

Chapter 9 CEMETERIES

Last updated November 2009

Sections:

- 9.010 "Cemetery" defined**
- 9.020 Cemetery director--Office created; appointment - REPEALED**
- 9.030 Cemetery Management Duties generally - REPEALED**
- 9.035 Cemetery Advisory Committee created appointment duties - REPEALED**
- 9.040 Disclaimer by city**
- 9.050 "Resident" defined; applicability of definition to infants**
- 9.060 Regulations applicable to general care area**
- 9.070 Monuments and Markers generally**
- 9.080 Markers generally - REPEALED**
- 9.090 Use of vault generally**
- 9.100 Surface vaults prohibited**
- 9.110 Outer burial containers**
- 9.120 Interments and funerals generally**
- 9.130 Disinterments**
- 9.140 Relocating bodies**
- 9.150 Vacated lots**
- 9.160 Services by city for Funeral Directors**
- 9.170 Conduct of persons in cemetery**
- 9.180 Selecting sites**
- 9.190 Payments for right of burial**
- 9.200 Purchase of cemetery lots--Generally**
- 9.210 Charges for sites for burial**
- 9.220 Same--Right of burial**
- 9.230 Repurchase of lots by city**
- 9.235 Title to Cemetery Lots or Burial Spaces reverts after 80 years - Procedure**
- 9.240 Recording change of ownership**
- 9.250 Payments for services payable in advance**
- 9.260 Charges for use of vault - REPEALED**
- 9.270 Disinterment charge**
- 9.280 Funeral Directors to assume liability for certain charges**
- 9.290 Reports; disposition of fees collected; accounting procedures**
- 9.300 Endangered gravesites**

Section 9.010 "Cemetery" defined

Wherever the word "cemetery" appears in this chapter, it shall be construed to mean a place for burying the dead on all grounds owned and maintained by the city for this purpose." Cemetery" shall be construed to mean the St. Patrick's Catholic Cemetery, St. Wenceslaus Catholic Cemetery, St. Joseph's Catholic Cemetery and the Dickinson Cemetery. (Ord. No. 1006, § 1; Ord. No. 1364 § 1.)

Section 9.020 Cemetery director--Office created; appointment - REPEALED

This section was repealed September 2, 2003. (Ord. No. 1006, § 1; Ord. No. 1273 § 1.)

Section 9.030 Cemetery Management Duties generally - REPEALED

This section was repealed October 6, 2008 with the passage of Ordinance No. 1364.

Section 9.035 Cemetery Advisory Committee created appointment duties - REPEALED

This section was repealed with Ordinance No. 1322 passed June 19, 2006.

Section 9.040 Disclaimer by city

The city shall take every reasonable precaution to protect the property within the cemetery, but it distinctly disclaims all responsibility for loss or damage, whether direct or collateral, from the acts of thieves, vandals, rioters and malicious mischief makers; from all acts of Providence, including but not limited to winds, tornadoes, cyclones, hail, snow, frost, fire, explosion or lightning; and from breakage or accident to equipment of any kind and character and from all causes beyond its reasonable control. (Ord. No. 1006, § 1.)

Section 9.050 "Resident" defined; applicability of definition to infants

- (a) For the purpose of this chapter, the word "resident" is defined as a person who lived within the corporate limits of the city immediately preceding the date of death and is a bona fide resident of the city under North Dakota law. Reference NDCC Sections 54-01-21, 54-01.26, and other pertinent sections of NDCC. All other persons shall be considered as nonresidents.
- (b) In the case of the death of an infant whose parents meet residency requirements, resident rates shall apply. In all other cases, nonresident rates shall apply. (Ord. No. 1006, § 1.)

Section 9.060 Regulations applicable to general care area

- (a) In the cemetery area the city shall not provide for the care of private mausoleums, monuments or markers or set out or take care of any decorative planting; it shall, however, undertake to keep the grass cut and to maintain the entire area in a neat and generally tidy condition.
- (b) Lot owners or authorized persons may have any special work, consistent with this section, done by the city by making arrangements with the City, which shall furnish estimates of cost to perform the work. Lot owners or authorized persons wishing to have the work done must give the City a signed order covering the proposed improvements.
- (c) Lot owners or members of their families are permitted to do any work not involving construction and not otherwise prohibited by this chapter on their sites, either before or

after interments, and the performance of such work must be confined to the working hours of the cemeteries.

- (d) No corner stakes of any lot shall be disturbed.
- (e) No lot or grave shall be defined by any fence, railing, coping, hedge, embankment or depression, nor may trees or shrubs be planted to define corners or boundaries. No cement curbs shall be permitted, and all unsightly curbs shall be removed.
- (f) The planting of common lilac bushes and any kind of iris or vines is not permissible.
- (g) Existing trees generally will not be removed to make additional burial space.
- (h) To prevent injury to adjoining lots and to preserve the beauty of the grounds, no trees or shrubs shall be planted on lots or graves, nor shall any existing trees or shrubs be cut down, removed or trimmed, unless permitted by the City.
- (i) The placing of wreaths, sprays or flower boxes, and the placing of cut flowers shall be restricted to those graves which have a regular container for that purpose. The use of jars, tin cans, etc., is prohibited. Spading up of grass will be permitted only for the purpose of planting grass. Planting of flowers is restricted to flower boxes and vases upon concrete foundations upon the grave site only.
- (j) Withered plants and flowers will be removed from the lots, vases and urns.
- (k) The city may remove or order removed all floral designs, trees, shrubs, plants or herbage of any kind, and may also remove toys or any other kind of non-green decoration as soon as such items become unsightly, interferes with Maintenance Activities, detrimental or diseased, in the opinion of city staff. The city has no responsibility to return to its owners any item the city so removes or orders removed.
- (l) Individual mausoleums are not permitted.
- (m) The use of monuments is permitted, subject to the provisions of this chapter.
- (n) Grave covers shall not be allowed in a cemetery. Any and all grave covers which are situated in any city cemetery and determined by the City to be in a state of disrepair or otherwise in need of maintenance, repair or servicing shall be removed.
- (o) The cemetery will be available to the public per city policy or during posted days and hours. (Ord. No. 1006, § 1; Ord. No. 1041, § 2; Ord. No. 1208, § 1. Ord. No. 1273 § 3; Ord. No. 1364 § 1; Ord. No. 1371 §1)

Section 9.070 Monuments and Markers generally

- (a) Any stone or object which shall be placed upon a burial site or plot for the purposes of marking a grave site or identifying the person or persons buried therein shall be classified as a monument or marker.
- (b) Only one monument shall be permitted for any one plot.
- (c) No monuments or markers or portions thereof made of any material other than granite, marble, standard bronze or other durable material such as (but not limited to) natural stone, petrified stone, stainless steel, etc., shall be allowed in the cemetery.
- (d) All foundations for monuments or markers shall be of concrete, not to exceed six inches in depth, and shall be installed at the expense of the individual and/or family.
- (e) The foundations shall be constructed so as to permanently support the monument or marker in true position and shall have a border around the bottom of the base of the monument (three and one half inches minimum on each side).
- (f) All monuments or markers must be located as directed by authorized city personnel.

- (g) No person shall be allowed to remove any monument or marker from the cemetery or to alter any monument erected in the cemetery without first securing permission from the City.
- (h) Markers for use in making infant graves must not exceed 2.5 feet in length or 2.5 feet in width or 3.0 feet in height and shall not be more than six inches thick. (Ord. No. 1006, § 1; Ord. No. 1273 § 4; Ord. No. 1364 § 1; Ord. No. 1371 §1)

Section 9.080 Markers generally - REPEALED

This section was repealed with Ordinance No. 1363 §1 on October 6, 2008.

Section 9.090 Use of vault generally

- (a) In no event will any remains be accepted for storage before October 15 or be kept in the vault after April 15, except at the discretion of the City.
- (b) Remains of persons having died of contagious disease can only be placed in the vault when all legal requirements relating to the handling of such cases have been complied with.
- (c) The city reserves the right to interment of any remains whenever it may appear necessary for sanitary reasons, on twenty-four hours notice to the Funeral Director in charge.
- (d) The city reserves the right to refuse the storage of any remains which are in an offensive condition, or during epidemics.
- (e) Visiting the vault will not be permitted. (Ord. No. 1006, § 1; Ord. No. 1273 § 5.)

Section 9.100 Surface vaults prohibited

- (a) Surface vault burials shall no longer be allowed in any city cemetery. (Ord. No. 1006, § 1; Ord. No. 1208, § 2; Ord. No. 1273 § 6.)

Section 9.110 Outer burial containers

- (a) All burials in city-owned cemeteries shall be enclosed concrete vaults, enclosed concrete grave liners, or other approved material in a grave with a base or floor five feet below the surface with a minimum of 18 inches at any point, of earth on top of the vaults or grave liners. (Ord. No. 1006, § 1; Ord. No. 1208, § 3; Ord. No. 1364 § 1. Ord. No. 1371 §1)

Section 9.120 Interments and funerals generally

- (a) The time of funeral services shall be scheduled by the funeral director and the City as soon as reasonably possible and at least forty-eight (48) hours in advance of the services. Requests are to be accompanied by the legal burial permits and local burial requests.
- (b) Not wanting to prolong the grief of those mourning the loss of loved ones, it is the intention of the city to accommodate the burial of deceased individuals in a timely manner. However, the physical condition of the cemeteries, i.e., frozen soil, saturated ground, the placement of graves, accumulation of snow, etc., may make timely interment difficult. The city reserves the right to require that the remains of any deceased person be stored in the city's retaining vault until such time as interment becomes possible without damaging city cemeteries. The judgment of the City shall prevail in these matters.

- (c) All information required by the state of North Dakota to appear on a Burial Transit Permit shall be furnished to the City prior to interment. No burials will be allowed without this information.
- (d) If the order for the interment is for a deceased person not of the immediate family of the lot owner, permission in writing from the lot owner or other authorized person must be filed with the City of Dickinson.
- (e) When lots are held jointly by two or more persons, by descent, devise or purchase, an order will be accepted from either of them or their heirs for interment in the lots as the order shall require.
- (f) Orders of burials over the telephone will be accepted only at the option of the City, because of the possibility of mistakes.
- (g) Funerals while within the cemetery grounds shall be under the control of the City.
- (h) The city shall allow no more than (4) four cremations buried on any single grave plot. (Ord. No. 1006, § 1; Ord. No. 1208, § 4; Ord. No. 1273 § 7; Ord. No. 1322 §2; Ord. No. 1364 §1.)

Section 9.130 Disinterments

Graves will be reopened for official inspection or for any other purpose only when all statutory provisions relating to the opening of graves have been complied with and the regular charge for a disinterment is paid to the city. (Ord. No. 1006, § 1.)

Section 9.140 Relocating bodies

Should the owner of a single lot in the cemetery area in which an interment has been made or should an authorized person wish to secure two or more laterally adjacent lots elsewhere in the cemetery in order to provide for contiguous burials, he may have the body in the single lot disinterred and reinterred in the new location by paying the regular charges both for disinterment and for reinterment and by conveying to the city the vacated lot. The amount of the refund for such vacated lot, if any, shall be determined by the city and shall not exceed the purchase price paid by the owner. (Ord. No. 1006, § 1; Ord. No. 1364 § 1.)

Section 9.150 Vacated lots

Should any single lot be vacated and the body removed from the cemetery, the regular charge for disinterment must be paid. The title to the lot remains in the family or may be bought back by the city. (Ord. No. 1006, § 1; Ord. No. 1208, § 5; Ord. No. 1273 § 8.)

Section 9.160 Services by city for Funeral Directors

For the convenience of the city as well as the Funeral Directors, the city, if requested, shall perform such services for the Funeral Directors as, in the opinion of the City, may be proper and feasible and which will in no manner whatsoever interfere with the duties and functions of the cemetery employees. (Ord. No. 1006, § 1; Ord. No. 1273 § 9; Ord No. 1371 §1.)

Section 9.170 Conduct of persons in cemetery

- (a) Lot owners, their families and visitors shall be admitted daily to the cemetery and are requested to observe all rules adopted for the regulation of visitors.
- (b) Children must be accompanied by parent or guardian.
- (c) Bicycle riding shall not be permitted in cemetery.
- (d) Bicycles shall not be leaned against stonework of any kind.
- (e) Liquor consumption shall not be allowed within the cemetery grounds.
- (f) Firearms shall not be permitted, other than for regular burial services.
- (g) Dogs shall not be permitted.
- (h) Cumbersome trucks and vehicles shall not be allowed to enter the grounds without special permission of the city.
- (i) All persons are strictly prohibited from plucking any wild or cultivated plants, breaking any tree or shrub, marring any stonework or defacing property of lot owners or of the city.
- (j) No improper use of the national flag will be permitted in the cemetery, nor will the display of any worn out and tattered flag be allowed.
- (k) It is the utmost importance that there should be a strict observance of all the proprieties due the place, whether embraced in this section or not. No impropriety will be tolerated, and all well-disposed persons will confer a favor by informing the city at once of any breach of decorum that may come to their notice. (Ord. No. 1006, § 1; Ord. No. 1364 §1.)

Section 9.180 Selecting sites

Persons desiring to purchase rights of burial are invited to visit City Hall located at 99 2nd Street East, Dickinson, North Dakota and authorized city personnel will aid in making a selection. (Ord. No. 1006, § 1; Ord. No. 1364 § 1.)

Section 9.190 Payments for right of burial

All payments for lots are payable in advance, except as otherwise provided. (Ord. No. 1006, § 1.)

Section 9.200 Purchase of cemetery lots--Generally

- (a) When the buyer desires to purchase a right of burial on two or more single grave lots in the cemetery area, the city reserves the right to insist that the selection shall be made in such a location and manner as not to leave any isolated single grave lots alongside those purchased.
- (b) Single grave lots shall normally be sold only from single grave lot sections, except as isolated single grave lots may be elsewhere available. In single grave lot sections there can be no choice of location, as these lots must be filled in regular order, nor can any such lots be reserved or sold for future use. (Ord. No. 1006, § 1; Ord. No. 1208, § 6; Ord. No. 1364 § 1.)

Section 9.210 Charges for sites for burial

- (a) The charges for sites for the right of burial in all city-owned cemeteries and the charges for opening and closing cremation graves shall be in such amount as determined from

time to time by the board of city commissioners and shall be on file by the city in the city fee schedule.

- (b) The charges to open and close graves shall be set by the board of city commissioners and maintained in the City Fee Schedule.
- (c) The city may provide a grave site at no charge for any person in the armed services killed in a conflict, who lived in Dickinson prior to current military service or any Dickinson city employee killed in the line of duty in which the body of the deceased is to be buried. (Ord. No. 1006, § 1; Ord. No. 1086, § 7; Ord. No. 1273 § 10.)

Section 9.220 Same--Right of burial

- (a) Burial sites are conveyed by "right of burial" form furnished the purchaser, his family and heirs, granting a right forever for the purpose of burying the human dead only, subject to the rules and regulations that are now in force or may be adopted by the city but exempt from taxation and liability for debt.
- (b) In the event that a burial site is unused for more than 80 years after its sale, resale and/or transfer, title to the burial space shall revert to the city as provided in section 9.235.
- (c) No "right of burial" will be issued until a lot is fully paid for, and if interment is permitted before such time, the city retains the right to refuse future interments or any improvements until the balance due on the lot is fully paid, and in case of persistent default, to remove any body already interred to the single grave section.
- (d) A "right of burial" from the city and its record on the books of the city is the only evidence of title recognized by the city; therefore, no lot shall be subdivided or transferred by deed or otherwise; and in the event of any subdivision or transfer or use of the property contrary to any of the provisions of the right of burial, the whole thereof shall revert to the city. (Ord. No. 1006, § 1; Ord. No. 1273 § 11; Ord No. 1371 §1)

Section 9.230 Repurchase of lots by city

The city may, by mutual agreement with any site owner, repurchase any unused site from owner or authorized person at a reasonable price determined by the cemetery director. (Ord. No. 1006, § 1.)

Section 9.235 Title to Cemetery Lots or Burial Spaces reverts after 80 years - Procedure

It is a conclusive presumption that an owner has abandoned a cemetery lot or burial space if for a period of more than 80 years the owner has not used any portion of the lot for purposes of burial and has not made provision for care of the lot beyond that provided uniformly to all lots within the cemetery, and if the owner has failed to express an interest in retaining the cemetery lot or burial space after notice provided for in this section.

Cemetery lots or burial spaces remaining unused for more than 80 years from the date of their sale, resale and/or transfer shall revert to the city upon occurrence of the following events:

- (1) Upon the request of any person, the City may pass a resolution demanding that the record owner of a cemetery lot or burial space that has been unused for more than 80 years express an interest in the cemetery lot or burial space. The

resolution shall notify the owner that the owner must, within 60 days after service of the resolution upon the owner, express an interest in retaining the unused cemetery lot.

- (2) A copy of the resolution shall be served upon the owner in the same manner as personal service of process in a civil action. If the owner is unknown or cannot be found, the City shall publish its resolution once a week for three consecutive weeks in the official newspaper of the county where the cemetery is located, and shall further mail a copy of the resolution to the owner at the last known address of the owner, if known.
- (3) If within 60 days after personal service or after publication of the City's resolution is completed, the owner or person with a legal interest in the cemetery lot or burial space fails to express an interest in retaining the unused cemetery lot or burial space, the owner's rights therein are terminated and title to that person's plot reverts to the City. (Ord No. 1371 §1)

Section 9.240 Recording change of ownership

On the death of an owner or part-owner of a site, the heirs or designees of the deceased, if required, shall file with the city satisfactory proof of their heirship for the purpose of establishing the new ownership on the books of the city. (Ord. No. 1006, § 1; Ord. No. 1364 § 1.)

Section 9.250 Payments for services payable in advance

All payments for charges for all services are payable in advance, except as otherwise provided. (Ord. No. 1006, § 1.)

Section 9.260 Charges for use of vault - REPEALED

This section was repealed September 2, 2003 (Ord. No. 1006, § 1; Ord. No. 1208, § 7; Ord. No. 1273 § 12.)

Section 9.270 Disinterment charge

The charge for disinterring any body shall be determined by the city commission and on file in the city fee schedule. (Ord. No. 1006, § 1; Ord. No. 1273 § 13.)

Section 9.280 Funeral Directors to assume liability for certain charges

In all instances where a funeral director arranges for lots or interments, the funeral director shall assume the liability for payment to the city of the cost of the lots or interments. (Ord. No. 1006, § 1; Ord. No. 1273 § 14.)

Section 9.290 Reports; disposition of fees collected; accounting procedures

This section was repealed September 2, 2003. (Ord. No. 1006, § 1; Ord. No. 1273 § 15.)

Section 9.300 Endangered gravesites

Notwithstanding any other provisions of this Code, the city may move graves or cremate the bodies in any graves which are located in the city and maintained by the city when the gravesites are in imminent danger of destruction by natural elements. The city commissioners shall, to the extent possible, give personal notice to a relative of a deceased person whose grave is to be moved or whose body is to be cremated, if the identity of that person and the identity of the relative are known. The city commissioners shall provide at least thirty days prior notice in a legal newspaper of the city of the commissioners' intended action to be taken pursuant to this section. (Ord. No. 1078, § 1.)