

Chapter 95 - MUNICIPAL CEMETERY^[1]

Footnotes:

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State Law reference— Authority to acquire and maintain cemeteries, MCL 128.1 et seq.; Cemetery Regulation Act, MCL 456.521 et seq.; permit for disposition of body, MCL 333.2848.

Sec. 95.01. - Purpose and intent.

The city council recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the city is an important function of the government of the city. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The city council finds that the adoption and enforcement of this chapter is in the best interests of the property owners and residents of the city.

(Code 1989, § 95.21; Ord. No. 2015-07, § 95.21, 8-11-2015)

Sec. 95.02. - 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 plot means an area in a city cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area at least 40 inches wide and 96 inches in length. Exceptions may be made with city permission to accommodate infant burial or the burial of cremains.

City cemetery, municipal cemetery or cemetery means any cemetery owned, operated and/or controlled by the city.

Immediate family is defined as spouse, father or mother, father or mother of spouse, son or daughter, adopted son or daughter, son or daughter of spouse and siblings.

Superintendent means the city manager or his designee, acting as the superintendent of the municipal cemetery.

(Code 1989, § 95.22; Ord. No. 2015-07, § 95.22, 8-11-2015)

Sec. 95.03. - Sale of cemetery plots; nontransferable.

- (a) After the effective date of the ordinance from which this chapter is derived, cemetery plots shall be sold by the city for the purpose of burial for the purchaser of a cemetery plot or his immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the city superintendent and signed by the designated city official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the city clerk or deputy city clerk, and shall constitute a permit when approved.
- (c) Cemetery plots are sold only by the city. The city superintendent or his designee is hereby granted the authority to vary from any restriction on sales where the purchaser discloses sufficient personal

reason for burial within the city through previous residence in the city or relationship to persons interred in the city cemetery involved. Any such decision by the city superintendent (either granting or denying such variance) may be overturned by the city council pursuant to section 95.21.

- (d) At the time of purchase from the city, each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must be a member of the immediate family of a qualified purchaser. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, the owner, if living, or person assigned to that plot must contact the city and pay the fee associated with the transfer.
- (e) Cemetery plots are nontransferable without prior written approval by the city.
- (f) The city superintendent shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the city shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located and within which city cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
- (g) The city shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the city shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same city cemetery in accordance with law.
- (h) The owner of every cemetery plot shall be responsible for notifying the city whenever that person's mailing address changes.

(Code 1989, § 95.23; Ord. No. 2015-07, § 95.23, 8-11-2015)

Sec. 95.04. - Purchase price for cemetery plots.

- (a) The cost of all cemetery plots shall be set from time to time by resolution of the city council, payable to the city. The lawful owner of any cemetery plot within the city shall promptly provide the city clerk with any change in that owner's mailing address.
- (b) All charges shall be paid to the city treasurer.
- (c) The city council may by resolution periodically alter cemetery related fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

(Code 1989, § 95.24; Ord. No. 2015-07, § 95.24, 8-11-2015)

Sec. 95.05. - Grave opening charges.

- (a) The city may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the city council, payable to the city.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the city superintendent or his designee. This subsection (b) shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the city

superintendent shall be given at least 24 hours' prior notice of when such grave opening or closing will occur.

(Code 1989, § 95.25; Ord. No. 2015-07, § 95.25, 8-11-2015)

Sec. 95.06. - Markers or memorials; no monuments.

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- (b) Except for monuments that existed in a city cemetery before the effective date of the ordinance from which this chapter is derived, no monument will be allowed or erected in a cemetery. For purposes of this chapter, the term "monument" shall be defined as any marker, memorial, statue or similar item which exceeds 48 inches in height above normal ground level or which has a ground surface area exceeding 36 inches by 18 inches (or 72 inches by 18 for a double marker), with an overall height of no more than 48 inches above ground level, including the foundation. Only one marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share one marker or memorial. Markers shall be no more than 36 inches by 18 inches in width (or 72 inches by 18 for a double marker), with an overall height of no more than 48 inches above ground level, including the foundation. Individual markers for cremains, in the cremation section, shall be no more than 12 inches by 20 inches in size.
- (c) Personal cremation monuments are not permitted.
- (d) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the city, or such person as may be designated by the city. Fees for such work shall be set from time to time by resolution of the city council, payable to the city.
- (e) Should any monument or memorial (including any monument or memorial that was in place before the ordinance from which this chapter is derived became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the city shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The city shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (f) The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The city has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

(Code 1989, § 95.26; Ord. No. 2015-07, § 95.26, 8-11-2015)

Sec. 95.07. - Interment regulations.

- (a) Only one person shall be buried in a cemetery plot.
- (b) The city shall be given not less than 36 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the city or such persons as are designated by the city.
- (c) The appropriate form issued by the city for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the city superintendent or the city clerk, or designated city official, prior to interment. Where such permit or form has been lost or destroyed, the city clerk must be satisfied, from his records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

(Code 1989, § 95.27; Ord. No. 2015-07, § 95.27, 8-11-2015)

Sec. 95.08. - Disinterments.

- (a) No disinterment or the digging up of an occupied grave shall occur without city approval and inspection.
- (b) No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the city.
- (c) The city superintendent or his designee shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave if the disinterment or digging up of an occupied grave is not done pursuant to a court order, issued by a court of competent jurisdiction, or does not have a reasonable basis.
- (d) No disinterment shall be permitted by the city until the city disinterment application form has been fully completed, and signed by a properly authorized person, and filed with the city.

(Code 1989, § 95.28; Ord. No. 2015-07, § 95.28, 8-11-2015)

Sec. 95.09. - Winter burials.

No winter burials shall occur without the prior consent of the city superintendent.

(Code 1989, § 95.29; Ord. No. 2015-07, § 95.29, 8-11-2015)

Sec. 95.10. - Cremains.

- (a) Cremains may be buried in a container approved by the city in a cemetery plot or in a columbarium that has been installed by the city within a city cemetery.
- (b) No cremains shall be scattered or dispersed within a city cemetery.

(Code 1989, § 95.30; Ord. No. 2015-07, § 95.30, 8-11-2015)

Sec. 95.11. - Grounds maintenance.

- (a) Veteran flags and flag holders shall be governed by the Department of Veterans Affairs rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the city superintendent. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior written permission of the city superintendent.
- (c) No rose bushes of any kind shall be planted.
- (d) Natural flowers will be permitted to be placed in beds not to exceed 18 inches behind the marker. Silk flowers will also be permitted and they must be placed in a pot or container not to exceed 18 inches behind the marker. Any items placed or planted not meeting these guidelines and without city approval will be removed by the city or the city superintendent.
- (e) The city superintendent reserves the right to remove or trim any existing trees, plants or shrubs, whether previously approved or not, located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.

- (f) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (g) The city superintendent shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (h) Surfaces other than earth or sod are prohibited.
- (i) One week prior to the time period set aside for clean-up of cemetery grave sites an advertisement will be placed in the local newspaper to advise citizens of such clean-up period. Individuals will be required to pick up any salvageable wreaths, plastic flowers or ornaments during that period.
- (j) Except for markers, memorials, flowers, and urns expressly allowed by this chapter, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, shepherds hooks, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a city cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this chapter or by the city.

(Code 1989, § 95.31; Ord. No. 2015-07, § 95.31, 8-11-2015)

Sec. 95.12. - Disclaimer of city liability and responsibility.

Every person who enters, remains in and travels within a city cemetery does so at their own risk. The city is not responsible for any injury, accident or other calamity that might occur to any person present in a city cemetery. Furthermore, the city is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a city cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the city for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the city, but also as to the city superintendent and any city employee, officer, official or agent.

(Code 1989, § 95.32; Ord. No. 2015-07, § 95.32, 8-11-2015)

Sec. 95.13. - Forfeiture of vacant cemetery plots or burial spaces.

Cemetery plots or burial spaces sold after the effective date of the ordinance from which this chapter is derived and remaining vacant for 40 years or more from the date of their sale shall automatically revert to the city upon the occurrence of the following events:

- (1) Notice shall be sent by the city clerk by first class mail to the last known address of the last owner of record informing him of the expiration of the 40-year period and that all rights with respect to said plots or spaces will be forfeited if he does not affirmatively indicate in writing to the city clerk within 60 days from the date of mailing of such notice of his desire to retain such burial rights; and
- (2) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the city clerk from the last owner of record of said plots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of said notice.

(Code 1989, § 95.33; Ord. No. 2015-07, § 95.33, 8-11-2015)

Sec. 95.14. - Records.

The city clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the city related to city cemeteries, and the same shall be open to public inspection at all reasonable business hours.

(Code 1989, § 95.34; Ord. No. 2015-07, § 95.34, 8-11-2015)

Sec. 95.15. - Vaults.

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the city.
- (b) Cremains shall be in a container approved by the city.

(Code 1989, § 95.35; Ord. No. 2015-07, § 95.35, 8-11-2015)

Sec. 95.16. - Cemetery hours.

All city cemeteries shall be closed during the hours from 9:00 p.m. until 7:00 a.m. the next morning. During those hours, no person shall be present in a city cemetery. Such prohibition on being present in a city cemetery during the time when a city cemetery is closed shall not apply to the city superintendent, any city official, a person accompanied by the city superintendent or other city official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

(Code 1989, § 95.36; Ord. No. 2015-07, § 95.36, 8-11-2015)

Sec. 95.17. - Prohibited uses and activities.

The following prohibitions shall apply within any city cemetery:

- (1) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a city cemetery.
- (2) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any city cemetery.
- (3) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- (4) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (5) There shall be no destruction of cemetery property.
- (6) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (7) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this chapter.
- (8) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (9) There shall be no digging, grading or mounding unless expressly authorized by this chapter.
- (10) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.

- (11) There shall be no motorcycles (except for traveling directly to and/or from the gravesite of a loved one), snowmobiles, four-wheelers, go-carts or similar vehicles.
- (12) There shall be no gathering of persons in excess of 75 people without prior city approval (except during or incidental to a funeral occurring concurrent with burial).
- (13) There shall be no disinterment or grave openings unless approved by the city.
- (14) There shall be no possession or consumption of any alcoholic beverage.
- (15) There shall be no picnicking or consumption of food without prior city approval.
- (16) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
- (17) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (18) There shall be no littering or dumping.
- (19) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (20) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (21) There shall be no fires, candles or open flames.
- (22) No children under 12 years of age shall be allowed in any city cemetery unless accompanied by an adult and are properly supervised by an adult.
- (23) There shall be no exceeding of posted speed limits.
- (24) There shall be no domestic animals of any kind or pets off leash allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.
- (25) No firearms or archery arrows shall be discharged or shot except that military or other veterans organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (26) No person shall engage in any fight, quarrel or disturbance.
- (27) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (28) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

(Code 1989, § 95.37; Ord. No. 2015-07, § 95.37, 8-11-2015)

Sec. 95.18. - Authority of the city cemetery superintendent.

- (a) The city superintendent may be a city employee or independent contractor for the city.
- (b) The city superintendent shall assist other city officials with the enforcement and administration of this chapter.
- (c) The city superintendent shall have such duties and obligations with regard to city cemeteries as may be specified from time to time by the city council.

(Code 1989, § 95.38; Ord. No. 2015-07, § 95.38, 8-11-2015)

Sec. 95.19. - Fees.

The city council shall have the authority to set fees pursuant to this chapter from time to time by resolution. Such fees can include, but are not limited to, a fee for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

(Code 1989, § 95.39; Ord. No. 2015-07, § 95.39, 8-11-2015)

Sec. 95.20. - Applicability of this chapter.

- (a) This chapter shall apply only to cemeteries owned, controlled or operated by the city.
- (b) The provisions of this chapter shall not apply to city officials or their agents or designees involved with the upgrading, maintenance, administration or care of a city cemetery.
- (c) The provisions of this chapter shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

(Code 1989, § 95.40; Ord. No. 2015-07, § 95.40, 8-11-2015)

Sec. 95.21. - Interpretation/appeals to the city council.

- (a) The city council shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this chapter and any rule or regulation adopted pursuant to this chapter, as well as their applicability. The city superintendent or his designee is also authorized to waive application of the strict letter of any provision of this chapter or any rules or regulations promulgated under this chapter where practical difficulties in carrying out the strict letter of this chapter or any rules or regulations related thereto would result in hardship to a particular person or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this chapter.
- (b) Any party aggrieved by any interpretation or decision made by the city superintendent or any city official, agent or contractor pursuant to this chapter, as well as any matter relating to a city cemetery, rights to a cemetery plot, or other matter arising pursuant to this chapter, shall have the right to appeal that determination/decision or matter to the city council. Any such appeal shall be in writing and shall be filed with the city within 30 days of the date of the decision, determination or other matter being appealed from. The city shall give the aggrieved party who filed the written appeal with the city at least ten days' prior written notice of the meeting at which the city council will address the matter unless an emergency is involved, in which case the city shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the city council at which the matter will be addressed. Pursuant to any such appeal, the decision of the city council shall be final.
- (c) The city council may set a fee for any such appeal from time to time by resolution.

(Code 1989, § 95.41; Ord. No. 2015-07, § 95.41, 8-11-2015)

Sec. 95.22. - Authority of the city to remove unauthorized or unlawful items from a city cemetery.

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed, installed, left or maintained in any city cemetery in violation of this chapter, any city rule or regulation regarding city cemeteries, or any county, state or federal law, statute or regulation may be removed by the city from the city cemetery at any time and destroyed or disposed of by the city without any prior notice to, permission from, or liability or obligation to the person who left, installed, maintained or kept such item in the city cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item,

urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or kept in a city cemetery unless expressly authorized by this chapter or a written rule or policy of the city. Even if such an item is authorized to be installed, kept, maintained or left in a city cemetery, the city shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from or liability to the person who installed, maintained or left such item in a city cemetery.

(Code 1989, § 95.42; Ord. No. 2015-07, § 95.42, 8-11-2015)

Sec. 95.23. - Penalties.

A violation of this chapter, or of any rule or regulation adopted pursuant to this chapter, constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this chapter, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this chapter, shall be in violation of this chapter and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than \$100.00 for the first offense and not less than \$200.00 for subsequent offenses, in the discretion of the court, in addition to all other costs damages, expenses and remedies provided by law. For purposes of this section, the term "subsequent offense" means a violation of the provisions of this chapter committed by the same person within 12 months of a previous violation of the same provision of this chapter or similar provision of this chapter for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense. A violation of any permit or permit condition issued pursuant to this chapter shall also constitute a violation of this chapter.

(Code 1989, § 95.43; Ord. No. 2015-07, § 95.43, 8-11-2015)

Sec. 95.24. - City officials who can enforce this chapter.

Unless otherwise specified by the city council by resolution, the following officials or officers shall have the authority to enforce this chapter and to issue municipal civil infraction citations/tickets pursuant to this chapter:

- (1) City superintendent.
- (2) City clerk.
- (3) City ordinance enforcement officer.
- (4) Any city or state police officer.

(Code 1989, § 95.44; Ord. No. 2015-07, § 95.44, 8-11-2015)