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Chapter 26

CEMETERIES

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ARTICLE I. IN GENERAL

Secs. 26-1—26-25. Reserved.

ARTICLE II. WINTER GARDEN CEMETERY

Sec. 26-26. Powers of city commission.

Under this article, the city commission shall have the power to:

- (1) Supervise the care, operation, maintenance and improvements of the city cemetery.
- (2) Make rules and regulations concerning the use and care thereof, not inconsistent with this article.
- (3) Fix the price of burial plots and the terms upon which they will be sold.

(Code 1988, § 7-27)

Sec. 26-27. Sale of lots.

(a) All cemetery lots shall be sold subject to the rules and regulations in force or which may be adopted, and such lots shall be used for no other purpose than the burial of the human dead.

(b) All conveyances, interments, disinterments, plats, avenues, walks and all cemetery improvements and arrangements shall be made subject to such regulations as shall be promulgated by the city commission.

(c) The regulations provided for in subsection (b) of this section shall be referred to and made a part of every deed of conveyance of cemetery lots in the Winter Garden Cemetery after March 11, 1966.

(d) Sale of all lots, part lots or grave spaces shall be a function of the city manager. The city manager may refuse to sell any lot, part lot or grave space to any person if such sale would be detrimental to the cemetery, or if such sale would violate the state law prohibiting speculation in cemetery property.

(e) Each lot in the cemetery will, prior to its sale, be suitably marked by the city with an iron or concrete post placed on each lot corner and set level with the adjacent ground.

(f) A person desiring to purchase a lot in the cemetery is referred to the cemetery supervisor. The cemetery supervisor will have available suitable plats showing the size and price of lots, and such other information as may be required and will be pleased to render assistance to those desiring to make lot purchases. Upon the prospective purchaser having made a lot selection, the supervisor will issue a lot order to the prospective purchaser, who may either make payment by check at the cemetery or present such order at the office of the city clerk in city hall, where the lot sale will be made and an easement will be issued by mail.

(g) The city manager or the city clerk are authorized to execute use of easement certificates on behalf of the city to the purchasers of lots within the cemetery.

(Code 1988, § 7-28; Ord. No. 04-02, 2-12-04)

Sec. 26-28. Ownership and title of lots.

(a) For the purpose of this section, the term "lot owner" or "ownership" shall be construed to mean an easement and the right to use a lot, as purchased from the city for a consideration, for burial purposes only and under the regulations as prescribed by the city for such use.

(b) The title to a cemetery lot vests in the lot owner the right to use such lot for burial purposes only, for himself or his immediate family, which shall include the lot owner's father or mother, wife or husband, brother or sister, son or daughter, stepson or stepdaughter, father-in-law or mother-in-law, brother-in-law or sister-in-law, daughter-in-law or son-in-law, grandchildren and grandparents, provided that such admission is free of charge, without compensation and in accordance with the cemetery regulations. Graves for adults as well as for children must not be less than four feet deep.

(c) All burial rights in cemetery lots purchased from the city occupy the same position as real estate at the death of the owner. Only such

persons as names appear on the cemetery records of the city will be recognized as owners of the lots. If the death of a lot owner occurs, when the cemetery lot is disposed of by will, a certified copy of the will must be delivered to the city clerk before the city will recognize the change in ownership. If the deceased lot owner left no will, a certified copy of the proof of heirship made in the county judge's court must be presented. A lot owner in making a will may include the cemetery lot and must will it to one person.

(d) Any purchaser of a cemetery lot from the city may only resell that lot to the city and only for the original purchase price.

(Code 1988, § 7-29; Ord. No. 04-02, 2-12-04)

Sec. 26-29. Openings and closings.

All openings and closing services at the Winter Garden Cemetery shall be furnished by the city or by its designated agents, licensees, franchises, employees or contract representatives, or any person with whom the city contractually agrees to allow to perform any or all such services, per a rate schedule adopted by resolution of the city commission.

(Code 1988, § 7-30)

Sec. 26-30. Fees, charges and payments.

(a) All charges for interments, removals, foundations or other work in the cemetery must be paid in advance. No purchaser shall be entitled to a use of easement certificate for any lot in the cemetery, nor shall any burial be made in such cemetery lot until all payments are made in full.

(b) The payment of all fees and charges shall be made by check at either the office of the city clerk in City Hall or with the cemetery supervisor, where receipts shall be issued for all amounts paid. All cash payments must be made at City Hall.

(c) Such fees and charges for grave spaces shall be \$800.00 per space for all residents within the city and \$1,200.00 per space for all nonresidents for all sections within the Winter Garden Cemetery. Such fees and charges for mausoleum catacombs shall be \$700.00 per catacomb for all residents within the city and \$1,100.00 per cata-

comb for all nonresidents. Such fees and charges for columbarium niches shall be \$600.00 for all residents within the city and \$900.00 for all nonresidents. For purposes of this section, a resident shall be defined as any person who is a lawful resident of the city at the date of purchase of the grave space, catacomb or columbarium niche. The burden of proving residency shall be that of the purchaser. Upon recommendation of the city manager, the city commission may, by adoption of a resolution, revise all fees and charges for services and grave spaces, which may take effect immediately upon adoption.

(d) An individual who has been a city employee for more than one year shall be entitled to purchase a grave space for the same amount as a resident.

(Code 1988, § 7-31; Ord. No. 04-02, 2-12-04)

Sec. 26-31. Disposition of proceeds.

(a) All monies from the sale of lots, catacombs, niches, services, etc., in the cemetery shall be paid to the city clerk and deposited in the general fund of the city.

(b) The funeral director may collect and remit to either the city clerk all fees and sale proceeds for openings and closings prior to interment.

(c) Compensation for collections in subsection (b) of this section shall be, upon recommendation by the city manager, set by the city commission by adoption of a resolution.

(Code 1988, § 7-32; Ord. No. 04-02, 2-12-04)

Sec. 26-32. Supervision.

(a) Subject to the order of the city commission, the city manager shall have absolute charge of the cemetery and is authorized to enforce all rules; to maintain order; to supervise all workers, visitors and drivers of vehicles; to expel from the grounds all improper persons or those who violate the rules; and to refuse admission to any person or materials when he may deem such action necessary.

(b) A person from the city's staff will be on the cemetery site from 8:00 a.m. until 4:00 p.m. Monday through Friday and at all burial services. (Code 1988, § 7-33; Ord. No. 04-02, 2-12-04)

Sec. 26-33. Privileges and restrictions.

(a) No cemetery lot owner shall allow interments on his lot for remuneration, and no sale, transfer or assignment of any lot shall be valid without the consent of the city manager and an endorsement of any such conveyance by the city clerk.

(b) No lot in the cemetery shall be raised above the established grade. Sod shall not be removed from grades nor shall shells, trinkets or objects other than markers or flowers be placed on any grave.

(c) Reserved.

(d) No part of the Winter Garden Cemetery reserved on the plat(s) for street and beautification purposes shall be offered for sale unless such reservations are subsequently vacated and approved for use as cemetery lots by the city commission.

(e) The city reserves the right for its workers and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.

(f) The city or its employees assume no liability for damage, actual or mental anguish, in the performance of the cemetery's normal operations, or loss by vandalism or other acts beyond its reasonable control.

(g) No verbal agreement or statement made by any individual which is contrary to this article shall be binding on the city nor shall such agreement or statement in any way change or modify the intent of this article.

(Code 1988, § 7-34; Ord. No. 04-02, 2-12-04; Ord. No. 18-35, § 3, 9-27-18)

Sec. 26-34. Funerals.

(a) Under this article, all fees are to be paid in advance before a grave is opened for burial.

(b) Notice to the city is required no later than 3:00 p.m. Friday for Monday services. However, if special circumstances (i.e., a late Friday death) prevent such notification and a Monday service is desired, the following applies:

(1) The service must be scheduled for no earlier than 2:00 p.m. on Monday.

(2) The funeral director must alert the company that is contracted to do the openings/closings for the city to determine if it is able to support the request, assuming the service will be approved by the city.

(3) The city clerk must be notified of the request for the afternoon service no later than 9:00 a.m. on Monday and must confirm that all requirements are met for the burial.

(c) No services will be held on Sunday.

(d) No services will be held on any holiday recognized by the city, except for holidays that the city recognizes which fall on Mondays.

(e) All inquiries should be directed to the city clerk at city hall.

(f) Lot information (space, time of service, etc.) must be provided to the city at the time of any burial request.

(g) Funeral processions upon entering the cemetery shall be under the control and subject to the direction of the cemetery supervisor.

(h) The cemetery supervisor shall be given 24 hours' advance notice before any interment shall be made, except as provided in subsection (b) of this section.

(i) Funeral directors making arrangements for interments shall be responsible for the payment of all interment charges in addition to all charges which have accrued to or against such lot.

(Code 1988, § 7-35; Ord. No. 04-02, 2-12-04)

Sec. 26-35. Conduct in cemetery.

(a) The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and 5:00 p.m. Permission to enter the cemetery at any other time must be obtained from the supervisor.

(b) No person shall break or injure any tree or shrub, pick any wild or cultivated flowers or mar any landmark, marker, or memorial or in any way deface the grounds of the cemetery.

(c) No boxes, shells, toys, discarded glassware, sprinkling cans, receptacles or similar articles will be permitted on any grave, lot or tree.

(d) Persons within the cemetery grounds shall use only the established avenues, walkways and roads, and are forbidden to trespass on cemetery lots.

(e) Children under 16 years of age shall not be permitted within the cemetery or its buildings, unless accompanied by an adult.

(f) No person may use any form of advertisement on cemetery grounds.

(g) No person shall permit any dog or other domestic animal to enter or remain in the cemetery.

(h) No person may consume refreshments or liquors within the cemetery or carry such into the premises.

(i) No person shall throw rubbish or debris on walks, drives or any part of cemetery grounds.

(j) Unauthorized persons shall not loaf or lounge in any of the buildings in the cemetery or otherwise use any of the grounds, graves or monuments thereon.

(k) No loud talking shall be permitted on the cemetery grounds within hearing distance of funeral services.

(l) No money shall be paid the attendants at the entrance or on the grounds. The entire time of the persons regularly employed on the grounds belongs to the cemetery; visitors and owners must not otherwise engage them, unless authorized by the city manager.

(m) Any person found on the grounds after dark will be considered a trespasser.

(n) All orders, inquiries and complaints by visitors or owners must be reported to the director of public works.

(Code 1988, § 7-36; Ord. No. 12-28, § II, 6-14-12)

Sec. 26-36. Motor vehicles.

(a) Motor vehicles shall not be driven through the cemetery grounds at a speed greater than 15 miles per hour.

(b) Motor vehicles shall be driven and parked only on the right side of the opened roads and driveways.

(c) No U-turns are permitted.

(d) Motor vehicles shall not be parked in front of an open grave unless the occupants of such vehicles are in attendance at a funeral.

(e) The city traffic laws shall be applicable to the operation of motor vehicles in the cemetery. (Code 1988, § 7-37)

Cross reference—Traffic and vehicles, ch. 74.

Sec. 26-37. Interments.

(a) No interment will be permitted or body received in the cemetery unless the city interment order is furnished to the city clerk.

(b) No deceased person or the cremated remains of any deceased person shall be interred without burial permit as required by law. The lot in which the interment is to be made must be fully paid for or arrangements for payment made with the city clerk. Persons arranging for such interment must have the right to the use of such lot. Such lot cannot be used beyond its capacity. Proper record must be made of the exact location of the grave.

(Code 1988, § 7-38)

Sec. 26-38. Conditions of burial.

(a) Only one interment shall be made in a single grave, crypt, or niche in the cemetery, except that in a grave a mother and infant or two children in one coffin or the cremated remains of any two persons or one cremated remains and an immediate family member in one grave, may be buried together.

(b) Lot owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the state and deliver such to the city manager or his designee.