

## ***MUNICIPAL CEMETERY***

### **§ 90.70 NAME.**

The name of the City cemetery shall be Rose Hill Cemetery.

### **§ 90.71 BURIAL PROHIBITED IN OTHER PLACES.**

Burial shall be permitted only in the City cemetery, and specifically shall not be permitted in any church yard or any other place within the City.

### **§ 90.72 CEMETERY TAX; ANNUAL LEVY.**

The Mayor and Council, for the purpose of defraying the cost of the care, management, improvement, beautification, and welfare of the City cemetery, may each year levy a tax not exceeding five and two-tenths cents (\$0.052) on each one hundred dollars (\$100.00) upon the actual value of all the taxable property in the City subject to taxation for general purposes, except intangible property, that is subject to taxation according to the laws of the State of Nebraska. Said tax shall be collected and paid to the City Treasurer as taxes for general municipal purposes are collected and paid to the City.

### **§ 90.73 CEMETERY FUND GENERALLY.**

When collected and paid over to the City Clerk/Treasurer, all proceeds received from the Rose Hill Cemetery Association and the proceeds of the cemetery tax shall constitute and be known as the City cemetery general fund and shall be used for the general care, management, improvement, beautification, and welfare of the City cemetery and no other purpose. Such cemetery fund, and all moneys inuring thereto, shall remain in the custody of the City Clerk/Treasurer and shall be disbursed only in accordance with the provisions of this Article and applicable state law.

### **§ 90.74 CEMETERY RESERVE FUND CREATED.**

There is hereby created a fund to be known as the cemetery reserve fund, the principal of which shall be invested by the City Clerk/Treasurer in the manner provided by law. The current income derived from the investment of these funds by the City Clerk/Treasurer will be available to the City for current repair and operational expense of the cemetery. The principal of the cemetery reserve fund shall be held intact as an invested fund and will not be available to the City except for development and improvement of new sections of the cemetery including, but not limited to, ornamentation, capital expenditures, and site development, or for new buildings or paving in any unpaved areas in the cemetery. From and after the effective date of this ordinance, one-half (½) of the proceeds received from the sale of lots shall be placed in this fund. The other half of the proceeds received from the sale of lots shall be available to the City for current repair and operational expense of the cemetery. This fund is further authorized to receive money from individual bequests or endowments when the restrictions on the use of said bequests or endowments do not conflict with the purpose of this reserve fund.

#### **§ 90.75 PERPETUAL CARE.**

Perpetual care on all lots in the City cemetery shall be furnished in consideration of the purchase price of any lot purchased after August 1, 1992. The perpetual care fund created prior to such date shall be maintained as a permanent fund, invested by the City Council as authorized by law, and the income shall be used in the care, ornamentation, and maintenance of the lots and burial spaces so endowed. All other monies accruing for cemetery purposes shall be credited, allocated, kept, and disbursed by the City Treasurer through the cemetery general fund.

#### **§ 90.76 APPROVAL OF SERVICE CHARGES.**

On or before the first (1<sup>st</sup>) day of May of each year it shall be the duty of the Cemetery Superintendent to submit to the City Council, a proposed schedule of charges which shall state the amount to be charged by the Superintendent for labor or services offered in connection with the operation and maintenance of the cemetery. Thereafter and not later than the first (1<sup>st</sup>) Monday in May of each year the Mayor and Council shall approve the proposed schedule of charges, if it deems the same reasonable, or if not, it shall, itself, establish a schedule of charges and the schedule of charges as approved by the Mayor and Council shall be in full force and effect until modified or superseded as herein provided. The term "services" shall include any and all charges such as grave digging, disinterring or reintering, setting of marker foundations, planting of shrubs, and all similar activities. It shall be the duty of the Superintendent to charge and collect for services as set out in the approved schedule of charges.

#### **§ 90.77 PRICES FOR GRAVE SPACES.**

The purchase price of the lots and burial spaces in the City cemetery shall be publicly exhibited in the City offices on a map or plat therein. The City Clerk's annual report to the Mayor and Council, shall include therein, among other things, a list of the lots or burial spaces sold during the preceding year, or since the date of his/her last report, legally describing them, together with the name of the purchaser and the price received for each lot or space. Future additions to said cemetery shall likewise be platted.

#### **§ 90.78 LOTS; CONVEYANCE; RECORDING.**

The Mayor and Council may convey for predetermined sums set by the Council annually cemetery lots by certificates signed by the Mayor, and countersigned by the Clerk, under the seal of the City, specifying that the person to whom the same is issued is the owner of the lot or lots described therein by number as laid down on such map or plat, for the purpose of interment; and such certificate shall vest in the proprietor, his or her heirs and assigns, a right and fee simple to such lot for the sole purpose of interment under the regulation of the City Council.

#### **§ 90.79 TRANSFER OF CERTIFICATES.**

Transfers of certificates shall be made by surrender of the original certificates to the City Clerk who shall cancel the same, note such cancellation on the cemetery lot records

and shall issue new certificates in lieu thereof upon receipt of the same fee for recording expense and service as in the case of the issuing original certificates.

**§90.80 DUPLICATE CERTIFICATES.**

Duplicate certificates may be issued by the City Clerk under authority of the City Council upon proof of loss or destruction of the original, upon payment of the specified fees.

**§ 90.81 PERMITS.**

Burial shall be permitted in the City cemetery only on presentation of the statutory burial or removal permit. Reinterments and disinterments shall require similar permits.

**§ 90.82 FISCAL RESTRICTIONS.**

No claim shall be allowed against cemetery funds, nor shall any warrant against said funds be issued or paid, for any service rendered in connection with the sale of or the collection of the proceeds of the sale of any lot, part of a lot or burial space in said cemetery; and it shall be unlawful for any person to accept or contract to accept any commission or fee arising out of such transaction.

**§ 90.83 PROTECTION; RULES AND REGULATIONS.**

The Mayor and Council may pass rules and ordinances imposing penalties and fines not exceeding one hundred dollars (\$100.00), regulating, protecting, and governing the cemetery, the owners of lots therein, visitors thereof, and trespasses therein.

**§ 90.84 LOTS; OWNERSHIP AND USE; REGULATIONS.**

The Mayor and Council may limit the number of cemetery lots which shall be owned by the same person at the same time. They may prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots. They may prohibit any diversion of the use of such lots and any improper adornment thereof; but no religious test shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or of such lots. Rules as provided for herein shall be adopted by resolution of the Council.

**§ 90.85 APPOINTMENT.**

The Mayor, subject to the consent of the Council, is hereby authorized to appoint a superintendent for the cemetery.

**§ 90.86 CEMETERY SUPERINTENDENT; TERM.**

The Cemetery Superintendent shall serve until he/she is removed by the Mayor.

#### **§ 90.87 CEMETERY SUPERINTENDENT; DUTIES GENERALLY.**

The duties of the Cemetery Superintendent shall be the general supervision, maintenance, and care of the cemetery.

#### **§ 90.88 BURIAL PERMIT.**

All persons desiring to bury a deceased person shall first be required to file a completed death certificate the Registrar of the County before any body may be buried in the Cemetery. If it is impossible to complete the certificate of death within the legal period of time prescribed by State law, the funeral director shall notify the Registrar and obtain his written approval before the deceased person may be buried in the cemetery. The burial permit so issued by the Registrar shall then be filed with the City Clerk. It shall be unlawful for the Cemetery Superintendent, or other person, to allow the interment of a body without first receiving such permit. The burial permit shall then be countersigned and dated by the City Clerk. The interment of any body shall be performed under the direct supervision of a licensed funeral director. Upon completion of the requirements herein, the City Clerk shall then issue a Municipal Burial Permit which shall entitle the applicant to bury a deceased person in the cemetery.

In the event that the removal of the body of any deceased person is requested, the City Clerk shall issue no permit until the applicant shall have first complied with the laws of the State of Nebraska with respect to such disinterment. (*Ref. 71-605 RS Neb.*)

#### **§ 90.89 LOT CURBING.**

It shall be hereafter unlawful for the owner of any lot to construct, maintain, or suffer to remain any curbing around any lot or burial place therein of a height greater than one inch (1").

#### **§ 90.90 SHRUBS AND TREES.**

It shall be unlawful, without the written permission of the City Council, to plant, maintain, or suffer to remain on any cemetery lot a shrub or tree attaining a height of more than four feet (4').

#### **§ 90.91 MONUMENTS.**

Persons desiring to erect monuments, tombstones, or other structures shall first procure a permit from the City Clerk.

#### **§ 90.92 GRAVE DEPTH.**

Graves shall not be less than five feet (5') deep; provided, nothing herein shall be construed to prohibit the use of mausoleums or other recognized methods of interring deceased persons if such a burial procedure is approved by the City Council. (*Amended by Ordinance No. 92-16, 10/19/92*)

**§ 90.93 DESTRUCTION OF PROPERTY.**

Any person who shall willfully destroy, mutilate, deface, injure, or remove any tomb, monument, or gravestone placed in the cemetery, or any fence, railing, or other work for the protection or ornamentation of the cemetery, or who shall willfully destroy, cut, break, or injure any tree, shrub, or plant shall be deemed to be guilty of a misdemeanor. (*Ref. 28-519 RS Neb.*)

**§ 90.94 VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this Section shall be deemed guilty of a Class II Misdemeanor as defined by § 131.22 of this Code. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Amended by Ord. 02-05, 2/4/02, 07-05, 5/7/07*)