

CHAPTER 7. CEMETERIES*

ARTICLE I. IN GENERAL

Sec. 7-100. Authority to purchase; applicability of provisions.

(a) As used in this chapter and except as provided in subsection 7-100(c), the terms “cemetery” and “town cemetery” shall refer to any and all cemeteries owned and/or operated by the Town of Maiden.

(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 chapter apply only to cemeteries owned and/or operated by the town.

(Ord. No. 26-94, 11-7-94)

Sec. 7-101. Control of 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.”

(Ord. No. 12-75, § 13, 10-20-75; Code 1976, § 9.49)

Sec. 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/her by this section, and any ordinance, resolution or order of the 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, the erection of monuments and markers;

* **State law references**-Cemeteries, G.S. § 160A-341 et seq.; regulation of city cemeteries, G.S. § 160A-348.

(3) Supervise the planting of any and all shrubbery, trees and flowers;

(4) Make provision for the entrance and exit of persons and vehicles to and from the cemetery.

(Ord. No. 12-75, § 2, 10-20-75; Code 1976, § 9.38)

Sec. 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.

(Ord. No. 12-75, § 15, 10-20-75; Code 1976, § 9.51)

Sec. 7-104. Interment; disinterment.

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

(Ord. No. 12-75, § 3, 10-20-75; Code 1976, § 9.39)

Sec. 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.

(Ord. No. 12-75, § 4, 10-20-75; Code 1976, § 9.40)

Sec. 7-106. Family monument.

Only one (1) family marker shall be allowed on a family plot. Individual grave markers are allowed but shall not exceed two (2) feet in length and one (1) foot in width. Individual grave markers shall be placed at the end of the grave farthest from the family marker. 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.

(Ord. No. 12-75, § 13, 10-20-75; Code 1976, § 9.41)

Sec. 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.

(Ord. No. 12-75, § 6, 10-20-75; Code 1976, § 9.42)

Sec. 7-108. Landscaping.

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

(Ord. No. 12-75, § 7, 10-20-75; Code 1976, § 9.43)

Sec. 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 supervision, and if such person shall fail to make such repairs, within thirty (30) days thereafter, the council may order such repairs to be made or remove the same from such lot as the council may elect.

(Ord. No. 12-75, § 8, 10-20-75; Code 1976, § 9.44)

Sec. 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 chapter.

(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.

(Ord. No. 12-75, § 10, 10-20-75; Code 1976, § 9.46; Ord. No. 23-92A, 11-2-92)

Sec. 7-111. Vehicles.

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

(Ord. No. 12-75, § 11, 10-20-75; Code 1976, § 9.47)

Cross reference-Traffic and motor vehicles, Ch. 20.

Sec. 7-112. Rubbish, etc.

(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 town, the surviving spouse or next of kin of the deceased.

(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. Chpt 70, Art. 3.

(c) Violation of this section is a Class I felony if the damage caused by the violation is one thousand 00/100 dollars (\$1,000) or more. Any other violation of this section is a Class 1 misdemeanor.

Sec. 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 there from by the owner of the lot upon which such monument, marker or structure shall be located.

(Ord. No. 12-75, § 12, 10-20-75; Code 1976, § 9.48)

Sec. 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 subdivision 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. Chpt. 70, Article 3.
(Ord. No. 12-75, § 16, 10-20-75; Code 1976, § 9.52)

Cross reference-Garbage and refuse, Ch. II.

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

Sec. 7-114. Cleaning after funerals.

Repealed.

(Ord. No. 12-75, § 17, 10-20-75; Code 1976, § 9.53)

Sec. 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. No. 26-94, 11-7-94)

Sec. 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:

- (1) The grave shall be fully paid for before any usage is made of same;
- (2) The town retains ownership of the real estate, but issues a deed granting permission for use of the grave site;
- (3) The uppermost part of the burial vault or other encasement for each grave shall be a minimum of four (4) 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 twenty-eight (28) inches in depth below the ground surface; and
- (4) 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. No. 26-94, 11-7-94; Ord. No. 6-99, 4-19-99)

Sec. 7-117. Number of bodies to be buried in one grave.

(a) Only one (1) dead body of a human being shall be interred in any one grave of any town cemetery. Up to two (2) 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 (3) cremations may be interred in any one grave of a town cemetery. Each cremation burial shall be identified using a twelve by eighteen (12 x 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. No. 26-94, 11-7-94; Ord. No. 6-99, 4-19-99)

Sec. 7-118. Vault or grave liner required.

Repealed.

(Ord. No. 26-94, 11-7-94; Ord. No. 6-99, 4-19-99)

Sec. 7-119. Flower regulations and cleaning after funerals.

(a) Floral decorations, frames and toys shall be removed from the grave site within five (5) 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 (4) weeks before Easter at which time all Christmas flowers will be removed from lots. The second flower cleanup of the year will be four (4) 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 cleanup.

(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/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 also section 7-121.

(Ord. No. 26-94, 11-7-94)

Sec. 7-120. Animals prohibited.

No person shall allow any animal to run at large in any cemetery or graveyard in the town or ride, drive or lead any animal or vehicle on or over any plot or walkway therein, provided that

this section shall not prohibit the use of animals and vehicles in any authorized maintenance operation and assistant dogs for handicapped persons as permitted by G.S. § 168-4.2.
(Ord. No. 26-94, 11-7-94)

Sec. 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. No. 26-94, 11-7-94)

Secs. 7-122 - 7-199. Reserved.

ARTICLE II. SALE OF LOTS

Sec. 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 sixty (60) days from original purchase, at which time payment in full shall be tendered. No more than three (3) 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 city 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 (4) 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. Immediate family is defined as spouse, child and/or dependent. Persons buried in said lot(s) shall not be limited to the resident or his/her immediate family member(s).

(Ord. No. 12-75, § 1, 10-20-75; Code 1976, § 9.37; Ord. No. 26-94, 11-7-94; Ord. No. 2-2000, 2-7-00; Ord. No. 15-02,4-15-02)

Sec. 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.

(Ord. No. 12-75, § 9, 10-20-75; Code 1976, § 9.45; Ord. No. 2-2000, 2-7-00)

Sec. 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.
(Ord. No. 12-75, § 14, 10-20-75; Code 1976, § 9.50)

Secs. 7-204 - 7-210. Reserved.

ARTICLE III. RULES AND REGULATIONS

Sec. 7-211. Generally.

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

- (1) The town shall not be responsible for theft or damage to anything placed on graves or lots.
- (2) 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.
- (3) 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.
- (4) No digging shall be allowed other than authorized by burial permit.
- (5) Wires shall not be used to secure potted plants or artificial flowers.
- (6) The employees of the town are expressly prohibited from varying any prices established or terms and conditions thereof or otherwise changing in any way these rules and regulations.
- (7) The town reserves the right to determine, establish and change the grade of lots and shall not be liable thereof.
- (8) No owner shall make any change or alternation in or on any lot without written consent of the town.
- (9) No picnicking is allowed in the cemetery.
- (10) 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.
- (11) 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.
- (12) 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.

(13) No person may engage in recreational activities in the cemetery. For purposes of this subsection, 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.

(14) The town council reserves the right to change this ordinance and the regulations contained herein at any time.

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

(Ord. No. 26-94, 11-7-94)

Sec. 7-212. 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. No. 26-94, 11-7-94)