

ORDINANCE 18-04

WHEREAS, on January 6, 1994, the Hyrum City Council passed and posted an ordinance adopting the "Hyrum City Municipal Code", a recodification of municipal ordinances encompassing the "Revised Ordinances of Hyrum City" and ordinances adopted through July 15, 1993; and

WHEREAS, Title 12 of the Hyrum City Municipal Code sets forth regulations governing Hyrum City's streets, sidewalks, and public places; and

WHEREAS, Chapter 12.20 of Title 12 of the Hyrum City Municipal Code sets forth those regulations pertaining to the Hyrum City Cemetery regarding burials, purchasing of lots and privileges, markers and monuments, decoration of graves, and access and conduct in the Cemetery; and

WHEREAS, City Staff has reviewed the Cemetery Ordinance and is recommending amending it to reflect Hyrum City's current practices and policies.

NOW, THEREFORE, the Hyrum City Council hereby adopts, passes, and publishes the following:

AN ORDINANCE REPEALING AND REENACTING CHAPTER 12.20 CEMETERIES OF THE HYRUM CITY MUNICIPAL CODE.

BE IT ORDAINED by the City Council of Hyrum City, Cache County, State of Utah, as follows:

1. Chapter 12.20 of Title 12 of the Hyrum City Municipal Code is hereby repealed and reenacted as follows:

12.20 Cemeteries

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- ~~12.20.340 Failure To Pay Cost Of Services-Remedies~~
- ~~12.20.350 Failure To Pay Cost Of Services Reversion Of Lot To City Procedure~~
- 12.20.360 Burial Of Indigents

12.20.010 Name

The burial ground of this municipality, shall be known and designated by the name of Hyrum City Cemetery. (Prior code § 8-202)

12.20.020 Definitions

The following words or phrases shall have the following meanings unless the context otherwise clearly requires:

"Decorum" is the proper behavior and conduct giving respect to those who are dead.

"Indigent" is a resident of Hyrum City who is without means or family who cannot pay the required fees of a burial.

"Lot" includes the partial lots or single graves in the municipal cemetery, intended to hold one deceased body or two (2) cremains.

"Lot owner or purchaser" and **"grave owner or purchaser"** means 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. (Prior code § 8-201)

"Nonresident" is any person who does not have a principal residence in Hyrum City limits.

"Cemetery Clerk" is referred to the clerk of the cemetery who has been assigned the responsibility of maintaining the records of the cemetery.

"Resident" is an individual who lives within Hyrum City limits. A resident may also be a person who has made Hyrum City their principal residence but for reasons of health or age, has moved from the city to be cared for by family or by a licensed healthcare facility.

12.20.030 Applicability

All cemeteries owned and/or maintained by the municipality or which may hereafter be acquired by the municipality wherever situated are declared subject to the provisions of this chapter. (Prior code § 8-203)

12.20.040 Cemetery Superintendent-Office Created

There is created the position of cemetery superintendent. (Prior code § 8-211)

12.20.050 Cemetery Superintendent-Duties

The cemetery superintendent shall have the general supervision and administration of the municipal cemetery including, but not limited to:

- A. Recommending to the governing body such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery;
- ~~B. Subdividing the cemetery into lots and grave sites;~~
- ~~C. Maintaining a record of the location of the graves and preventing any lot from being used beyond its capacity;~~

- D. 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;
- ~~E. 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 parts thereof, notifying the recorder/clerk of such fact. The recorder/clerk 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 mayor and the recorder/clerk;~~
- F. Opening any graves in the cemetery upon application to him being made by the ~~recorder/clerk~~ or by any person having the right to make such application and being responsible for closing all graves;
- G. 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 five days after original placement except in emergencies;
- H. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed;
- ~~I. Erecting a suitable marker firmly set upon the northwest corner of each lot with the number of the lot inscribed thereon and which location shall be shown on the cemetery records. (Prior code § 8-212)~~

12.20.060 Burials Permit Required

~~Before any deceased person is buried in the municipal cemetery, a permit properly issued by the registrar of the registration district in which the death occurred or, in the absence of such registrar, a permit duly issued by the State Division of Health or other authorized person shall be required by the cemetery superintendent. After burial, the cemetery superintendent shall endorse upon the permit a description of the location where the deceased is buried and shall enter all of the information contained in the permit in the cemetery records. (Prior code § 8-221)~~

12.20.070 Burial-Certificate Of Burial Right Required

- A. It is unlawful for any person to bury the body of a deceased person in the municipal cemetery without first obtaining a certificate of burial right for the lot used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right. (Prior code § 8-222)
- B. The clerk 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 clerk.

12.20.080 Burials-Information To Be Recorded

Before any deceased person may be buried in the municipal cemetery, the relatives or person having charge of the deceased shall provide the ~~recorder~~/clerk with a written statement which shall be filed by the ~~recorder~~/clerk, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date ~~and cause~~ of death, ~~the name of the attending physician~~, date of burial, name of cemetery and the description of the location of the grave. (Prior code § 8-223)

12.20.090 Disinterment-Prohibitions

It is an infraction 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 municipal 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 years after the date of burial, unless the body was buried in a hermetically-sealed casket or vault and is found to be so incased at the time of disinterment. (Prior code § 8-224 (A))

12.20.100 Interment Of Non-Human Remains Prohibited

It is an infraction to inter anything other than the remains of human bodies in cemeteries. (Prior code § 8-224 (B))

12.20.110 Interment Of Human Remains In Cemetery Required

It is an infraction to bury the body of any person within this municipality except in the municipal cemetery or a private cemetery, unless by special permission of the governing body under such rules and regulations that it may prescribe. (Prior code § 8-224 (C))

12.20.120 Vaults Required

- A. Unless in writing waived by the cemetery superintendent, it is 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. Children's caskets of fiberglass or plastic are the exception.
- B. No wood shall be used as a permanent part of the construction of any part of the vault. (Prior code § 8-225)
- C. A vault is not required for cremation when cremation vessel is made exclusively of glass, porcelain, plastic or any combination thereof.

~~**12.20.130 Appointment For Religious And Fraternal Organizations**~~

~~The municipality may contact 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. (Prior code § 8-226)~~

12.20.140 Lot And Grave Site Sales-Rules And Regulations

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. (Prior code § 8-227)

12.20.150 City's Right To Provide Upkeep

The municipality 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 the cemetery. (Prior code § 8-228)

12.20.160 Phone Orders-Responsibility For Errors

Under no circumstances will the municipality assume responsibility for errors in opening graves when orders are given by telephone. (Prior code § 8-229)

12.20.170 Traffic Rules

A. The provisions of the municipal 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 chapter.

B. It is unlawful for any person to ride or drive within the municipal cemetery at a speed greater than ten (10) miles per hour. (Prior code § 8-230)

12.20.180 Children

Children under the age of ~~twelve~~ eight (8) 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. (Prior code § 8-231)

12.20.190 Animals

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 the vehicle while the vehicle remains in the cemetery. (Prior code § 8-232)

Horse drawn carriages that bring the deceased to the cemetery will be allowed as long as the horses are held in control by the driver or an attendant.

12.20.200 Activities Prohibited

The following activities are prohibited in the cemetery at any time:

- A. Skateboarding, roller skating, or rollerblading;
- B. Sledding or tubing;
- C. Motorcycles, snowmobiles, ATVs, or similar motorized vehicles;
- D. Bicycles or scooters;
- E. Any other activity that would not be keeping with 12.20.170 of this chapter;
- F. Any activities from dusk to dawn;
- G. Walking a dog.

12.20.200 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. (Prior code § 8-233)

12.20.210 Vandalism

A. It is a class B 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.~~ attempt, or allow someone else, to commit injury, removal or defacing of any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery.

B. It is an infraction for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery. (Prior code § 8-234)

12.20.220 Landscaping

Except as provided by the rules and regulations of the governing body, it is 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 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. (Prior code § 8-235)

12.20.230 Placement Of Markers

It is unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in the cemetery in violation of the rules and regulations promulgated by the governing body regarding the placement, construction and design of all such markers. (Prior code § 8-236)

12.20.240 Additional Rules And Regulations

A. 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.

B. 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 municipal 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 the ordinance codified in this chapter after they have been adopted as official by resolution of the governing body.

C. Any changes in the rules and regulations shall be adopted by the governing body before such changes shall be official. (Prior code § 8-237)

12.20.250 Fees-Collection Authority

The ~~recorder~~/clerk, and such other persons as the governing body may designate, are 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~~ adopted by the governing body from time to time by resolution. (Prior code § 8-241)

12.20.260 Fees-Grave Openings-Prepayment Required-Exception

A. No grave shall be opened in the municipal cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.

B. The presentation of a receipt from the ~~recorder~~/clerk 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/clerk or authorized person may give the cemetery superintendent authority to open graves without the presentation of a receipt from the recorder/clerk or authorized person. (Prior code § 8-242)

12.20.270 Size And Price Of Lots And Fees-Determination

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. (Prior code § 8-243)

12.20.280 Fees-Resident/Nonresident Defined

For the purpose of determining the purchase price or repurchase price of cemetery spaces or burial rights and the cost of opening/closing services, a "resident" is a person who ~~resides within Hyrum City limits or within the bounds of the policy declared area reserved for future annexation~~ meets definition of residence as described in this chapter at the time the burial space is purchased and/or the opening/closing services required. All other persons are considered "nonresidents." (Ord. § 90-03 (part): prior code § 8-244)

12.20.290 Fees-Designated

- ~~A. A cemetery lot shall consist of four burial spaces and each burial space or burial right thereto, including the perpetual care thereof, shall be obtained from the city for a fee of one hundred dollars to city residents and two hundred fifty dollars to nonresidents, or four hundred dollars per lot to city residents and one thousand dollars to nonresidents.~~
- ~~B. Opening/closing fees for adult size graves are set at one hundred dollars per grave for residents and one hundred fifty dollars per grave for nonresidents.~~
- ~~C. Opening/closing fees for infant size graves are set at fifty dollars per grave for residents and seventy-five dollars per grave for nonresidents.~~
- ~~D. To qualify as a resident, a person must reside within Hyrum City limits or within the bounds of the policy declared areas reserved for future annexation at the time the burial space is purchased and/or the opening/closing services required. All others are considered nonresidents. (Res. 89-05 § 1C4; Res. 81-192)~~

12.20.300 Lots-Sale

- ~~A. The recorder/clerk, and such other person as the governing body may designate, are authorized to sell the use of lots in the municipal cemetery for burial purposes only and to collect all sums arising from the sale. The recorder/clerk shall keep a complete record~~

of all sales, which record shall describe the location of the lot purchased and the price paid therefor. The recorder/clerk 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, and 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.~~

- B. 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, except as may be provided by the city council after the effective date of the ordinance codified in this section. Payments made pursuant to this section shall not be construed to be in payment for cemetery services ~~other than perpetual care or prepaid maintenance.~~
- C. ~~Perpetual care or prepaid continued maintenance~~ Payment of the burial shall be deemed to include the filling of the grave, the placing of topsoil upon the grave, seeding the grave with grass (or resodding), and watering and cutting the grass. No other services are included.
- D. 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. (Prior code § 8-251)
- E. The sale of lots shall be restricted to eight (8) burial spaces per head of household. Special exceptions will be considered upon request.
- F. The sale of lots will be confined to existing platted area.

12.20.310 Lots-Resale Restrictions

- A. From and after June 1, 1990, any person owning spaces or burial rights in the Hyrum City cemetery shall not further sell, transfer, convey or assign the spaces or

rights to any person or entity other than Hyrum City; except that nothing herein shall prevent the holder of a cemetery space or burial right from transferring the space or right to a member of his or her immediate family. "Immediate family," for the purpose of this chapter, is defined as parents and children or brothers and sisters. If the person to whom the space is transferred is a nonresident, as defined in HCC 12.20.280, the person shall remit to the city the difference between the current charge per space for residents and the current charge per space for nonresidents. The city agrees to buy back any municipal cemetery space or burial right which it may hereafter resell. The repurchase of such spaces or burial rights shall be one hundred dollars per burial space or right whether repurchased from a resident or a nonresident. The repurchase amount may be changed from time to time by resolution.

- B. Whenever a certificate to burial rights or lots reverts to the municipality, as provided for this chapter, or becomes vested in the municipality for any reason, before new certificates are issued, the original certificate shall be canceled or an assignment given and the record shall be so changed.
- C. The certificates shall be issued and signed by the mayor clerk. and ~~shall be attested by the recorder/clerk~~. 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 the payment. (Ord. 90-03 (part); prior code § 8-252)

12.20.320 Contracting For Perpetual Care-Default

~~Purchase of a lot with perpetual care shall provide for collection by the municipality in event of a default and such collection shall be by civil action, and the defendant therein shall pay the cost of collection, together with a reasonable attorney's fee to the municipality, 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 municipal cemetery or portion thereof, has not been paid for a period of ten years, then, and in such an event, the unused portion of the lot shall~~

~~thereafter escheat to the municipality, and the title thereof shall revert to this municipality, which shall thereafter have the right, option and privilege to sell and dispose of unused cemetery property, as in this chapter provided, upon condition that this municipality shall thereafter maintain perpetually without cost or fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to this municipality. (Prior code § 8-261)~~

12.20.330 Maintenance Charges On Lots Without Perpetual Care

- ~~A. 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 HCC 12.20.150, shall be maintained and cared for to the extent and in accordance with standards established by the governing body for care and maintenance of all lots of the cemetery.~~
- ~~B. 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.~~
- ~~C. 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 the rights to revert to the municipality. (Prior code § 8-281)~~

12.20.340 Failure To Pay Cost Of Services-Remedies

- ~~A. 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 municipality or its employees in watering, beautifying, maintaining or caring for any lots or portions thereof in the municipal 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 months, the municipality 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.~~

~~B. As an additional remedy, or in lieu of seeking collection in a court of law, the municipality 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 back to the municipality by following the procedure set forth in this chapter. (Prior code § 8-282)~~

12.20.350 Failure To Pay Cost Of Services-Reversion Of Lot To City-Procedure

~~A. The municipality may terminate the owner's right to use of unoccupied lot or lots in the municipal cemetery when there has been a six-month failure to pay the costs of maintenance provided by the municipality in the following manner:~~

- ~~1. 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 municipality for resale by it.~~
- ~~2. 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 meeting or the governing body or by mailing a copy of the notice to the last known address of the owner or owners.~~
- ~~3. 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 the 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 weeks prior to the date of the hearing.~~
- ~~4. If the owner is known to be deceased, then mailing of notice or delivery of notice shall be~~

~~made to the last known address of any known heirs.~~

~~5. Copies of the notice shall also be posted in a conspicuous place in the office of the municipality.~~

~~6. 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 municipality.~~

~~B. 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 preferred for making the immediate payment of such costs, that the lot or portions of lot shall revert to the municipality for resale and that all of the rights and privileges of the owner in the lot or lots are terminated.~~

~~C. Thereafter, the municipality may make sale of the lots in the same manner as it makes sales of all other lots within the cemetery. (Prior code § 8-283)~~

12.20.360 Burial Of Indigents

A. The governing body may by resolution designate a portion of the municipal cemetery to the burial of indigents. Whenever it is made to appear to the mayor by proof submitted to him by the ~~recorder~~/clerk 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~~/clerk.

B. The mayor shall communicate his decision to ~~both~~ the ~~recorder~~/clerk 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 municipality may be

granted the privilege granted herein. (Prior code § 8-291)

2. DECLARATION OF SEVERABILITY. Should any provision, clause, or paragraph of this ordinance or the application thereof to any person or circumstance be declared by a court of competent jurisdiction to be invalid, in whole or in part, such invalidity shall not affect the other provisions or applications of this ordinance or the Hyrum City Municipal Code to which these amendments apply. The valid part of any provision, clause, or paragraph of this ordinance shall be given independence from the invalid provisions or applications and to this end the parts, sections, and subsections of this ordinance, together with the regulations contained therein, are hereby declared to be severable.

3. EFFECTIVE DATE. This ordinance shall become effective upon posting three (3) copies in three (3) public places within Hyrum City.

4. ADOPTION. This ordinance is hereby adopted and passed by the Hyrum City Council this 19th day of April, 2018.

HYRUM CITY

BY: _____
Stephanie Miller
Mayor

ATTEST:

Stephanie Fricke
City Recorder

Posted:___ _