to pay the upkeep and development of the cemetery. The city may borrow from the fund from time to time, but any funds borrowed shall be repaid to the fund with interest thereon at the prevailing rate paid by the city to borrow funds from commercial lenders.

(3) If the city borrows from the fund, it shall pay into a fund for the operation of the cemeteries the interest accrued upon money annually. Should it be found that the interest returned upon the perpetual care funds shall be more than is required to pay for the operation and upkeep of

the city cemetery, then the surplus shall be added to the principal amount of the perpetual care fund herein created, and shall be so handled until changed by resolution to provide for the use of such accumulated interest.

*History: 9/84*

**6-7-2. Duties of Treasurer.** It shall be the duty of the treasurer to monitor the trustee's records of the perpetual care trust fund account, including investments, to see that the principal portion thereof is properly invested in accordance with resolutions of the governing body and the laws of the State of Utah, and to advise the mayor when funds are available for investment in the amount of \$1,000.00 or more. The mayor shall advise the governing body of the availability of such funds.

*History: 9/84*

**6-7-3. Duty of the Governing Body.** It shall be the duty of the city council when funds are available for investment to direct by resolution all purchases of securities for the perpetual care and to name a bank as a suitable trustee for such investment, who shall present periodically, but at least annually, a report to the city council.

*History: 9/84*

**6-7-4. Income.** All income from investments held in the perpetual care fund shall be quarterly credited to the cemetery maintenance fund for use in providing the perpetual care as required herein.

*History: 9/84*

## Chapter 8. Non-perpetual Care Lots

- 6-8-1. Maintenance Charges on Lots without Perpetual Care.
- 6-8-2. Reversion of Nonpaying Lots.
- 6-8-3. Procedure for Reversion of Lot to City.

**6-8-1. Maintenance Charges on Lots without Perpetual Care.** (1) Every lot for which perpetual care has not been purchased and with reference to which the owner has established a right to directly provide for maintenance and care,

notwithstanding the provisions of section 6-3-6, shall be maintained and cared for to the extent and in accordance with the standards established by the governing body for care and maintenance of all lots of the cemetery.

(2) In the event that the owner fails to provide the requisite care and maintenance for non-perpetual care lots, the cemetery superintendent shall furnish care and maintenance at rates established by the governing body.

(3) All such charges shall become a personal liability of the owner of the lots and, in addition thereto, shall constitute a lien against the lots upon the basis of which the governing body may cause the burial rights therein to be forfeited and said rights to revert to the city.

*History: 9/84*

**6-8-2. Reversion of Nonpaying Lots.** (1) When any owner of any lot or portion of a lot in the cemetery shall have failed to pay the cost of services rendered by the city or its employees in watering, beautifying, maintaining or caring for any lots or portions thereof in the city cemetery for which perpetual care has not been purchased in accordance with the provisions of this chapter, and such failure to pay has continued for a period of six (6) months, the city may pursue collection of such costs in a court of law. A court action may be pursued for the purpose of seeking judgment against the owner and thereafter attaching any of the assets of the owner including an attachment of the lots or portions of lots upon which the owner has failed to make payment for maintenance service.

(2) As an additional remedy, or in lieu of seeking collection in a court of law, the city may cancel the owner's certificate or deed representing rights to burial on the unoccupied lots or portions of lots and causing ownership of lots or portions thereof to revert to the city by following the procedure set forth in this part.

*History: 9/84*

**6-8-3. Procedure for Reversion of Lot to City.** (1) The city may terminate the owner's right to use of unoccupied lot or lots in the city cemetery when there has been a six-month failure to pay the costs of maintenance provided by the city in the following manner:

(a) The governing body shall fix a time and place of hearing before the governing body at which the owner shall be given the opportunity to present good cause as to why his right to future use of the lot or lots involved shall not be terminated and as to why the ownership of the lot or portions of lot shall not revert back to the city for resale by it.

(b) A notice of the time, place, and purpose of the hearing to forfeit the owner's interest in the lot or parts of the lot shall be given by personal delivery of a written notice of the time, place, and purpose of the meeting of the governing body or by mailing a copy of the notice to the last-known address of the owner or owners.

(c) In the absence of an ability to make personal delivery of the written notice to the owner or owners, a notice of the hearing to forfeit rights to said lot or portions of lot shall be published at least once in a newspaper having general circulation in the county. The publication shall be made at least three (3) weeks prior to the date of the hearing.

(d) If the owner is known to be deceased, then mailing of notice or delivery of notice shall be made to the last-known addresses of any known heirs.

(e) Copies of the notice shall also be posted in a conspicuous place in the offices of the city.

(f) At the time and place set for the hearing before the governing body, the governing body shall give the owner or owners an opportunity to be heard, a right to present witnesses, and to submit evidence showing cause why the lot or portions of the lot shall not be forfeited to the city.

(2) After due consideration of all the facts presented at such hearing, the governing body may order, if it finds that there has been a failure

to make payment of such costs or if no satisfactory arrangement has been proffered for making the immediate payment of such costs, that the lot or portions of lot shall revert to the city for resale and that all of the rights and privileges of the owner in the lot or lots are terminated.

(3) Thereafter, the city may make sale of the lots in the same manner as it makes sales of all other lots within the cemetery.

*History: 9/84*

## Chapter 9. Indigents

6-9-1. Burial of Indigents.

**6-9-1. Burial of Indigents.** (1) The governing body may by resolution designate a portion of the city cemetery to the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to him by the recorder that any person who has died does not have an estate sufficient to pay the purchase price of a lot in the cemetery, and that the nearest relative or representative of such deceased person desires to have the body of such deceased interred in the cemetery, the mayor may grant burial space for such deceased person at the request made to him by the recorder.

(2) The mayor shall communicate his decision to both the recorder and the cemetery superintendent. The mayor shall give report of his decision, whether affirmative or negative, to the governing body at its next regular meeting. All strangers without funds or other persons who may die in the city may be granted the privilege granted herein.

*History: 9/84*

*\*Editor's note: Title 6 repeals, in Toto, Ordinance No. 2-77*