

Chapter 12

CEMETERIES*

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Chapter 12

CEMETERIES*

ARTICLE I. IN GENERAL

Sec. 12.1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery or Municipal Cemeteries means all developed or undeveloped sections of the present Elmhurst Cemetery, Lincoln Heights Cemetery, and any other property acquired by the city and dedicated for the interment of the dead and future additions thereto.

Department means the department of public works of the city.

Grave means a space of land in a cemetery used or intended to be used for the burial of human remains.

Grave owner or owner means any person in whose name an interment plot stands of record as owner, in the records of the cemetery of the City of Elberton.

Interment means the (1) burial, (2) entombment or (3) inurnment of human remains.

1. Burial means the disposition of human remains by earthen burial in a grave.
2. Entombment means the placement of human remains in a crypt either above or below ground.
3. Inurnment means placing of cremated remains in an urn in a grave, crypt, or niche.

Marker means a small individual memorial placed at either the head or foot of a grave. This may be made of one or more pieces, and is sometimes referred to as a headstone or footstone.

Mausoleum means a structure or building for the entombment of human remains in crypts in a place used, or intended to be used, for cemetery purposes.

Memorial means a monument, tombstone, grave marker, tablet or headstone identifying a grave or graves or a name plate or inscription identifying a crypt to preserve remembrance.

Monument means a large memorial for use on family lots and commonly inscribed only with the family name.

Plot means a grave or crypt.

(Code 1968, Section 6-1; Code 10/08/10, ord. 2164)

Cross reference – Definitions generally, Section 1-2.

Sec. 12.2. Authority of the city to regulate.

(a) The mayor and council reserve to themselves and their successors in office the right to alter, amend, modify or add to the rules, regulations, conditions, and restrictions set forth in this chapter at any time it is deemed advisable so to do in order to carry out the purposes of this chapter.

(b) There shall be no liability whatsoever either tort or contractual, on the part of the city, or its officials or officers (or their successors in office), or its agents or employees, to any purchasers of any lots in the cemetery, or to any person holding under them, or to the family or relatives of any person buried in the cemetery, or to any person or the family of such person who has erected any monument, marker, or mausoleum therein, by reason of any act, thing, omission, negligence, or otherwise relating to the cemetery. In accepting any conveyance of any burial lot, each purchaser agrees that all provisions of this chapter are valid and that he and his heirs and assigns shall hold such lot subject to all the provisions of this chapter and subject to all amendments hereto made by the mayor and council.

(Code 1968, Section 6-10)

Sec 12-3. Enforcement.

It is the declared intent of the mayor and council that this chapter be strictly enforced and any persons violating the terms of this chapter shall be punished as provided in section 1-9.

(Code 1968, Section 6-11)

Sec. 12-4. Establishment of Cemeteries; Burial within city outside cemetery prohibited.

The present Elmhurst Cemetery, Lincoln Heights Cemetery, and any other property acquired by the city and dedicated for the interment of the dead, and all future additions thereto, are declared to be public burial grounds subject to the provisions of this chapter. No person shall locate or establish a cemetery within the city without authorization by the city council, and no person shall be buried within the city except in a municipal cemetery or a cemetery duly established by authorization of the city council.

(Code 1968, Section 6-2)

Sec. 12-5. Supervision of Municipal Cemeteries.

The public works director shall, for the purposes of this chapter, have the responsibility of ensuring the proper performance of the following duties:

- (1) The proper care of all municipal cemeteries and the enforcement of the provisions of this chapter so that no lot in any cemetery is used or occupied in violation of this chapter or of any rule or regulation promulgated by the mayor and council;
- (2) The maintenance of full and detailed accounts of the receipts and expenditures on account of municipal cemeteries, and the delivery to the city treasurer of all monies collected by the public works director on such accounts;
- (3) The digging of graves and the proper interring of the dead when called upon to do so; and

- (4) Such other duties as may be assigned to the public works director from time to time by the city manager.

(Code 1968, Section 6-3)

Sec. 12-6. Sale and Conveyance of Lots.

(a) *Lot Valuation.* The prices for lots in municipal cemeteries shall be as established from time to time by the mayor and council.

(b) *Method of Purchase.* Any person desiring to purchase an easement in a particular lot, for the purpose for which it is intended, shall be permitted to do so upon payment in full of the price fixed for such lot, or upon making arrangements for the purchase of such lot on the following installment plan: Twenty percent of the purchase price down and the balance in monthly payments equal to ten percent of the sale price until paid in full; provided, however, that the deeds to lots purchased on the installment plan shall not be delivered until the purchase price is paid in full. In the event of default in making installment payments which shall continue for more than six months, the city reserves the right to resell unused portions of lots, or to declare all rights and title to lots forfeited, or to remove bodies interred therein to other locations selected by the city.

(c) *Manner of Conveyance.* Conveyances of burial lots shall be executed in the name of the city by the mayor and city clerk and have affixed thereto the seal of the city. Such conveyances shall not convey fee simple title, but shall convey to the purchaser of each burial lot an easement for the exclusive right of internment and sepulcher in such lot; shall state the maximum number of graves allowed on each such burial lot as shown by the plat; and, by reference therein made, shall convey each lot subject to all the provisions of this chapter as fully as if set out in each such conveyance; provided, however, that nothing in this section is intended to affect existing property rights in municipal cemeteries, but shall apply only to conveyances made on and after the effective date of the ordinance from which this chapter derives.

(d) *Recordation of Deed.* At the time the city conveys any burial lot, the city clerk, in addition to collecting the purchase price thereof, shall collect from the purchaser an amount sufficient to have such conveyance recorded in the office of the clerk of the superior court, and shall have such conveyance so recorded before delivery thereof to such purchaser. No sale or transfer of any such burial lot or any right therein, nor any subdividing of any burial lot by any purchaser or those claiming under him, shall be valid unless approved in writing by the city or until the deed of transfer and such written approval are recorded in the office of the clerk of superior court.

(e) *Records of Ownership.* The department shall keep full and complete records of the ownership of all lot easements in the municipal cemeteries, of the burial capacity of each lot, of the location of each grave, of the names and ages of the persons buried in each grave that has been or shall be used, and of the date of burial of each.

(f) *Sale or Transfer by Owner.* Owners of lots shall not be permitted to sell or transfer lots without the written consent and approval of the public works director, and no lots may be acquired solely for resale. All conveyances executed by the city after the effective date of the ordinance from which this chapter derives shall contain a clause reserving to the city the right of first refusal to repurchase the interest conveyed by such conveyance if the grantee subsequently desires to offer the same for sale.

(Code 1968, §6-4)

Sec. 12-7. Rules for Internment.

(a) No deceased person shall be interred in any municipal cemetery until the public works director has found that:

- (1) The person arranging for such burial has the right to use of such lot:
- (2) Such lot is not used beyond its capacity; and
- (3) Proper record is made of the name and age of the deceased person and of the exact location of grave.

(b) All graves shall be opened and closed by the department, under the supervision of the public works director, and the charges for opening and closing shall be as established from time to time by the mayor and council.

(c) The department shall be notified at least 24 hours prior to the planned time of internment for the purpose of opening and preparing the grave site.

(d) No internment shall be permitted until the public works director has determined that a legal burial permit has been issued.

(e) All vaults shall be buried to a minimum depth of 12 inches measured from the top of the vault to the finished grade of the closed grave.
(Code 1968, Section 6-5)

Sec. 12-8. Care of Lots.

The city shall provide generalized care of the walks, drives and common areas of the cemetery, and shall provide reasonable specialized care for the burial lots to the extent practicable, but such care shall not include watering of lawns nor maintenance of memorials. Unusual maintenance or care required on burial lots because of topography or approved copings, furnishings, plannings or enclosures may be the subject of special charges approved by the Mayor and Council upon recommendation of the public works director and concurrence of the city manager.
(Code 1968, Section 6-6)

Sec. 12-9. Restrictions on Use.

(a) *Vaults.* Internments shall be made in vaults of steel, concrete or an alternative material made from non-biodegradable marble metrics that would compress strength not less than 17,500 lbs. per square inch, water resistant and air tight, tongue and groove locking system, and the use of wooden vaults shall not be allowed in municipal cemeteries.

(b) *Enclosures.* No curbing, fencing, or enclosure of any sort shall be erected on, in, or around any burial lot unless the plans therefor are approved in writing in advance by the public works director.

(c) *Plantings.* The planting of flowers and shrubs or any other effort to improve or beautify any lot within a municipal cemetery shall be done only after the plans for such work shall have been submitted to and approved in writing by the public works director. Nothing contained in this section

shall be construed to prohibit the decoration or adornment of any grave site with potted or cut flowers or plants.

(d) *Mounds*. No grave mounds will be permitted in municipal cemeteries.
(Code 1968, Section 6-7; Ord. No. 2068, Section 1, 8-7-00)

Sec. 12-10. Conduct.

Visitors and the public are invited to utilize the cemeteries in a manner consistent with its purpose as a place of interment and as a memorial.

No persons shall:

- (1) Enter or remain within the cemetery between the hours of sundown and 7:00 a.m.;
- (2) Enter or depart from the cemetery except through an established gate;
- (3) Carry into or consume within the cemetery any food, refreshments, or intoxicating beverages of any kind;
- (4) Cut, remove, or injure any growing flowers, plants, shrubs, or trees in the cemetery;
- (5) Deface, disturb, injure, or mark or write upon any memorial, fence, or structure in the cemetery;
- (6) Trespass upon, damage, disturb, or desecrate any grave or lot;
- (7) Deposit litter, trash, or debris within the cemetery except in receptacles which may be provided for that purpose;
- (8) Permit any dog or other domestic animal to remain in the cemetery;
- (9) Take or fire any firearm or explosive within the cemetery except for the observance of memorial services, or in the conduct of burial services in which a fired salute is a part;
- (10) Hold or participate in any meeting, parade, exhibition, recreational activity, or any other use of cemetery grounds and facilities which is not in keeping with the commemoration of the dead; and
- (11) Park, or cause to remain parked, any vehicle within the cemetery unless in attendance at burial services or otherwise be engaged in activities which call for presence within the cemetery.

The rules of this section shall not apply to cemetery workers or interment personnel engaged in their normal duties.

(Code 1968, Section 6-9; Code 10/08/10, ord. 2164)

Sec. 12-11. Liability.

The following warning shall be posted near the cemetery entrance:

WARNING: THE MONUMENTS AND HEADSTONES ON THESE PREMISES MAY FALL RESULTING IN SERIOUS PERSONAL INJURY IF MOVED OR CLIMBED UPON. ALL ENTRANTS ON THESE PREMISES DO SO SUBJECT TO THE FOREGOING RULES AND AT THEIR OWN RISK. THE CITY OF ELBERTON SHALL NOT BE LIABLE TO ANY PERSON FOR INJURIES SUSTAINED WHILE WITHIN ANY PORTION OF THE CEMETERY.

(Code 10/08/10, ord. 2164)

Sec. 12-12. Peddling or soliciting.

No person will be permitted to peddle flowers or plants or to solicit the sale of any commodity within the cemetery.

(Code 10/08/10, ord. 2164)

Sec. 12-13. Signs.

No signs, notices, or advertisements of any kind shall be allowed in the cemetery, unless placed by the city.

(Code 10/08/10, ord. 2164)

Sec. 12-14. Enforcement.

The cemetery staff is/are empowered to enforce all rules and regulations and to exclude from the cemetery any person violating the same. He or she is responsible for the grounds and buildings. All persons in the cemetery, including the conduct of funerals, traffic, employees, plot owners and visitors shall comply with this code.

(Code 10/08/10, ord. 2164)

Sec. 12-15. Delays.

The city shall not be liable for any delay in the fulfillment of any of its contracts or legal obligations, including, but not limited to, maintenance, care, memorial work or construction which may arise from causes beyond its reasonable control and, especially, from delays caused by the elements, thieves, vandals, strikes, malicious mischief matters, unavoidable accidents, or other circumstances beyond the control of the city.

(Code 10/08/10, ord. 2164)

Sec. 12-16. Non-limitations.

In all matters not specifically covered by these general rules and restrictions, the city reserves the right to do anything which in its judgment is deemed reasonable in the cemetery, and such determination shall be binding upon lot holders and all parties concerned.

(Code 10/08/10, ord. 2164)

Sec. 12-17. Amendments.

The city may, and hereby expressly reserves the right, at any time or times, to adopt new rules and regulations, or to amend, alter, or repeal any rule, regulation or article, section, paragraph or sentence in these rules and regulations. Any such change in the rules and regulations shall be binding upon all parties without notice.
(Code 10/08/10, ord. 2164)

Sec. 12-18. Ownership rights.

Right of Interment. The purchaser of a lot or lots is granted conveyed only the right of interment of human remains and the right of installation of a memorial on each lot. The owner of the right of interment does not possess a fee interest or any other interest in the land itself.

Purchasing. Lots can be purchased for cash or on time payment plan. In the event that any lot is purchased immediately prior to the time of interment, arrangement must be made for full payment of such lot before the interment will be made. A purchaser has no right, interest, estate, or title whatsoever to any lot until the purchase price is paid in full.

Document of Ownership. Upon receipt of full payment for a lot, the city will issue an appropriate document evidencing the ownership thereof.
(Code 10/08/10, ord. 2164)

Sec. 12-19. Disposition of unused or abandoned lots.

Abandoned Lots. To preserve the active nature of the cemetery, any interment space will be deemed abandoned if there is no recorded activity on the lot for a period of 60 years, subject to notice as hereinafter provided. For purposes hereof, the City shall give notice to the lot holder that due to the passage of 60 years with no recorded activity, the City will consider the interment space abandoned if the lot holder does not notify the City within 30 days of the lot holder's intent and desire to maintain rights to the interment space. Such notice shall be given by regular mail to the lot holder at the address on file with the City." Any lot deemed abandoned may be reclaimed by the cemetery and disposal of as the cemetery sees fit.

Disposition of Unused Lots. Should a lot holder of unused interment space no longer need the lot in the cemetery they may sell the lot back to the cemetery at the original purchase price.
(Code 10/08/10, ord. 2164)

Secs. 12-20 – 12-30. Reserved.

CEMETERIES

ARTICLE II. MEMORIALS

Sec. 12-31. Erection; Permit.

(a) No memorial may be placed in the cemetery until the seller, owner, or donor thereof has furnished to the city, on a form to be furnished by the city, the following information, and until the city has issued an approved permit for the erection of such memorial:

- (1) Lot and grave numbers or other designation.

- (2) Trade name of material.
- (3) Name of quarry and manufacturer.
- (4) Inscriptions and family name.
- (5) Sketch of proposed memorial, showing size, type, and location of all lettering and carving.
- (6) A certificate, properly executed, setting forth that the memorial is free from sap, foreign substance or flaws which will cause stains, discoloration, checks, or cracks; provided, however, that artificial coloring may be utilized in the lettering or design of a memorial and such certificate need not relate to any such artificial coloring.

(b) The permit required for the erection of any memorial or unit in the cemetery shall be obtained in advance of beginning work from the city clerk or public works director. The charge for each such permit shall be as established from time to time by the mayor and council.

(c) The city reserves the right to refuse or prohibit the erection of, as well as to remove, any marker, monument or mausoleum erected after passage of this chapter, if, in the sole judgment of the city, such memorial is not in compliance with the intent of the rules and regulations prescribed in this article.

[Code 1968, Section 6-8(a)]

Sec. 12-32. Foundations.

(a) A suitable foundation to be prescribed by the city will be required for all markers, monuments, or mausoleums placed in municipal cemeteries.

(b) All foundations for memorials placed in the cemetery shall be constructed at the sole expense of the permit applicant in Section 12-31. Memorials shall not be set until a notice to proceed has been given by the City.

(c) No foundation will extend higher than grade level and each foundation shall be a minimum of four inches wider than the base of the monument or memorial on all sides.

[Code 1968, Section 6-8(b); Code 10/08/10, ord. 2164]]

Sec. 12-33. Monuments, mausoleums, headstone, markers.

(a) No monument, mausoleum, headstone or marker shall be erected until a blueprint or scale drawing together with complete specifications have been approved by the city, and until other applicable requirements of this chapter are met.

(b) Mausoleums. Beginning at the north entrance gate of Elmhurst Cemetery and running 300 feet west, more or less, a section of the cemetery is reserved for mausoleums. This section will be bordered on the south by an existing access road which parallels this section for the prescribed distance. Mausoleums to be placed at a location other than in the reserved area must be approved for that location by the city.

(c) Beginning at the north entrance gate of Elmhurst Cemetery and running 300 feet west, more or less, a section of the cemetery will be reserved for the erection of approved mausoleums only. This section will be bordered on the south by an existing access road which parallels this section for the prescribed distance.

[Code 1968, Section 6-8(c); (Code 10/08/10, ord. 2164)]

Sec. 12-34. Specifications.

(a) *Material.* All memorials shall be constructed of only first quality granite or marble. Lettering, appropriate ornaments, or plaques of bronze or aluminum are acceptable. The certificate prescribed in Section 12-31 shall be required for all memorials placed in any section of the cemetery.

(b) *Size.* Generally, the following criteria shall be observed in determining the permissible size of the memorial:

- (1) The front face area of a monument shall not exceed 15 percent of the square foot area of the lot, but shall be equal to at least twice the front area of the accompanying base stone, except if special permission has been granted for a ledger and/or bench by the public works director;
- (2) The thickness of any monument shall be at least six inches for the tablet and will require two dowel pins. Thickness above six inches will not require dowels; eight inches, ten inches, 12 inches, etc.
- (3) Except for monuments of special design, monuments placed on two grave lots shall have a minimum base size of 14 inches by 48 inches, and a minimum height including base of 24 inches. Monuments placed on four and six grave lots shall have a minimum base size of 14 inches by 54 inches, and a minimum height including base of 24 inches. Monuments placed on eight and ten grave lots shall have a minimum base size of 14 inches by 60 inches, and a minimum height including base of 24 inches.
- (4) Minimum length for single markers shall be 20 inches, and the maximum length shall be 30 inches. The maximum length for double markers shall be 48 inches.
- (5) The minimum width for markers shall be 12 inches, and the maximum, width shall be 18 inches.
- (6) The maximum height for markers is 15 feet.
- (7) All individual grave markers will be set flush with ground level, provided that in the older sections of the cemetery the public works director may waive the general criteria and allow memorials which generally conform with those already erected.

(c) *Finishing.* All monuments must be finished in a manner consistent with current acceptable manufacturing practices. Rock pitch finish is recommended for the sides of monument bases. This recommendation is made to minimize potential damage from maintenance and grave digging equipment.

(d) *Lettering.* The size of lettering on monuments shall be commensurate with the size and in keeping with the design of the monument. Relief lettering will not be permitted on flush markers.

(Code 1968, Section 6-8(d); Ord. No. 2035, Section 1, 9-14-98; Ord. No. 2096, Section 1, 1-7-02)

Sec. 12-35. General Requirements.

(a) Only one monument will be allowed for a two-grave space. Only one marker will be allowed on any one grave.

(b) The locations of memorials on lots must be approved by the public works director.

(c) The city shall not be financially responsible for any loss or damage to any memorial caused by thieves or by windstorms or any other act of God or the common enemy.

(d) Grave slab ledgers and/or benches shall be permitted in city cemeteries, upon prior approval by the Public Works Director.

(Code 1968, Section 6-8(e); ord. 2085, Section 1, 3-5-01; ord. 2096, Section 1, 1-7-02)