

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

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

Assign means to transfer to another party by a written instrument any legal right or thing of value.

Cemeteries means all of the tracts of land owned by the city which have been designated for use for the interment of human remains, including all publicly dedicated or undedicated roadways, paths and other improvements located within or about such tracts.

City manager means the city manager and such officer's delegate of authority at any time, including those employees or agents of the city by whatever designation, who are at any relevant time designated by such manager to be responsible for the overall operation and maintenance of the city's respective cemeteries on a day-to-day operational basis.

City resident means a human being, living or deceased, whose principal place of residence is or was located within the municipal limits of the city and who maintained such residence as a principal residence address for purposes of physical mail delivery, taxation, public utilities service or other identifiable public purposes acceptable to the city manager for a period of not less than six months immediately before the date of application for lease or the date of death.

Columbarium means a structure or building substantially exposed above ground intended to be used for the interment or containment of the cremated remains of a deceased person.

Cremated means reduced to residual remains by high temperature, rapid oxidation.

Family, kinship means the relationship between two persons who are lawfully married, or between two or more persons who share an identifiable common ancestry.

Grave means a lot, plot, site or specified area of real property used or intended for use solely for interment of human remains.

Human remains means the body, or the available portions thereof, of an individual after the person has become deceased, including the remains of such individual after completion of the process of lawful cremation.

Inter means to bury or to cause to be buried under the surface of the earth.

Interment means the act or process of burial under the surface of the earth.

Lease means that instrument prepared and delivered by the city to the lessee of one or more burial lots within any municipal cemetery which authorizes the lessee to utilize the real property for the purposes of interment of human remains under the terms specified in such instrument, by this Code, and by the adopted rules and regulations applicable to the city's cemeteries.

Lessee means a person possessing legal rights to use real property pursuant to the terms of a lease.

Lessee of record means the party who is shown on any public records as the holder of rights under a lease.

Lot or burial lot means a prescribed area of land dedicated for the sole purpose of the interment and containment of human remains, including all underground or aboveground memorial improvements or additions to the property which are permanently affixed to or installed upon the property at any time.

Material means of a substantial, important character; that which might or probably would affect or determine the nature or outcome of a decision or action.

Mausoleum means a structure or building substantially exposed above ground and intended to be used for the entombment of remains of a deceased person.

Nonresident means a human being whose principal place of residence is not located entirely within the city limits or who has not maintained a principal residence address within the city limits for purposes of physical mail delivery, taxation, public utilities service or other identifiable public purposes acceptable to the city manager for a period of not less than six months immediately before the date of application for lease or the date of death.

Option means a written legal agreement giving one party the right, without obligation, to acquire property or legal rights from another party under specified terms within a stated period of time.

Sublease means a lease granting legal rights to real property which are derived from an existing and active prior lease of the same rights.

Vault means a crypt or underground receptacle which is used for interment in the earth and which is designed to encase and protect caskets or similar burial devices.

(Ord. No. 32-97, § IV, 9-8-1997)

Cross references: Definitions generally, § 1-2.

Sec. 12-2. Duties of city manager.

It shall be the duty of the city manager to take charge of the cemeteries of the city and to have them kept in good order and worked and cultivated as provided in this chapter.

(Code 1985, § 6-1)

State law references: Authority to take possession of cemetery lands, G.S. 65-37; local appropriations for cemetery maintenance, G.S. 65-40.

Sec. 12-3. Police powers.

The police shall have, within their respective cemeteries, the power to arrest any person for any violation of law or of the ordinances of the city occurring within cemeteries.

(Code 1985, § 6-2)

State law references: Arrest, G.S. 15A-401 et seq.

Sec. 12-4. Lease of burial lots generally.

(a) *Sale of lots by deed of conveyance.* Prior to September 8, 1997, the city granted the right to inter human remains in city cemeteries by an instrument referred to as a deed of conveyance. None of such instruments which are of public record with the city or otherwise, nor any right granted by them, is or shall be canceled or voided by the provisions of this section; however, any burial rights granted by such instruments, and any such rights acquired upon or after September 8, 1997, pursuant to or arising from any such instrument shall otherwise be subject to all provisions and regulations of this section.

(b) *Operation and maintenance regulations.* All lots in any cemetery owned or managed by the city shall be leased subject to the rules and regulations of the city for the operation of municipal cemeteries as shall be adopted and promulgated by the city council. All rights to lease and use of any cemetery lot within any city cemetery shall be specifically subject to the full compliance with all such rules and regulations then pertaining. Such regulations, attached to and so adopted with this section, are incorporated by this reference and shall be fully enforceable as an integral part of this section. A copy of such regulations shall be provided to each lessee of a burial lot at the time of lease delivery, and the regulations are also incorporated by reference as a part of the lease instrument.

(c) *City residents, nonresidents.*

(1) Except as provided in subsection (c)(2) of this section, lots in the public cemeteries shall be leased to or for the burial of only persons who are bona fide residents of the city. Any eligible family member of a city resident, whether or not such family member is himself a city resident, may lease a cemetery lot for the immediate burial of a deceased city resident; and such lease shall be priced and considered for all purposes as a lease to a city resident.

(2) In the event of any lease of a burial lot to a person who is not a resident of the city, for the immediate burial of a spouse or family member who is not a bona fide city resident, or for purposes of such lessee's possession and use for personal burial purposes at an undetermined future time, the price required for the lease rights shall be not less than twice the amount charged to residents of the city.

(d) *Eligible lessees of burial lots.* Leases for interment rights shall be granted only to natural living persons. No party, other than the individual person to whom and in whose name a burial lot is requested to be leased, or a member of the immediate family of the individual who is requested to be interred in a burial lot, may apply for or purchase the lease rights to any such lot, except upon the prior written approval of the city manager.

(e) *Leases.* The city manager shall be authorized to negotiate for the lease of lots in the public cemeteries of the city at prices and upon forms prescribed by the city council. Leases for cemetery lots shall be executed by the mayor and attested by the clerk, and no lease shall be delivered until the full lease price of the lot to be leased has been received.

(f) *Relationship to deceased.* All interments in any burial lot shall be restricted to the record lessee of such lot, or to persons who are related by blood kinship or lawful marriage to the record lessee of such lot at the time of death. No remains shall be initially placed into any burial lot while any lawful interest in the lot is owned or held of record by any party or entity which is not a natural person.

(g) *Transfer of lease rights.*

(1) *Assignment.* No lease of any burial lot shall at any time be assigned to any other person or entity other than the city, nor shall any rights in the burial lot be subleased in whole or in part to any other party.

(2) *Inheritance.* Whenever any lease rights to any cemetery lot owned by the city shall be transferred to any other individual or entity by the probated last will and testament of any lessee of record of any such lot or by operation of the state laws of intestate succession, the party acquiring such rights in such manner shall notify the city manager of such transfer and of the record lessee's date of death within 30 days of its occurrence. Such party shall thereafter assign such rights to the city for further assignment and transfer as provided in this section.

(3) *Proof of legality.* Whenever any party shall apply to inter human remains in any burial lot leased pursuant to this article and the party making such application is not the record lessee of such lot and purports to be a transferee in any manner of lease rights from the record lessee of such lot, a transferee of a party who acquired an interest in such lot by will or operation of law or a relation by marriage or blood kinship of such lessee, such interment shall not be permitted until the applicant has documented to the satisfaction of the city manager, by affidavit or other means as provided in this section, the date, method and legality of such transfer, or such relationship to the record lessee and has obtained a lease of interment rights in such party's name pursuant to subsection (g)(1) and (2). Proof and documentation of such lawful transfer shall be the sole responsibility of the applicant/transferee and shall be at that party's sole expense.

(h) *Misinformation, cancellation.* Any party purchasing lease rights to any burial lot within any city cemetery who is subsequently discovered to have provided false or inaccurate information of a material nature as to the purchaser's place of residence, the family, kinship, marital or other relationship with the party whose remains are intended to be interred within the lot, the lessee's commercial or other interest in the lot or as to any other material factor which, if the true facts were provided to the city at the time of lease, would cause the prospective lease to be considered of a different character than that alleged in such application, shall be subject to, in the discretion of the city manager, the immediate cancellation and revocation of any and all lease rights theretofore granted, the immediate rejection of the lease application or to additional charges for the lease rights, as may be appropriate, in such officer's discretion. In the event of cancellation after payment of the lease price assessed, a full refund will be made less, in the discretion of the city manager, a cancellation and processing fee equal to 25 percent of the price paid for the lease rights.

(i) *Form of lease.* All instruments granted by the city to any party to evidence the transfer and ownership of lease and burial rights as to any lot within the city cemeteries shall convey the rights to the use and possession of such burial lots in perpetuity for purposes of interment and/or containment of human remains only. Such instruments shall be executed in a form suitable for public recording and shall bear a prominent statement indicating that no transfer of any interest in the cemetery lot described in the instruments will be recognized by the city except documented inheritance and reassignment by the city upon request as provided herein.

(j) *Use of lots.* Two or more burial lots may not be combined to change or avoid any restriction placed on any lot by reason of size or otherwise, and no lot may be subdivided or combined in any manner with any other lot or other real property for any purpose. Interment shall be confined entirely to a single lot. No part of any vault, crypt, mausoleum, columbarium, casket, headstone, footstone or other improvements or additions to any lot may extend across the boundary line of any other burial lot except for companion or family memorials as approved in advance by the city manager.

(k) *Speculation, penalties.* No person shall lease or otherwise acquire any interest in any burial lot in any city cemetery except for the purposes of lawful interment of such person himself or interment of such person's lawful spouse or family member by blood relationship. No person shall lease or transfer any such lots at any time with the intent to speculate upon the sale or subsequent lease of any such lots for profit or to obtain any economic advantage by the transfer of the lots. Any person found to be so leasing, holding or transferring cemetery lots in violation of this section shall be subject to the cancellation of the lease rights as to any such lot or lots and shall also be subject to criminal prosecution and civil action for damages for violation of this chapter.

(l) *Interment.* No gravesite shall be opened and no excavation within any burial lot shall be carried out prior to the city manager's being provided with written proof of the payment in full for the lease rights as to the lot and that the person proposed to be interred in the lot is the record lessee or the spouse or a family member of such lessee.

(m) *Option for leases of lots.* Any person may obtain an option for the acquisition of lease rights to any vacant and unleased lot adjoining another lot to which such person lawfully holds lease rights, or for the lease of any other such lot within the cemetery. If such an option is requested and granted, a deposit of half of the full purchase price of the optioned lots shall be remitted when the option is granted; and the full price of the total number of lots so optioned must be paid in full upon the exercise of such option. The period of any such option shall be for

no longer than 60 days from the date of its issuance. If the option to lease is not exercised within the agreed option period, the deposit shall be returned, less an administrative fee in an amount to be determined by the city manager.

(n) *Lease of multiple vacant burial lots.* Except upon the written approval of the city manager, no person may at any time own the lease rights to more than four burial lots within which no remains have been interred. Applications to lease more than four burial lots in a single transaction or to make any purchase of one or more cemetery lots which would cover such party's ownership of vacant burial lots to exceed a total of four such lots at any specific time will be granted only after the written approval of the city manager.

(o) *Indigent burial rights.* Upon the application of any interested party, the city manager may, in his discretion, grant to any party, without cost, the leasehold rights to inter in a municipal burial lot of the city's selection the remains of any person determined to be without the financial ability to pay the established cost of such burial rights and without family members who are able after reasonable inquiry and request, as appropriate, to timely pay the usual cost of the acquisition of such rights. Any leasehold rights so granted shall, except for the terms of acquisition, be identical to those granted to any other party pursuant to this section.

(p) *Determination of cost.* The cost to residents or nonresidents of the city for the lease of a burial lot in any particular cemetery maintained by the city shall be determined by the city council, based upon the size and/or configuration of such lots in any individual cemetery, the cost of the acquisition, creation and maintenance of such lots and any other relevant economic factors. The lease price of any particular lot in any cemetery shall not necessarily be the same as that charged for a similar lot in any other cemetery maintained by the city.

(q) *Appeal.* Upon written request to the city manager made within ten days after receiving notice of such decision, any person may appeal to and be granted a hearing before the city council as to any decision or ruling of the city manager relating to the application or interpretation of the provisions of this section.

(Code 1985, § 6-3; Ord. No. 32-97, § I, 9-8-1997; Ord. No. 7-2003, § 1, 2-17-2003)

State law references: Subdivision of burial lots and sale of lots, G.S. 65-39.

Sec. 12-5. Application for lease of cemetery lots.

(a) Except as to burial lots acquired from the city prior to September 8, 1997, by a deed of conveyance, all burial lots in all city cemeteries will be conveyed to the public for interment use only, by leases of perpetual duration, on forms provided and required for use by the city. The city clerk has the responsibility to coordinate the preparation of leases for burial lots in the public cemeteries of the city at prices established by the city council. There are no price discounts for the lease of multiple lots. Cemetery lots must be leased with cash. No financing arrangements are available.

(b) Cemetery lot lease prices are set from time to time, and a schedule of such prices is on file and available in the city offices.

(c) Applications to lease more than four burial lots in a single lease must first be approved by the city manager.

(d) Sunset and Webb cemeteries each contain a number of lots reserved for the burial of deceased city residents only, whose immediate family cannot afford to lease a lot or who have no known surviving family. The city manager has the authority to make grants of lease rights to such lots for burial of eligible deceased residents.

(e) The lease of any cemetery interment rights shall in all cases be accomplished by forms and instruments prepared and furnished by the city pursuant to this chapter. The city may exchange interment rights between lessees when desired but when done so, must be in accordance with this Code and with proper adjustments for the required lease price of the lots being exchanged, if any, according to the residency of the respective lessees of such lots at the time of the requested exchange.

(f) No conditional or partial transfer of interment lease rights and no lease of a divided interest, except to a person who is already a part owner of lease rights to the same lot, will be allowed.

(g) Lease application information shall include the following, as appropriate:

(1) Name of person leasing the lot (lessee).

(2) The lessee's permanent residence address.

(3) The lessee's social security number (optional in lessee's discretion).

(4) The lessee's date of birth.

(5) If the lease is for immediate burial of the lessee's spouse or relative:

a. An affidavit of the lessee's marital or specific blood relationship to the deceased.

b. Name of the person to be interred (the deceased).

c. Address of the principal residence of the deceased.

d. Name and addressee of next of kin of the deceased.

e. Date of death of the deceased.

f. Date of birth of the deceased.

g. Social security number of the deceased.

h. Age of the deceased at time of death.

(6) Name of the funeral home in charge of burial services.

(7) Designation of lot by block or section number, row and lot number.

This information will also be recorded in the cemetery ledgers and on the card file at the city's cemetery operations office. A second copy will be kept at the city hall. Change of address notification by the lessee will be required in all leases.

(h) Proper lease procedure will be documented on cemetery records sheets and will be confirmed by the installation of an index card attached to a three-by-eight-inch frame on the leased burial lot, or to a stake if weather is inclement.

(i) Leases of burial lots made in time of immediate need (death) when no preneed arrangements have been finalized shall require the following:

(1) Notification of the cemetery supervisor during regular city days of operation/business, Monday through Friday, must be made prior to 4:00 p.m. for same day service. Notifications made after 4:00 p.m. will be dealt with on the next business day.

(2) No notifications will be accepted on weekend days.

(3) No notifications will be accepted on the following observed holidays:

New Year's Day;

Martin Luther King Day;

Good Friday;

Memorial Day;

Independence Day;

Labor Day;

Veterans Day;

(4) Thanksgiving: Two-day holiday; notification allowed on Friday prior to 11:00 a.m.

(5) Christmas: 2 or 3 day holiday; notification allowed as follows:

- a. If Christmas falls on Monday (city observes Monday and Tuesday): Notification allowed Tuesday prior to 11:00 a.m.
 - b. If Christmas falls on Tuesday (city observes Monday, Tuesday and Wednesday): Notification allowed Monday prior to 11:00 a.m.
 - c. If Christmas falls on Wednesday (city observes Tuesday, Wednesday and Thursday): No notification allowed until Friday.
 - d. If Christmas falls on Thursday (city observes Wednesday, Thursday and Friday): Notification allowed Friday prior to 11:00 a.m.
 - e. If Christmas falls on Friday (city observes Thursday and Friday): Notification allowed Thursday prior to 11:00 a.m.
 - f. If Christmas falls on Saturday or Sunday (city observes Friday and Monday): Notification allowed Monday prior to 11:00 a.m.
- (Ord. No. 32-97, § V(III), 9-8-1997; Ord. No. 53-2008, § 1, 11-3-2008)

Sec. 12-6. Place of burials.

No human body shall be buried at any place in the city except in a cemetery.
(Code 1985, § 6-4)

Sec. 12-7. Excavations.

No person shall excavate any earth in any cemetery, or remove the earth from a cemetery except by the consent or under the direction of the city manager or of some other officer legally authorized on the premises.
(Code 1985, § 6-5)

State law references: Damages to gravesites prohibited, G.S. 14-149.

Sec. 12-8. Depth of graves.

All graves in any cemetery over which the city exercises jurisdiction shall be of sufficient depth to allow 18 inches of space between the top of the vault or other container in which the coffin is placed and ground level.
(Code 1985, § 6-6)

State law references: Minimum burial depth, G.S. 65-77.

Sec. 12-9. Approval required for mausoleums.

No mausoleum shall be erected in any cemetery unless its location is first approved by the cemetery superintendent, and unless plans and specifications are submitted to and approved by the superintendent.
(Code 1985, § 6-7)

Sec. 12-10. Interment of additional body in grave.

No person shall open any grave in any cemetery within the city in which any uncremated human body or any parts are then interred and inter in the lot any additional uncremated human body or parts. However, either one or two urns or vessels containing the cremated remains of deceased persons may be interred within or, where permitted by city regulations, placed in approved containers upon a single burial lot which also contains the uncremated and interred remains of one human body.
(Code 1985, § 6-8; Ord. No. 32-97, § II, 9-8-1997)

Sec. 12-11. Permit to exhume body.

No person shall exhume any human body in any cemetery in the city without a written permit from the county health department.

(Code 1985, § 6-9)

State law references: Removal of graves, G.S. 65-13.

Sec. 12-12. Modifications and amendments.

(a) The cemetery management may and it hereby expressly reserves the right, at any time, with or without notice to owners, to adopt new rules and regulations or to amend, alter or repeal any rule, regulation and/or article, section, paragraph or provision in this chapter.

(b) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship in a particular situation. The cemetery management, therefore, reserves the right, without notice, to make exceptions to and suspensions or modifications of this chapter when, in its judgment, they appear appropriate and advisable. Such temporary exceptions, suspensions or modifications shall in no way be construed as modifying the general authority and application of this chapter.

(Ord. No. 32-97, § V(VI), 9-8-1997)

Secs. 12-13--12-40. Reserved.

ARTICLE II. USE

Sec. 12-41. Cemetery locations.

The city has three cemeteries located within its corporate limits:

- (1) Sunset Cemetery, Martin Street.
- (2) Eastside Cemetery, Lineberger Street.
- (3) Webb Cemetery, Eaves Road.

These cemeteries are open from sunrise to sunset, seven days per week.

(Ord. No. 32-97, § V(II), 9-8-1997)

Sec. 12-42. Use regulations.

(a) This article shall apply to all burial lots located within any cemetery operated by the city, without regard to the date or method of acquisition of burial rights as to such lots.

(b) Any person providing services or merchandise within the boundaries of a cemetery shall do so within the cemetery guidelines and during normal working hours. All such providers shall be fully responsible for payment of any damages to city or private property which result from any activity of such providers on city cemetery property. Further, the cemetery management reserves the right to require, in advance of any work performed, a current certificate of insurance for workers compensation, automobile liability and comprehensive liability insurance with limits acceptable to the management and commercial operations and general liability insurance for any and all work or services to be performed within the cemetery boundaries.

(c) The city expressly disclaims all responsibility for loss or damage from causes beyond its reasonable control and, especially, from damage caused by the elements, an act of God, common enemy, thieves, vandals, malicious mischief makers, explosions, unavoidable accidents, riots, or order of any military or civil authority, other than as provided in this section.

(d) The cemetery management reserves and shall have the right to correct any errors that may be made by it either in making interments, disinterments or removals of human remains. In the event of such an error, the city reserves and shall have the right to remove and transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof. The cemetery management shall also have the right to correct any errors made by placing an improper or incorrect name or date or any other information upon any municipal cemetery records. The correction by the city, as allowed in this subsection, shall acquit the city of any liability.

(e) The city expressly reserves the right to enlarge, reduce, replat or change the boundaries or the grading of the cemetery or any sections of the cemetery, or to remove or regrade roads, drives and walks as necessary. The right to lay, maintain and operate or alter pipelines or gutters for sprinkler systems, drainage, lakes, etc., is also expressly reserved, as well as the right to use any cemetery lot, not sold to individual owners, for general cemetery purposes, including the interment of human bodies or for anything necessary, incidental or convenient. The city reserves to itself a perpetual right of ingress and egress over all burial lots and other lots for the purpose of passage to and from other lots and for such other purposes as may be necessary or proper for the efficient operation of the cemetery.

(f) Any person found upon the cemetery grounds after dark will be considered to be a trespasser unless presence was previously authorized by cemetery personnel or is otherwise authorized by the city or other applicable authority.

(Code 1985, § 6-14; Ord. No. 32-97, § V(I), 9-8-1997)

Sec. 12-43. Funerals and interments.

(a) When an interment is to be made, the lessee of the property or an immediate family member of the lessee, prior to the excavation of the site, must sign an interment authorization

designating the grave to be opened. The cemetery management reserves the right to waive this requirement.

(b) All graves designated by the lessee or the lessee's family member shall be opened and prepared for interment of remains by the funeral director having charge of the burial arrangements for the person to be interred in the designated burial lot. A relocation of any interred remains due to error of any funeral director or employee in opening the designated burial lot or any other costs associated with such error shall be at the sole expense of the lot owner, and the city will not be responsible for any mistake or costs arising from the lack of precise and proper opening of the burial lot designated in the interment authorization.

(c) No interment will be permitted without a proper burial permit as required by applicable law and ordinances.

(d) No burial shall be permitted without the use of a minimum of a concrete, metal or plastic burial vault. No wooden burial containers shall be allowed anywhere in any cemetery. (Ord. No. 32-97, § V(IV), 9-8-1997)

Sec. 12-44. Memorials and installations.

(a) The city reserves the right to regulate the size and quality of all memorials, foundations and other construction placed upon any grave or lot in city cemeteries, and to prevent the erection, construction or placing of any objects which may conflict with this chapter, or which may be injurious to the general appearance of the cemeteries and to remove them if necessary. The city shall not be responsible for theft or damage to anything placed on graves or lots.

(b) The cemetery management shall have the authority to enter upon any lot and to remove any objectionable thing or any construction that may have been placed or erected contrary to this chapter and may also remove any dead or damaged tree, shrub or vine from upon or around any cemetery lot as it may in its discretion deem necessary or desirable.

(c) If any memorial, any structure whatsoever or any inscription placed or to be placed upon the structure shall be determined by the cemetery management to be offensive, it shall have the right to enter upon such lot and remove, change or correct the offensive or improper objects or inscriptions.

(d) All grading, landscape work or improvements of any kind and all trees, shrubs and herbage shall be planted, trimmed, cut or removed only by agents of the city.

(e) No live shrubbery may be planted on any leased burial lot. Flowers must be kept in pots to aid in mowing of grass. Live flowers will be removed after a reasonable time.

(f) If any tree, shrub or plant standing upon or near any lot shall be or become detrimental to adjacent lots or avenues by means of its roots, branches or otherwise or if for any other reason, its removal is deemed to be in the best interest of the cemetery or the overall landscape design of the cemetery, the cemetery management shall have the right to remove such tree, shrub or plant, or any part, or to otherwise correct the condition existing as in their judgment seems best. No person shall pluck or remove any plant or flower, either wild or cultivated, from any part of any cemetery.

(g) No enclosure of any kind, such as a fence, coping, hedge or ditch shall be permitted around any grave or lot. Grave mounds will not be allowed, and no lot shall be raised above the established grade.

(h) No bench or chair or any trellis shall be permitted to be brought upon the grounds except for temporary use during funeral, memorial or other ceremonies.

(i) No memorials shall be set so as to embrace two or more grave spaces, except a companion or a family memorial; nor shall more than one family name be permitted on any memorial unless approved in writing by the city manager. All memorials shall be set on uniform lines as prescribed by the cemetery management to conform to the general plan of the cemetery.

(j) Except pursuant to section 12-10 for cremated remains and subject to subsection 12-44(k), there shall be no more than two monuments per burial lot and individual burial lots shall have the following monument requirements:

(1) Ground level: one head stone with a maximum length of 36 inches and a maximum width of 20 inches; one foot stone with a maximum length of 24 inches and a maximum width of 12 inches. For two adjoining lots: one head stone with a maximum length of 72 inches and a maximum width of 20 inches; two separate footstones with a maximum length of 24 inches and a maximum width of 12 inches for each.

(2) One headstone with a maximum monument base length of 48 inches and a maximum width of 20 inches; one footstone with a maximum monument base length of 24 inches and a maximum width of 12 inches. For two adjoining lots: one headstone with a maximum monument base length of 96 inches and a maximum width of 20 inches; two separate footstones with a maximum monument base length of 24 inches and a maximum width of 12 inches.

(3) Maximum monument height will be 96 inches above ground level, except as may be allowed by the city manager.

(4) Oversized aboveground and/or ground level monuments may be permitted in the older or historical sections of Sunset Cemetery. Such sections are hereby defined as those burial sites located south of Fairfield Avenue within the cemetery grounds. Upon submission to the cemetery management of a written request by the lessee or agent of any burial plot in such sections of a written request, the city manager may allow discretionary exemptions to any of the monument restrictions as stated in subsections (i), (k), (l) and (m) of this section of the Shelby City Code. Upon the manager's written approval of the requested exemptions or of any modification agreed to by the lessee or agent, a modification permit fee of \$100.00 per each six inches in variation from the stated maximum in the height, length or width of any monument will be assessed. These fees shall be collected by the City of Shelby before installation and deposited in the cemetery perpetual maintenance fund.

(k) Except as provided in subsection (j) above, there shall be no more than two above-ground monuments per burial lot and both shall be restricted to ground level. For individual lots, one headstone with a maximum width of 36 inches and a maximum length of 20 inches shall be allowed. One footstone with a maximum width of 24 inches and a maximum length of 12 inches shall be allowed. For two adjoining lots, one headstone with a maximum width of 72 inches and a maximum length of 20 inches shall be allowed and two separate footstones with a maximum width of 24 inches and a maximum length of 12 inches each shall be allowed. One ground level marker for cremated remains shall be permitted upon any gravesite according to the provisions of section 12-10, provided, the said marker does not exceed 24 inches in length and 12 inches in width.

(l) Vases for display of flowers, etc., shall be attached to or made as a part of monuments or mausoleums. Glass or breakable vessels and/or vases shall not be allowed.

(m) No installations of monuments, ledgers or other construction upon or within any burial lot shall be closer than six inches to any lot boundary line, except as may be allowed by the city manager.

(Ord. No. 32-97, § V(V), 9-8-1997; Ord. No. 24-2001, §§ 1,2, 8-6-2001; Ord. No. 20-2002, §§ 1, 2, 8-5-2002; Ord. No. 20-2005, §§ 1, 2, 6-20-2005)

Sec. 12-45. Use of cemetery as playground, passageway.

It shall be unlawful for any person to use any cemetery or part of a cemetery as a playground or passageway.

(Code 1985, § 6-11)

Sec. 12-46. Firearms; animals.

(a) It shall be unlawful for any person to possess or to discharge any firearm in any cemetery unless done as a part of a burial or memorial ceremony, in defense of person or property, or pursuant to lawful directions of an active, sworn law enforcement officer.

(b) No person shall bring any animal onto any cemetery property or allow any animal which is owned, possessed or controlled, or in the charge of such person, to enter into or remain upon such property. Any person so bringing an animal upon cemetery property or allowing it to remain on such property shall be responsible to the city for any and all damages done by the animal to any property belonging to the city. This provision shall not apply to animals being then employed for assistance to the visually or physically impaired or to those in use for assistance to authorized law enforcement authorities.

(Code 1985, § 6-12; Ord. No. 32-97, § III, 9-8-1997)

Cross references: Animals, ch. 4; discharging firearms, air rifles, § 30-71.

State law references: Discharge of firearms, G.S. 160A-189.

Sec. 12-47. Vehicles to be driven only on driveways or roadways.

No person shall drive any vehicle in any cemetery, except on driveways or roadways provided for that purpose, without permission of the city.

(Code 1985, § 6-13)

Cross references: Traffic and vehicles, ch. 42.