

TITLE 9. SERVICES

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CHAPTER 1. CITY CEMETERY

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9-1-1. Name of cemetery.

The burial ground of Tooele City, Utah shall be known and designated by the name of "Tooele City Cemetery". (Ord. 1993-09, 05-13-1993)

9-1-2. Cemetery supervisor - Creation of office.

There is hereby created the office of City cemetery supervisor, which office shall be filled by the Mayor's appointment. The cemetery supervisor shall be the cemetery sexton. (Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 5-13-1993)

9-1-3. Cemetery supervisor - Registrar of burials - Disinterment.

(1) The cemetery supervisor shall be the registrar of burials for the City. Before burying any dead body in any cemetery within the corporate limits of Tooele City, or before disinterring for transportation beyond the corporate limits of the City the body of any person who has been buried therein, the relatives or other persons having charge of the body shall be required to furnish in writing to the cemetery supervisor a statement of the death, which shall be recorded in a record kept in the records of the cemetery. Such statement as well as the record shall include, if known, the name of the deceased person, when and where born, the date and place of death and the cause thereof, names of the deceased person's parents and spouse, and the name of the medical examiner, if any, also the date of burial, as well as the name of the cemetery, with the plat, lot, block, and grave number where said person is to be buried, and if disinterred and transferred beyond the corporate limits of Tooele City, the place of destination.

(2) It shall be unlawful for any person to disinter any body in the cemetery except under the direction of the cemetery supervisor. Before disinterment, a permit shall be required from the Tooele County Health Department, with the exception of cremated remains and stillborn babies. Before disinterment, the cemetery supervisor shall require a written order from the owner of the burial right authorizing such removal, which order shall be kept in the records of the cemetery. All such removals shall be recorded by the cemetery supervisor in a record kept for that purpose.

(3) The City is empowered to exercise its discretion with regards to approving or denying requests for disinterment in light of the public health, safety, and welfare. All disinterments shall comply with federal, state, and local laws and regulations.

(a) Permitted. The City will honor a request from the owner of the burial rights, subject to applicable federal, state, and local laws, upon receiving a written court order or a written request on a form provided by the City, and upon a finding of the City that the disinterment will not endanger the health, safety, or welfare of the City's employees or the public. The City may, on its own, disinter human remains in instances where a natural or human-caused disaster has exposed a grave and where disinterment is necessary to protect the public health, safety, or welfare.

(b) Prohibited. It shall be unlawful for any person to disinter the remains of a person who died from a contagious disease within 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 incased at the time of disinterment.

(c) City's duties. The cemetery supervisor shall determine whether a disinterment poses a danger to the health, safety, or welfare of City employees or the public. The cemetery supervisor may refuse to authorize a disinterment if he determines that there is a danger to the health, safety, or welfare to City employees or the public. The cemetery supervisor may also refuse to authorize a

disinterment upon determining that the disinterment would disturb or damage an adjacent burial lot, casket, coffin, or vault. The cemetery supervisor may make this determination at any time during the disinterment process. Upon a determination by the cemetery supervisor that a disinterment poses no danger to the health, safety, or welfare of City employees or the public, and that the disinterment would not disturb or damage an adjacent burial lot, casket, coffin, or vault, the City will facilitate the disinterment by excavating and refilling the burial lot. The City, however, shall have no obligation to remove or return a vault or casket to or from a grave or lot. The City will comply with a court order.

(d) Requester's Duties. Absent a court order, and at least 7 business days prior to a disinterment, the requester shall submit a Tooele County Health Department disinterment permit the City request of disinterment form, and pay all applicable fees prior to the City commencing any disinterment. The requester shall arrange for and pay any associated costs for a funeral director to be present at the disinterment. The requester shall arrange for and pay any associated costs for a licensed vault company to remove the vault and its contents from the burial lot. If the burial lot does not contain a vault, or the cemetery supervisor determines that the existing vault has deteriorated to the point that it will not retain its structural integrity during the disinterment, the requester shall replace the deteriorated vault with a structurally sound vault at the requester's expense. The requester shall arrange to dispose of any deteriorated vault at the requester's cost and in a manner meeting federal, state, and local laws.

(e) Liability. The City assumes no liability for any property damage, including damage to a casket, vault, marker, monument, etc., or for bodily injury sustained during a disinterment, except those damages or injuries arising from the sole negligence of the City. The City is not liable for the acts or omissions of any third party for any reason. The City is not liable for damage to the contents of any caskets or vaults located in adjacent lots caused during a disinterment. The City is not liable for mental anguish, shock, or intentional or negligent infliction of emotional distress arising from a disinterment. The City request for disinterment form shall contain this liability provision, and the requester shall sign the form acknowledging the liability provision prior to any disinterment.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-4. Lots reserved for indigent persons.

Such lots in the cemetery as the Mayor shall from time to time designate shall be reserved for and appropriated to the burial of indigent persons. All of the remaining lots or blocks in the cemetery shall be reserved for the use and possession of such families and other persons as have heretofore, or shall hereafter become the purchasers of a right to burial according to the provisions of this Chapter, to be used by them and their heirs or grantees forever as places for the burial of the dead.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-5. Cemetery supervisor - Charge of cemeteries - Reports.

(1) The cemetery supervisor, under the direction of the director of parks and recreation and the Mayor, shall have entire control and superintendence of all Tooele City cemeteries. The cemetery supervisor shall perform such duties in addition to those found in this Chapter in relation to the cemeteries as may be provided by law.

(2) The cemetery supervisor shall dig or cause to be dug all graves required for the burial of the dead.

(3) The cemetery supervisor shall make periodic reports of the work performed to the Mayor as the Mayor shall require.

(4) The cemetery supervisor shall keep in reasonable repair the enclosure around the cemetery, and so far as is reasonable prevent the destruction or defacing by the City of any marker or monument placed or erected therein.

(5) The cemetery supervisor shall have charge of a duplicate plat of the cemetery and shall, at the request of any person wishing to purchase a right to burial, point out any of the unoccupied lots or parts of lots in which rights for burial may be sold. Upon the purchaser's payment to the City of the price of the right to be buried, the cemetery supervisor shall make and execute a certificate of right to burial, signed by the Mayor and attested by the City Recorder, a copy of which certificate shall be delivered to the purchaser.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-6. Fees.

All fees shall be paid by the applicant for cemetery services prior to cemetery services being rendered.

(Ord. 2016-07, 03-16-2016) (Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-7. Records of conveyances.

(1) The cemetery supervisor shall keep a record all conveyances executed under the provisions of this Chapter, stating the number of the plat, lot, block, and grave to which the right to burial is conveyed, the date of such conveyance, the name of the person to whom conveyed, and the amount received for the same.

(2) By January 1 and July 1 of each year, the cemetery supervisor will cause to be filed with the office of the Tooele County Recorder a document evidencing the burial rights approved by the City for the City Cemetery during the preceding 6 months.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-8. Right to burial.

(1) Purchase of one or more rights to burial from the City shall be evidenced by a certificate showing a description thereof and stating the price paid therefor, prepared under the direction of the cemetery supervisor. The certificate shall be the sole evidence of such right recognized by the City. The cemetery records office shall keep an index book of all burial spaces to which certificates have been issued and shall show any transfer from the original purchaser to any subsequent owner, and

also shall index any probate or other judicial proceeding which affects the ownership of a burial rights.

(2) The certificate shall be signed by the Mayor and shall be attested by the City Recorder. The City Recorder shall keep a copy of each certificate issued as part of the records of the City Recorder's office.

(3) Transfer of a right to burial from the grantee on the certificate shall be recognized only upon recordation with the cemetery supervisor. When a right to burial is to be transferred or reverts to the City, the original certificates or deeds shall be filed with the cemetery supervisor, and before certificates of the right to burial are issued covering such graves, the original certificate or deed shall be canceled or quit claim deed given and the record so changed.

(4) All rights of burial are subject to the City's reservation of the right of access over and across any lot or burial space in the cemetery for repair of turf, installation or maintenance of water pipes or water lines for the improvement of the cemetery, for the opening and closing of adjacent graves, and for other cemetery-related purposes. The cemetery supervisor is responsible to see that all the work is completed and the surface returned to the original condition after such installation or maintenance work.

(5) Upon payment of the purchase price for any right to burial, the certificate issued by the cemetery supervisor in the name of the purchaser shall vest in the purchaser the right to use the burial space or lot for burial purposes only and subject to all rules, regulations, limitations, and conditions imposed by this Chapter and by the cemetery supervisor as are necessary for efficient care of the cemetery.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-9. Unused lots.

(1) If, for more than 60 years, a grantee or persons claiming through the grantee have not used portions of the lots or parcels for purposes of burial and have not provided for the care of the lots or parcels beyond that uniformly provided for all lots of the cemetery, and during the 60-year period have not given the City written notice of any claim or interest in the lots or parcels, then the City is empowered to demand of the grantee or persons claiming through the grantee that they file with the City a written notice of claim or interest in and to the lots or parcels recorded by evidence of their claim of ownership within 50 days after service of a copy of the notice of demand. If either the grantee, or person claiming through the grantee, fails to comply with the demand or notice, the City may bring an action in the district court of the county in which the cemetery is located against all parties who have not responded to the notice for the purpose of terminating the rights of the parties in the lots or parcels and restoring the lots or parcels to the City free of any right, title, or interest of the grantee, persons claiming through the grantee, their heirs, or assigns.

(2) As an alternative, the City Council may pass a resolution demanding that the owner of a lot, site, portion of the cemetery, or burial rights, which have been unused

for burial purposes for more than 60 years, file with the City recorder notice of any claim to the lot, site, or parcel. The City Council shall then cause a copy of the resolution to be personally served on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner must, within 60 days after service of the resolution on the owner, express interest in maintaining the cemetery lot and submit satisfactory evidence of an intention to use the lot for burial. If the owner cannot be personally served with the resolution of the City Council, the City Council must publish its resolution for three successive weeks in a newspaper of general circulation within the county and mail a copy of the resolution within 14 days after the publication to the owner's last known address, if available. If, for 30 days after the last date of service or publication of the City Council's resolution, the owner or person with a legal interest in the cemetery lot fails to state a valid interest in the use of the cemetery lot for burial purposes, the owner's rights are terminated and that portion of the cemetery shall be vested in the City.

(3) The owner, grantee, or person claiming through the grantee shall have the right, on presentation of the certificate of title or right to burial to the City, for any lot or parcel which has been reverted to the City, at the option of the City, to:

(a) be compensated for the lot or parcel at the reasonable value of the lot or parcel as of the date the certificate is presented to the City, in which case the certificate or title shall be forfeited to the City and considered cancelled; or

(b) receive a right to burial to another lot or parcel if the right to burial or title to the lot or parcel has been sold by the City, in which case a new certificate shall be issued and the old certificate or title shall be forfeited to the City and be considered cancelled; or

(c) receive the right to burial to the lot or parcel if the City has not sold the right to burial to the lot or parcel, in which case a new certificate shall be issued and the old certificate or title shall be forfeited to the City and be considered cancelled.

(Ord. 2015-06, 12-16-2015) (Ord. 2002-11, 06-29-2002) (Ord. 1993-09, 05-13-1993)

9-1-10. Opening graves - Superintending interments.

(1) The cemetery supervisor shall open, upon payment of the appropriate fee, the subject graves in the cemetery upon application to the cemetery supervisor being made by the person having the right to burial therein. The cemetery supervisor shall superintend every interment and shall fill up and neatly trim the grave immediately after depositing the casket. The cemetery supervisor shall fill up and trim all graves that settle.

(2) Oversized burials may be accommodated provided they do not encroach on adjacent lots for which burial rights have been purchased, or on nearby vaults or caskets.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-11. Cemetery supervisor - Enforce regulations - Specifications listed.

The cemetery supervisor shall enforce all rules in regard to care of lots in the cemetery. The cemetery supervisor shall keep the streets and walks in the cemetery in reasonably good order and unobstructed so that free access can be had to any lot. The cemetery supervisor shall cause a suitable marker to be erected upon the corners of each lot with the number of the lot inscribed thereon. (Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-12. Hedges, copings, monuments, etc. - Maintaining.

It shall be unlawful for any person to erect or maintain any fence, corner post, coping, hedge, or boundary of any kind upon any grave, lot, street, or walk in the cemetery, or grade the ground or land thereof. The cemetery supervisor shall, whenever required, furnish the true lines of the lots according to official survey, and shall prevent and prohibit any markings of the same save and except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land. It shall be unlawful for any person to plant any shrubs, trees, lawns, etc., or place any monuments or markers upon any lot or lots in the cemetery without a written permit first had and obtained from the cemetery supervisor, and unless the same is done under the direction and supervision of the cemetery supervisor. (Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-13. Monuments, markers - Specifications.

(1) Monuments and markers shall be allowed as established in an administrative policy approved by the Mayor. Only in established areas of the cemetery where there are already monuments and markers rising above the level of the grass are vertical monuments or markers permitted.

(2) It shall be unlawful for any person to erect or place any monument on any lot in the City cemetery, unless the same shall be placed in accordance with City specifications established in the administrative policy.

(3) It shall be unlawful for any person to place any monument on any lot in the cemetery made of any material other than granite, marble, or memorial bronze, or other material allowed by administrative policy approved by the Mayor.

(4) All markers placed in the cemetery shall be set in accordance with City specifications established in the administrative policy.

(5) Additional markers or monuments may be placed on a grave with the consent of the owner of the burial rights of the grave on which the marker or monument is placed, if that owner is living, or of the heirs of the deceased buried in the grave if that owner is not living.

(6) It shall be unlawful for any person to place more than one marker or monument at the head of any one grave.

(7) Vases and flowers shall be allowed as established in an administrative policy approved by the Mayor.

(8) It shall be unlawful to place any aboveground marker or monument in the cemetery without first paying

a permit fee.

(9) It shall be unlawful for any person to violate any rule or regulation set forth in this Chapter or any published rules or regulations established respecting the City cemetery.

(10) Persons owning a certificate of right to burial, or relatives of deceased persons buried in said cemetery, shall erect and maintain in a manner satisfactory to the cemetery supervisor suitable monuments at the heads of graves, with the names of the deceased plainly inscribed thereon.

(a) Ownership and maintenance. All markers and monuments within the cemetery are the personal property of the owner of the burial rights of the grave on which the marker or monument is placed, if that owner is living, or of the heirs of the deceased buried in the grave if that owner is deceased.

(b) Disclaimer. The City shall not be responsible for scratches, chips, and other damage that may occur to markers or monuments from routine maintenance of the Tooele City Cemetery. All persons purchasing and placing markers and monuments in the cemetery are hereby on notice that such damages are a natural condition of the privilege of placing markers and monuments in the cemetery. The City shall not be responsible for any damages to markers or monuments caused by vandalism, weather, natural disasters, or the actions of persons or wildlife.

(c) Permit required. It shall be unlawful for any person to place or have placed any markers or monuments upon any lot in the cemetery except under the direction of the cemetery supervisor. All markers and monuments require a permit, issued by the cemetery supervisor, obtained by the monument company or other supplier. All markers and monuments require an inspection performed by the cemetery supervisor or designee for compliance with the administrative policy. The inspection shall occur at the cemetery prior to the marker or monument being removed from the supplier's delivery vehicle.

(d) Liability for damage. The City shall not be liable for damage to markers or monuments except where the City is solely negligent for that damage.

(e) Special service emblems. American Legion and Veterans of Foreign Wars medallions are encouraged for display and recognition. Such medallions must be permanently affixed to the marker or monument in a way that will not interfere with the mowing and maintenance of the cemetery.

(f) Benches. Benches may be placed within the cemetery in accordance with City specifications established in an administrative policy approved by the Mayor.

(11) The placing of all markers, monuments, improvements, and other works of any nature or description shall be done under the direction and control of the cemetery supervisor.

(12) The cemetery supervisor may arrange and maintain trees, shrubs, and other landscaping to enhance the beauty of the cemetery. No tree, shrub, or other plant may be planted in or removed from the cemetery without

the approval of the cemetery supervisor or Director of the department of parks and recreation.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-14. Driving vehicles, animals through - Speed limits - Defacing property.

(1) It shall be unlawful for any person to ride any animal within the limits of the City cemetery except when participating in a City-approved parade or as part of a funeral procession.

(2) It shall be unlawful for any person to drive any motor vehicle within the limits of the cemetery at a rate of speed greater than 15 miles per hour.

(3) It shall be unlawful for any person to injure or deface any monument, marker, tree, shrub, or any other property in the City cemetery.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-15. Purchase of rights to burial - Maintenance - Vaults.

(1) Rights to burial in the cemetery shall be sold for the prices and charges established by resolution of the City Council.

(2) In addition to the purchase price, perpetual care of cemetery lots shall be assumed by the City upon purchase of rights to burial. Thereafter the City shall, at its expense, care for and maintain lots and burial spaces.

(3) All lots and parts of lots in the cemetery shall be exempt from execution and from taxation.

(4) It shall be unlawful for any person to be buried in the cemetery without the casket being placed in a permanent-type vault, which vault type must be approved by the cemetery supervisor.

(5) Burial vaults must be made of concrete or similar structurally-sound material, and constructed in such a manner that the vault will not collapse or disintegrate at any point. Burial vaults constructed of plastic or fiberglass shall not be allowed. All vaults must have a properly fitting lid. Lids must be sealed with appropriate materials before a grave may be refilled. The cemetery supervisor is authorized to reject a vault that does not meet these requirements or that places at risk the public health, safety, or welfare.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-16. Burials must be in cemeteries - Exception.

It shall be unlawful for any person to bury the body of a deceased person within the City limits, except in the Tooele City Cemetery or another cemetery established pursuant to law.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-17. Days when burials are prohibited.

No burials shall be allowed on the following days: New Years Day, Presidents Day, Memorial Day, 4th of July, Pioneer Day, Labor Day, Thanksgiving Day, Christmas Day, other federal and state holidays, and Sundays. However, a burial may be permitted on any of those days if the deceased died of a contagious disease or if required by law.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-18. Cemetery curfew and regulations - Penalty.

(1) It shall be unlawful for any unauthorized person to be in the cemetery after 10 p.m. of any day or before 6 a.m. of any day. A person will be considered to be in the cemetery if the person is within the perimeter of the cemetery as established by a fence, or is upon any portion of the property set aside as present or future cemetery property as designated in the appropriate records of the City and the county.

(2) Cemetery patrons only are allowed in the cemetery. It shall be unlawful for any person to climb over or crawl under the cemetery fence or to damage a cemetery fence.

(3) Children under 12 years of age must be accompanied at all times on the cemetery property by a parent or some supervising adult 18 years of age or older.

(4) It shall be unlawful to engage in recreational activities, other than walking, on the cemetery property. Recreational walking shall be done only on the permanent roadways and walkways.

(5) The cemetery supervisor, any person working for the cemetery supervisor's office, or any peace officer is empowered to enforce the provisions of this chapter and to abate any vandalism or trespassing within the cemetery property.

(6) Any violation of this Chapter is a class C misdemeanor.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-19. Perpetual care.

(1) The City shall provide perpetual care for all lots in the cemetery.

(2) "Perpetual care" as used in this Section includes upkeep provided by the City, including mowing grass at reasonable intervals, sodding and reseeding, filling sunken graves, sprinkler irrigating, trimming trees and shrubs as reasonably necessary, removing decorations and wilted flowers, edging around markers and monuments, and other cleanup as directed by the cemetery supervisor. No other service is provided. Perpetual care does not include repairing or replacing markers, monuments, or other personal property.

(2) Charges shall be made for all other services performed and improvements made agreed to by the cemetery supervisor according to the fee schedules established by the City Council. If no fee has been established for specific special service as requested, and which the cemetery supervisor has agreed to provide, a reasonable sum based upon the cost to the City shall be assessed by the cemetery supervisor.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-20. Artificial flowers.

For the protection of the workers and the beauty of the cemetery grounds, artificial flowers will not be allowed unless they are placed in the permanent vases attached to the cement base during the mowing and maintenance season, April 1 to November 1, inclusive, except for

Memorial Day decorations which must be removed within 5 days after Memorial Day.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-21. Double depth burials.

(1) Double depth burials shall not be permitted. Notwithstanding, up to 4 stillborn babies and/or cremations may be buried above any regular burial space.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-22. Notice of burials and purchases required.

(1) All persons in charge of bodies to be buried in the City cemetery must make the necessary arrangements for digging of the grave, time of arrival at the cemetery, supplies for vaults, purchase of rights to burial, payment of fees, and other pertinent matters at least 8 working hours prior to such burial.

(2) The cemetery supervisor and the cemetery supervisor's employees and co-workers will not be

responsible for any error or claimed error in opening graves when orders are given by telephone or other than in writing.

(Ord. 2015-06, 12-16-2015) (Ord. 1993-09, 05-13-1993)

9-1-23. East-west burials only permitted.

All burials shall be with the length of the casket and vault on an east-west alignment.

(Ord. 2015-06, 12-16-2015) (Ord 1993-09, 05-13-1993)

9-1-24. Animals prohibited.

No animals shall be allowed in the Tooele City Cemetery unless confined in a vehicle. It shall be unlawful for any person having the charge, care, custody or control of any animal to allow the animal to be within the cemetery, except in a motor vehicle.

(Ord. 1993-09, 05-13-1993)