

Chapter 2.40 CEMETERIES

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State law reference(s) – Municipal cemeteries, § [31-25-701](#), C.R.S. et seq.

Article I. Generally

2.40.010 Management – Funding.

The City Manager shall be responsible for the management of the City cemeteries, and may delegate the duties involved in improvement, maintenance and operation thereof. The City Manager shall report to the City Council the financial and physical status of the cemeteries and perpetual care funds, and shall incorporate in a proposed annual budget such allocations of funds as may be necessary for their proper management. The City Council shall levy and appropriate for the cemeteries the necessary funds in a manner consistent with all budgeting requirements.

(Code 1994 § 12-1; Code 1965 § 8-3)

2.40.020 Rules and regulations.

The City Manager is hereby authorized and empowered to make, enforce, and modify or repeal, from time to time, such rules and regulations as may be advisable for the management, use, improvement and maintenance of the cemeteries and for the administration of endowment funds, not inconsistent with the provisions of this chapter.

(Code 1994 § 12-2; Code 1965 § 8-13)

2.40.030 Perpetual care funds.

All payments made and received for perpetual care of grave spaces in City cemeteries shall be recorded and maintained in a separate fund from all other funds of the City, and shall constitute permanent trust funds, for the purposes provided in this chapter, to be known as the cemetery perpetual care fund, and such funds shall be invested in accordance with the investment policy of the City. The principal of such funds shall be preserved as an endowment for the perpetual care and maintenance of grave spaces in the cemeteries, and the income from such fund shall be used solely for such purpose. The aforesaid

funds shall be entirely independent of, and in addition to, payments made for the purchase of lots or burial spaces for which perpetual care is purchased.

(Code 1994 § 12-3; Code 1965 § 8-11)

Article II. Rules and Regulations

2.40.110 Sale of lots – Certificates of ownership.

(a) The City Manager shall keep accurate record of all burial spaces in the City cemeteries. The City shall sell burial spaces at such price or prices as may be directed by the City Council and contained in the rules and regulations for the City cemeteries. The City Manager shall issue a certificate of ownership to the purchaser of each burial space, which certificate shall contain a description of the burial space, purchase price, the name and address of the space owner and will include statement of perpetual care. The certificate shall state that it represents only a right to be buried and in no way conveys a title to the real estate and shall also state:

- (1) The ownership of that right is not transferable without the approval of the City Manager or the City Manager's designee and the reissuance of a new certificate to the new owner of the burial right, except that transfer of ownership may be effected by last will and testament or intestacy as provided for in GJMC [2.40.180](#). All transfers must be recorded by the City and a fee for such transfer as established by resolution of City Council will be charged.
- (2) Any transfer of ownership interest by last will and testament or applicable laws of intestacy shall be reported immediately to the City Manager's designee by the person receiving the ownership interest.
- (3) All changes in address of the owner shall be reported immediately to the City Manager's designee.
- (4) A portion of the purchase price, such portion to be specified, shall be deposited into a trust fund and held as a permanent fund with the income of the fund to be devoted to the perpetual care and keeping of the burial space so endowed, except for spaces in areas designated for the burial of indigent persons. Indigence shall be demonstrated by affidavit or other documentary proof satisfactory to the City Manager's designee.
- (5) Prior to the resale of any vacant burial space by the owner to any other individual or to the City, all monuments or markers must be removed at the owner's expense.

(b) The certificate of transfer shall be signed with a facsimile of the City Manager's signature and attested by the signature of the City Clerk under the seal of the City.

(Ord. 4607, 10-16-13; amended during 2009 recodification; Adm. Reg. 1-99 § 1, 6-30-99)

2.40.120 Records.

Records of the City, other than the certificate as provided for in GJMC [2.40.110](#), shall show the date of purchase, the name of the purchaser, the description designating the burial right(s) space purchased and the purchase price. Indexing maintained by the City shall permit determination of location of the burial space by location as well as by owner's name.

(a) Certificates of ownership are evidence of ownership of a right to be buried in spaces listed on the certificate.

(b) The owner of a certificate of ownership seeking to reconvey one or more spaces to another shall apply for and obtain a certificate of transfer from the City in the name of the other person. Upon submission of an application to convey the burial space rights, the original certificate of ownership shall be returned, canceled and reissued to the new owner by the City Manager's designee. If any spaces enumerated on the original certificate of ownership are to be retained by the owner, then certificates of ownership shall be reissued by the City Manager's designee for each space in the name of each owner.

(1) Upon application for reconveyance, the applicant shall provide the following information:

(i) The grave space right(s) owned;

(ii) The spaces then used, if any;

(iii) Which owners have been issued a certificate of transfer, if any, for the particular space;

(iv) A statement that the owner truthfully believes that the owner holds and fully controls burial rights to the spaces for which the owner is applying for certificates of transfer and that the owner does indemnify the City as to all costs should any person(s) other than the transferee named subsequently present a certificate of transfer for the same space or spaces.

(2) Upon submission of a complete application, the City Manager's designee shall investigate and determine:

(i) If any spaces for which certificates of transfer are sought are filled.

(ii) If any spaces are held by persons or firms other than the current certificate of ownership holder.

(3) The City Manager's designee shall then issue the certificate(s) of ownership to the person(s) indicated by the then owner; however, any title impairment affecting the ownership of the burial right(s) shall be noted upon the respective certificate of ownership. If any space is unendowed (except in areas platted for burial of indigent persons), then the endowment then payable shall be paid prior to the reissuance of the new certificate of ownership. A record

containing the application, the investigation results and a copy of the certificate(s) of transfer along with the chain of title notations, if any, shall be retained by the City.

(c) The City may purchase back any unused certificate of ownership or any unused portion thereof under the terms and conditions listed below. The City Manager's designee shall purchase only those spaces for which ownership is clear. The City Manager's designee shall require an application for all purchase back requests. Upon submission of a completed application to the City Manager's designee and upon completion of the City Manager's designee's investigation, the City may purchase the certificate of ownership for any number of spaces identified on the certificate, except that the City shall not purchase spaces already filled, nor spaces where an apparently valid certificate of ownership remains outstanding. The purchase back price shall be the original purchase price including development fee, if paid, not to exceed the current prices and exclusive of the endowment fee less the following:

- (1) Twenty-five percent of the total current purchase price, excluding the endowment fee, or \$50.00, whichever is greater, shall be retained as administrative cost.
- (2) In no case will the City buy back any space for more than the price of the lot and development fee, if any, at the time of purchase. The endowment fee will not be refunded.
- (3) If a current installment contract for payment exists, the City shall retain 25 percent of the amount paid excluding the pro rata share of the endowment fee, or \$50.00, whichever is greater.

(d) Certificate of ownership holders may consent to the burial of any deceased person. Such consent shall be in the form of an affidavit signed and notarized and shall bear the signature of at least one owner as shown on the certificate of ownership.

(e) **Lost Certificate of Ownership.** The owner may apply for a lost title upon payment of a fee established by resolution of the City Council.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 2, 6-30-99)

2.40.130 Funds – Disposition.

All moneys, except moneys received for perpetual care endowments in accordance with GJMC [2.40.150](#), received from the sale of spaces in said cemeteries shall be held by the City and expended as shall be directed by the City Council for the maintenance, improvement, beautification and enlargement of said cemeteries as provided by GJMC [2.40.010](#).

(Adm. Reg. 1-99 § 3, 6-30-99)

2.40.140 Installment purchases.

The purchase price and the endowment(s) for the lot(s) or space(s) purchased may be paid in installments; provided, that the purchaser shall enter into a written contract wherein it is agreed that the number of installments shall not exceed 18 nor extend over a period of more than two years, that no

interest shall be added by the City to the purchase price during that two years; that at least 10 percent of the installment purchase price shall be paid at the time of the execution of said contract; failure to pay any installment for a period of 60 days shall terminate the contract, together with any legal interest of the purchaser therein, and shall vest all payments previously made thereunder absolutely in the City. Notice of termination for failure of payment shall be given by the City to the purchaser's last known address by certified mail, return receipt. Until payment is completed in full, no certificate of transfer shall be issued for the lot(s) or space(s) described in said contract, nor shall any burial be allowed on such lot(s) or space(s), nor shall any monument or marker be allowed.

(Adm. Reg. 1-99 § 4, 6-30-99)

2.40.150 Perpetual care.

(a) **Charge for Perpetual Endowment.** All grave spaces in the City cemeteries, except in areas platted for burial of indigent persons, shall be perpetually cared for by the City in accordance with GJMC [2.40.030](#).

(1) Perpetual care funds shall be due at the time of purchase of any lot(s) or space(s).

(2) Except for areas platted for the burial of indigent persons, owners holding certificates of ownership shall purchase such perpetual care. The price of such endowment shall be established by resolution of the City Council.

(b) **Perpetual Care Funds.** The City shall place the money derived from perpetual care endowments in distinct irrevocable endowment trust funds as required by GJMC [2.40.030](#).

(Adm. Reg. 1-99 § 5, 6-30-99)

2.40.160 Development fee.

Repealed by Ord. 4607.

(Adm. Reg. 1-99 § 6, 6-30-99)

2.40.170 Rights of burial space owners.

(a) **Interment Rights.** All lots, grave spaces and burial spaces conveyed shall be considered as a grant of a right by the City to the grantee for the purpose of burial, shall be presumed to be the sole and separate burial right of the person named as grantee; however, a grantee may inter the grantee's deceased immediate family member in the space, in accordance with the rules and regulations and fee schedule at the time of interment of spouse, child, mother, father or sibling. The burial of animals shall not be allowed.

(b) **Consent to Burial.** Upon the death of any other relative than listed above or nonrelative, the owner of a certificate of ownership may convey the right to burial in the space enumerated on the owner's certificate. The consent shall be evidenced by an approved certificate of transfer, which certificate shall

be available only from the City Manager's designee. A certified death certificate shall be presented at the time of issuance of a certificate of transfer to a decedent by the City Manager's designee. Once burial occurs, the body may be disinterred only with an authorization pursuant to GJMC [2.40.310](#). Upon disinterment, burial rights for the space shall remain in the name of the certificate of transfer holder. The City shall maintain records of all burials.

(c) **Right of Descent.** Upon the death of the owner, any unused burial spaces shall pass as provided in the owner's last will and testament to the owner's beneficiaries. Any unused burial spaces not effectively disposed of by the owner's last will and testament or otherwise shall pass to the owner's heirs as prescribed by the Colorado Probate Code.

(d) **Official Records.** The official records of burial space owners shall be maintained by the City Clerk, and each burial space owner shall be registered by name and address. Such registration shall be the final governing record in determination of burial rights ownership.

(e) **No Transfer Without Consent.** No burial spaces shall be transferable except with compliance with the procedures of the City Manager or as provided by law.

(f) **Change of Address.** It shall be the duty of each and every burial rights owner to keep the City Manager's designee fully informed as to the owner's mailing address and to notify said City Manager's designee as to any changes thereof. Notice sent to any burial space owner at the last registered address on file with the City Manager's designee shall be considered sufficient and proper legal notice.

(g) **Right to Ingress and Egress Reserved.** The City reserves to itself, and to those lawfully within the cemetery, a perpetual right to enter and to leave and conduct any lawful activity on or over any burial space and/or for passage to and from other spaces.

(h) **No Right Granted in Alleyways.** No easement or right of interment is granted to any burial space rights owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery grounds or buildings as long as the cemetery uses the accessways for that purpose.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 7, 6-30-99)

2.40.180 Transfer of ownership.

(a) **Method of Transfer.** The transfer of right or any interest in any burial space shall be made only on forms provided by the City.

(b) **Consent and Approval.** No transfer of any burial space shall be valid without the consent, in writing, of the City Manager's designee and endorsed upon such a transfer and thereafter recorded on the books of the City.

(c) **Time of Recognition.** A certificate of transfer, in order to be valid, must be proper on its face and it must also be delivered to the grantee or some third person during the lifetime of the grantor, with the full intent to divest the grantor of grantor's interest. The transfer must also be presented to, approved by and transferred upon the record of the City during the lifetime of the grantor; provided, however, that a transfer may also be made by the grantor in a last will and testament, or by the applicable laws of intestacy. An affidavit stating the applicant for the transfer is the heir must be submitted along with a copy of the will and application for transfer.

(d) **Indebtedness.** The City may refuse to consent to a transfer of any burial space so long as there is any indebtedness due thereon by the registered owner thereof.

(e) **Care and Maintenance Must Be Provided.** Except for areas designated for the burial of indigent persons, no transfer of any burial space or interment right therein shall be approved and registered upon the books of the City nor shall interments therein be permitted until provision shall have been made for care and maintenance of such space by payment of the endowment amount specified in the rules and regulations for City cemeteries. This provision shall not apply to burial spaces conveyed by the City for which perpetual care endowment has been already provided.

(f) **Transfer Charges.** All conveyances or transfers of rights in any burial space shall be subject to a charge fixed, from time to time, by resolution of the City Council, which charge must be paid when the transfer request is received for filing by the City Manager's designee.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 8, 6-30-99)

2.40.190 Abandoned burial spaces.

(a) **Reversion.** The ownership or right in or to any unoccupied cemetery burial space shall upon disinterment and subsequent abandonment revert to the City.

(b) **Presumption.** Failure to inter in any burial space(s) after 21 years plus a life (defined as 100 years) from purchase, transfer or interment in adjacent spaces commonly owned, whichever is later in time, shall create and establish a presumption that the same has been abandoned; except that this presumption shall not apply when a letter of intent is annually filed by the owner or heir in title with the City stating the intention to keep specified spaces vacant.

(c) **Notice Required.** Abandonment or reversion by disinterment shall not be deemed complete unless the registered owner(s) or their heirs or assigns shall be notified in writing, mailed to the last known or registered address, by the City. In the event that the address of the owner or owner's heirs cannot be ascertained, then notice of such abandonment shall be published in a newspaper of general circulation in Mesa County at least once a week for four weeks.

The City may thereafter sell, transfer and convey the rights to use the space. The funds derived from any sale of an abandoned space shall be considered as a new grave space.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 9, 6-30-99)

Article III. Interments

2.40.210 Compliance with applicable laws.

Besides being subject to these rules and regulations for the City cemeteries, all interments, disinterments and removals are subject to the orders, rules, regulations and laws of the properly constituted authorities of the City and State.

- (a) **Authorization for Interment.** The City reserves the right to refuse burial in any burial space if complete, correct and proper procedures are not followed or the death is suspicious and under criminal investigation.
- (b) **Facsimile, Electronic and Telephone Authorization.** The City may but shall not be obligated to complete certificates of transfer, endowment contracts or any or all other applications, contracts or paperwork via facsimile, electronic means, or telephone. The City shall not be held responsible for any order given by telephone, facsimile, other electronic means, or for any mistake occurring from the want of precise and proper telephonic, electronic and/or facsimile transmissions. Any changes, adjustments or corrections necessitated by such mistakes shall be at the expense of the burial space owner or the owner's agent.
- (c) **Burial Permits Issued.** The Mesa County Bureau of Vital Statistics or other appropriate agencies shall issue a burial permit addressed to the City Clerk. No burial shall take place without a burial permit from the appropriate agency. In the case of cremated remains, such burial permit will accompany the body to the crematorium.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 10, 6-30-99)

2.40.220 Time and notice of interments.

The right is reserved by the City to insist upon notice at least 24 hours prior to any cremation or interment, and at least 10 days' notice prior to any disinterment or removal. Any exceptions must be approved by the City Manager's designee.

All interments, disinterments and removals must be arranged for in advance, but no interments, disinterments, removals, cremation or interment service shall be permitted on the Saturday or Sunday before or on Memorial Day. Exceptions may be granted for extenuating circumstances by the City Manager's designee; however, the additional grave opening fee for Sundays and holidays will be charged.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 11, 6-30-99)

2.40.230 Conditions for interment.

(a) **No Interment Unless Paid in Full.** No interment shall be permitted or memorial placed in or on any space not fully paid for. A promissory note or installment contract for purchase shall not be considered as payment and no rights shall be acquired by the burial space purchaser of said interment or interments until such is fully paid for in good funds. The City Manager's designee may accept from the legal representative of a deceased a bond or other surety or guaranty of payment.

(b) **More Than One Body.** Not more than one body, or the remains of more than one body, shall be interred in one grave, vault, crypt or niche; however, with the written consent of the City Manager's designee, with the consent attached to the certificate of ownership, the remains of an infant may be buried in the grave space with the parent or cremated remains may be placed in the same grave, crypt or niche with one adult or infant burial or other cremated remains; provided, proper identification is made of such interment or interments on one crypt, niche, memorial or marker; and provided, the appropriate fees have been paid. In no event shall more than five remains be allowed in one full size space (four feet by 10 feet approximately).

(c) No interments, including cremated remains, shall be buried in a grave space without a vault.

(Ord. 4607, 10-16-13; amended during 2009 recodification; Adm. Reg. 1-99 § 12, 6-30-99)

2.40.240 Liability of City.

(a) **Delay From Protest.** The City shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made or where the rules, regulations and ordinances of the City or other applicable law have not been complied with. The City shall be under no duty to recognize any protests of interments unless they are in writing and filed with the City Clerk, or are by order of a court of competent jurisdiction.

(b) **Not Responsible for Identity.** The City shall not be liable for information contained in the certificate of ownership or for any or all documents and records nor for the identity of the person sought to be interred, cremated or disinterred.

(c) **Errors May Be Corrected.** The City shall not be liable and reserves and shall have the right to correct any errors that may be made by it, either in making interments, disinterments or removals, or in the description, transfer or conveyance of any space, by correcting as required any errors in form or substance made to any documents. In any event the liability of the City shall be no greater than the cost of the space(s) at the time of purchase.

(Adm. Reg. 1-99 § 13, 6-30-99)

2.40.250 Equipment used.

Only the City shall open and close graves. The placement of urns by a monument company is allowed when the company is placing a marker or monument at the same time. Proper notice shall be given to the cemetery office.

(Amended during 2009 recodification; Adm. Reg. 1-99 § 14, 6-30-99)

2.40.260 Funeral processions.

Funeral processions, on reaching a cemetery, shall be under the guidance and control of the cemetery staff. Automobile and motorcycle engines must not be kept running in close proximity to any funeral during the services. Funeral services shall be scheduled at such a time where the service will be complete prior to 4:00 p.m. unless a surcharge has been paid to the City in advance.

(Adm. Reg. 1-99 § 15, 6-30-99)

2.40.270 Charges for graves.

Fees shall be charged for all grave spaces, digging and filling of graves, disinterments, reinterments and the overtime services of the City employees. All fees so charged are to be paid to the City Clerk.

(a) A graduated fee shall be charged for the opening and closing of graves in the burial of infants, children, adults and cremated remains; the schedule of graduated fees shall be established by resolution of the City Council.

(b) For disinterments and reinterments, a fee shall be charged for infant, child and adult graves, which fee schedule shall be established by resolution of the City Council.

(Adm. Reg. 1-99 § 16, 6-30-99)

2.40.280 Caskets and urns not to be opened.

Once a casket containing a body or an urn containing the remains of a body is within the confines of the cemetery, no funeral director, embalmer, assistant, employee or agent, nor any cemetery employee shall be permitted to open the casket or to touch the body or the remains of the body without the consent of a member of the immediate family, the legal representative of the deceased or without a court order or written consent filed with the City Clerk.

(Adm. Reg. 1-99 § 17, 6-30-99)

2.40.290 Removal of bodies prior to interment.

Once a casket containing a body is within the confines of the cemetery and has been accepted for interment by the City Manager's designee, no funeral director, embalmer, assistant, employee or agent, nor any cemetery employee shall remove or permit the removal of the casket or body contained therein without the written consent of a member of the immediate family, nearest of kin, legal representative of the deceased or without a court order. A casket containing a body cannot be accepted for interment by the City Manager's designee until the City receives a signed, properly completed burial order form and burial permit for the deceased.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 18, 6-30-99)

Article IV. Disinterments and Removals

2.40.310 Notice – Authorization.

The City reserves the right to require at least 10 working days' notice prior to disinterment. Remains may be removed from a burial place only upon written notarized authorization or by court order. Before removal, each of the following shall also be provided to the City Clerk:

- (a) Submittal of a death certificate by the nearest of kin or legal representative of the deceased.
- (b) Submittal of the name of the funeral home and director who conducted the initial burial.
- (c) If the remains are to be moved out of the cemetery to another location, submittal of an authorization permit from the State or the funeral home.

The City reserves the right to verify all documents submitted for disinterment.

(Adm. Reg. 1-99 § 19, 6-30-99)

2.40.320 Care in removal.

The City shall exercise the utmost care in making a removal, but it shall assume no liability for damage incurred to any casket or burial case or urn or the contents thereof in making the removal.

(Adm. Reg. 1-99 § 20, 6-30-99)

2.40.330 Removal for autopsy.

A body may be removed from its burial place for autopsy purposes only upon or by order from a court of competent jurisdiction.

(Adm. Reg. 1-99 § 21, 6-30-99)

2.40.340 Removal of remains for resale prohibited.

Removal of a body or cremated remains so that the burial space may be resold and/or removal contrary to the expressed or implied wish of the original burial space owner is repugnant to the ordinary sense of decency and is absolutely forbidden.

(Adm. Reg. 1-99 § 22, 6-30-99)

2.40.350 Disinterment responsibilities.

- (a) The City shall be responsible for uncovering the casket, burial case or urn, raising the casket, burial case or urn to ground level if the casket, burial case or urn is intact, and covering the ground space.
- (b) The nearest of kin, legal representative of the deceased or other person ordered by a court of competent jurisdiction shall be responsible for the following:
 - (1) Obtaining the necessary authorizations and information for disinterment as required in these regulations;

- (2) Arranging with a funeral home to have a funeral director or his designee present for all disinterments, and for the transfer of remains;
- (3) Arranging to have the remains removed from the cemetery immediately after disinterment; and
- (4) Purchasing a new casket, burial case or urn for remains when the disinterment produces a casket, burial case or urn which no longer exists or is no longer intact.

(Adm. Reg. 1-99 § 23, 6-30-99)

2.40.360 Refusal to conduct disinterments.

The City reserves the right to refuse to conduct a disinterment if the required forms and information are not submitted or the disinterment responsibilities are not met. The City reserves the right to refuse to allow its staff to conduct a disinterment if the removal could present a health hazard to City staff or the public.

(Adm. Reg. 1-99 § 24, 6-30-99)

Article V. Monuments, Markers and Mausoleums

2.40.410 Permits and types of memorials authorized.

- (a) Monument sales companies, agents or employees shall comply with any and all rules and regulations for placing monuments, markers and other memorials. A design or sketch with the dimensions for the foundation and placement of the marker or monument or other such memorial may be required with the application. No memorial will be allowed on any grave or plot until the plot is fully paid for and the proper fees have been paid. The City reserves the right to reject and remove any memorial which, after being erected, does not comply with the established standards.
- (b) No monument or grave marker will hereafter be placed in the City cemeteries when made of materials other than granite, marble or bronze unless otherwise approved by the City Manager.
- (c) No foot markers shall be erected above ground level. Only flat, flush foot markers shall be allowed.
- (d) No corner markers shall be erected to extend above the ground.
- (e) No coping or other lot or grave enclosures shall be erected.
- (f) Freestanding crosses with a minimum of a four-inch square granite base, statues on a four-inch square granite base, as well as monoliths, shafts and columns, are permitted, unless specifically prohibited in designated blocks or portions thereof by the rules and regulations for the City cemeteries.
- (g) Mausoleums are prohibited unless specifically permitted in designated blocks or portions thereof by the rules and regulations for the City cemeteries. The edge of a mausoleum must be at least 18 inches

from the property line of another owner and no other burial shall be permitted upon the area of ground required by the mausoleum. Exact placement of a mausoleum must be approved in advance by the City Manager.

(h) Sarcophagi and ledger stones are prohibited.

(Adm. Reg. 1-99 § 25, 6-30-99)

2.40.420 Placement and size limitations.

(a) A memorial (customarily a family monument or marker) to be placed on a lot consisting of two or more burials shall be located in the center of the lot.

(1) When the memorial is located in the center of the lot, and if upright individual grave markers on the east side of the center memorial would abut the foundation of the center memorial, then the grave markers shall be flush markers.

(2) Unless otherwise provided by specific provisions for specific blocks, monuments or markers to be placed on individual grave spaces shall be located on the west end of the grave space.

(3) No head markers or monuments shall act as foot markers.

(b) Unless otherwise limited or allowed by specific provisions for designated blocks, monuments and markers and other memorials shall not exceed three-fourths of the width of the space or lot.

(c) Monuments, markers and other memorials may be of any height but may be limited by the specific provisions of designated blocks or portions thereof, except that such restrictions shall not apply to markers erected by the federal government for service personnel.

(d) The placing of temporary memorials, except those placed by a funeral home, is prohibited. Temporary memorials may be removed by cemetery personnel for maintenance.

(e) Flush, flat grass markers of granite or standard bronze set flush with the established grade of the plot may be placed on any plots in the cemetery. Upright markers are permitted in the following cemeteries only:

Calvary/St. Anthony;

Cremation Garden, designated plots only;

Crown Point;

Masonic;

Municipal, Block 6 and 10, Block 5 – designated plots only;

Oddfellows (IOOF);

Orchard Mesa Cemetery, Blocks A, B, C, F and G;

Veterans.

In Block 6 of Municipal Cemetery, one monument for each two grave sections will be permitted. In Veterans Cemetery, the only permitted markers are regulation veterans' headstones. An upright stone is allowed for a full size space with a veteran's flat marker designating the burial of cremains.

(Adm. Reg. 1-99 § 26, 6-30-99)

2.40.430 Responsibility for monument/memorial placement, foundation and bases.

(a) Foundations for memorials must be built of concrete, solid masonry or granite to the satisfaction of the City Manager's designee. Foundations for above-grade memorials shall be the length and at least the width of the memorial to be placed. The foundation shall be at least four inches deep. The top of the foundation shall be flush with the ground and have a six-inch square apron around the memorial.

(b) Monument/memorial placement is the sole and absolute responsibility and liability of the company, person, employee or agent selling and placing the monument. Such liability and responsibility shall include safety of the public and cemetery personnel as well as liability for damage to other monuments, memorials, plantings, trees and cemetery equipment while in, on or installing a monument or memorial.

(c) Monument companies' installer(s) shall fully cover foundation holes, if left unattended, with a material strong enough to withstand 300 pounds of weight and must place orange safety cones around the hole.

(d) Where an existing foundation must be removed in order to add a new burial, the cost of replacing the foundation and memorial shall be the owner's responsibility.

(e) Bases for monuments, markers or other memorials must be squared. No wedging will be permitted. The base must be rock pitch (rough cut) at least four inches above the ground. If smooth cut, the corners must be rounded. The City accepts no responsibility for any damage incurred to such bases.

(f) Vases or urns made of metal or other nonbreakable material may be attached to the granite or marble base, or may be placed into the foundation.

(Ord. 4607, 10-16-13; Adm. Reg. 1-99 § 27, 6-30-99)

2.40.440 Installation.

(a) Persons engaged in erecting monuments shall not attach ropes to other monuments or trees. They shall not scatter any material, to include soil or waste material, over adjacent lots or to leave the same on the ground longer than is absolutely necessary. They are required to set work as soon as possible after entering the cemetery. They shall be financially responsible for any damage done by them to other

monuments, the grass, trees, or any other object whatsoever in the cemetery. Monument companies shall annually file with the City Manager's designee a certificate of liability insurance in an amount determined by the City Council, which in no event shall be less than \$500,000. The monument companies shall also annually file proof of Colorado employee's liability (or worker's compensation insurance). If there are no employees, a waiver of worker's compensation, in a form as required by the City Attorney, shall be permitted. If the certificate of liability insurance or proof of the worker's compensation coverage for a monument company is not on file with the City or if the insurance policies are not in effect, then the monument company shall not do any work or activity in a City cemetery.

(b) Monument installers within the immediate vicinity of a funeral shall suspend their labors until the conclusion of the funeral service.

(c) Monument companies and others, including but not limited to stone masons, monument purveyors and employees or agents thereof, are prohibited from placing their names on any work, monument or memorial.

(d) No memorial work shall be done in the cemetery on Sundays or holidays. Advance approval shall be required from the City Manager's designee for memorial work to take place on the Saturday before Memorial Day. The placement of floral pieces, flowers, flags or other nonpermanent commemoration is permissible without advance authorization.

(e) City Manager's designee may deny a monument company to do any work or activity in a City cemetery if the designee determines that it is not in the best interest of the cemetery.

(Ord. 4607, 10-16-13; amended during 2009 recodification; Adm. Reg. 1-99 § 28, 6-30-99)

2.40.450 City liability.

The City shall not be liable for damage(s) or injury to any monument, memorial or marker from mowing and trimming activities occurring within the cemetery.

(Adm. Reg. 1-99 § 29, 6-30-99)

Article VI. Grave Care

2.40.510 Grave care.

(a) **Perpetual Care.** Perpetual care as supported by the endowment fund shall be held to mean:

- (1) Cutting of the grass at reasonable intervals;
- (2) Raking, cleaning and watering at reasonable intervals;
- (3) Reseeding or resodding, if necessary;

- (4) Machine trimming as closely as possible around markers, monuments and memorials at reasonable intervals; and
- (5) Removal of seedlings, saplings and weeds from, on and around monuments and markers;
- (6) It shall also be held to mean the general preservation of the cemetery roads, walks, fences, plantings and the pruning of shrubs and trees to the end that the cemetery shall remain and be reasonably cared for as a cemetery;
- (7) Perpetual care shall not be construed as meaning the maintenance, repair or resetting of any grave marker or memorial placed upon any lot or grave space. Neither does the term "perpetual care" mean doing of any special or unusual work on any lot nor the reconstruction of any marble, granite, bronze, concrete or stone work or rebuilding or repair of any monument, memorial or marker damaged by the elements, an act of God, common enemy, thieves, vandals, strikes, malicious mischief, unavoidable accidents, invasions, insurrections or riot whether the damage be direct or collateral, other than as herein provided.

(b) **Planting.** The City Manager's designee shall have charge of the planting of trees and shrubs in accordance with appropriate ornamentation of the grounds. No trees, spreading plants or shrubbery shall be planted or grown on the lots or spaces. Roses and certain evergreens, as determined by City Manager's designee, may be planted in blocks specifically authorizing them but only by cemetery personnel.

(c) **Grading of Lots.**

- (1) In order to produce a pleasing effect and to ensure proper drainage, the grade of all lots and graves will be determined by the City Manager's designee and, if need be, may be changed as required.
- (2) Grading and digging on the lots by persons other than City employees may be done only under the direction of the City Manager's designee.
- (3) All graves will be sodded level. No mounding will be allowed on any grave.

(d) **Unauthorized Work by Cemetery Employees.** The employees of the cemetery are not permitted to perform any extra work for lot owners except at the direction of the City Manager's designee.

(e) **Ornamental Appurtenances.** No trellises, baskets, boxes, shells, toys, crockery, glassware or other objects are permitted on any lot or grave space, unless specifically authorized by the City Manager's designee. The City is not responsible for any such items and they may be removed by cemetery personnel for maintenance.

(f) **American Flags Allowed.** American flags of small or memorial size may be displayed in any part of the entire cemetery when flags are customarily displayed. The American flag is defined for this purpose as the flag of the United States of America.

(g) **Expense of Maintenance.**

(1) No expense for cleaning a monument necessitated by any cause whatsoever will be assumed by the cemeteries nor paid by the City.

(2) The City shall not be responsible for scratching or chipping of any type of monument or marker resulting from routine maintenance of the cemetery.

(h) **Fences, Enclosures.** No fences, railings, copings or other enclosures shall be permitted around graves.

(i) **Artificial Flowers.**

(1) No plastic flowers, arrangements or wreaths shall be placed in the City cemeteries between April 15th and November 1st each year with the exception of 10 days before and after Memorial Day. On April 15th of each year and 10 days after Memorial Day, City crews will remove all plastic flowers, arrangements and wreaths from grave sites in the City cemeteries.

(2) When placement is allowed, artificial flowers will be permitted in the City cemeteries only when placed in urns or other containers made of some durable material, excluding glass, pottery or other such material, which are permanently attached to the foundation base or marker. Urns or containers shall be placed and located so that they will not interfere with or hinder the mowing operations or other care required.

(3) Artificial flowers, when placed in permanent containers and maintained as herein provided, will be allowed in the cemeteries at all times except during those periods as prescribed in this regulation.

(j) **Placement and Removal of Natural Flowers and Wreaths.** Natural flowers and floral arrangements may be placed or used throughout the year. These objects may be removed by the cemetery staff if the objects become injurious to the grass on the grave spaces, unsightly, dilapidated or if they hinder mowing operations or other care of the cemeteries.

(k) **Removal of Articles Considered Objectionable.** The City Manager's designee may prohibit or remove from lots any article that the City Manager's designee may consider objectionable.

(Ord. 4607, 10-16-13; amended during 2009 recodification; Adm. Reg. 1-99 § 30, 6-30-99)

2.40.520 Visitor regulations.

(a) Entrance into the cemeteries shall be through the designated entrance(s) only.

(b) All persons are welcome to visit the cemeteries during the posted visiting hours while gates are open. Visitors shall at all times be orderly and shall not walk on flower beds or borders. Children shall not run at will in the cemeteries.

(c) All persons are forbidden to pick or remove the flowers or plants without the City Manager's designee's permission, or to injure trees or shrubs on any lot or grave, or to injure or deface any monument, vault, structure or other property.

(d) Litter is prohibited; litter, including but not limited to cigarette butts, must be disposed of in trash cans.

(e) No persons with firearms shall enter the cemeteries except for military funerals or similar occasions, and any peace officer, sheriff or other law enforcement officer.

(f) Pets are strictly prohibited, except for seeing eye or other physical assistance dogs, on the cemetery grounds; pets shall minimally be confined to vehicles but are generally discouraged from being taken to the cemeteries.

(g) No driving or riding of any vehicle, bicycle or other conveyance shall be allowed on lots or upon the lawns or walks. Physical assistance conveyances are exempt from this provision. All persons driving in the cemeteries shall be responsible for any damage done by them. The speed limit in cemeteries is 10 miles per hour.

(h) The cemeteries are devoted to the interment and repose of the dead. All persons shall show due respect and observe the ordinances, rules and regulations of the City for the use of the cemeteries.

(i) The City cemeteries are not public forums; demonstrations, protests, parades, speeches or other forms of public activities are expressly forbidden in the City cemeteries. Educational activities may be allowed by the City Manager or the City Manager's designee. Nothing shall be construed as prohibiting any funeral service or the uniformed services of the United States, the military forces of the State, or any Colorado law enforcement or fire organization, when the service is approved by the City and held for the purpose of interring remains or honoring the dead.

(Ord. 4607, 10-16-13; amended during 2009 recodification; Adm. Reg. 1-99 § 31, 6-30-99)