

## CHAPTER 91: CEMETERIES

### Section

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#### ***Cross-reference:***

*Parks Department; duties regarding cemeteries, see §32.36*

### **GENERAL PROVISIONS**

#### **§ 91.01 CEMETERY LOCATION; PLAT; LIMITATIONS.**

A cemetery has been established and is situated upon land owned by the city within the limits of the city. A plat of the cemetery now on file in the office of the City Clerk is hereby adopted as the official plat of the cemetery which shall be called the Benson City Cemetery. No person shall lay out or establish any cemetery, or use any lot of land within this city for the burial of the dead except in the Benson City Cemetery, Our Redeemer's Cemetery, or some other tract of land duly designated as a cemetery by the City Council. ('75 Code, § 5.601)

#### **§ 91.02 LOT SALES IN CITY CEMETERY.**

The prices of cemetery lots and other services, as determined by Council resolution, shall be filed with the City Clerk. Any person paying the price thus fixed for any lot shall be entitled to a deed conveying the same executed by the Mayor and Clerk. The purchaser shall expressly agree in the deed that his or her rights are subject to such reasonable rules, regulations, and additional fees as the Council may adopt relative to the use of the cemetery. ('75 Code, § 5.602)

#### **§ 91.03 PERMITS FOR BURIAL.**

Before any interment shall be made in any cemetery in this city, a burial permit shall be obtained from the local or the State Registrar of Vital Statistics. The funeral director shall provide a burial permit to the city. Within 36 hours after the death of any person in the city and

before the body is removed for burial within the city, the undertaker or person having charge of the interment shall apply for the permit. This application shall be accompanied by a death certificate as prescribed by the State Board of Health. No burial permit shall be issued until the application and death certificate shall have been properly completed and presented. The body of a deceased person shall not be brought into the city for burial unless accompanied by a death certificate and permit for removal issued by the registrar of the registration district wherein the death occurred. ('75 Code, § 5.604) Penalty, see § 10.99

#### **§ 91.04 PROHIBITED CONDUCT IN CITY CEMETERY.**

(A) No person may discharge any firearm or have possession of any firearm within the cemetery grounds at any time except for use during military services, Memorial Day observations, or use by law enforcement personnel.

(B) No person shall wrongfully take, remove, or convert to his or her own use any property within the cemetery without the owner's consent, or make any excavation therein without first obtaining the consent of the Cemetery Superintendent.

(C) No person may wrongfully obstruct or blockade any driveway or pathway within the cemetery or wrongfully damage or destroy any property within the cemetery.

(D) No person may drive any motor vehicle at a speed in excess of five miles per hour within the cemetery and such vehicles are confined to travel established roadways except where the Cemetery Superintendent expressly authorizes such travel elsewhere.

(E) No person shall disturb the dignity, peace, and quiet of the cemetery by the use of excessive noise or boisterous and unruly conduct within the limits of the cemetery.

(F) No person shall enter or leave the cemetery except through established gateways provided for such purpose.

(G) No person may use the cemetery grounds or any road therein as a public thoroughfare nor drive any vehicle in or upon the cemetery grounds except for legitimate purposes relating to the ordinary and customary use of the cemetery.

(H) No minor child shall be permitted within the limits of the cemetery unless in the company of an adult or with the consent of the Cemetery Superintendent.

(I) No person may allow any animal to run at large in the cemetery.

(J) No person may loiter at any time nor be in the cemetery without permission of the Cemetery Superintendent at any time between the hours of sunset and 6:00 a.m.  
( '75 Code, § 5.606) Penalty, see § 10.99

## **ADMINISTRATION AND ENFORCEMENT.**

### **§ 91.15 CEMETERY COMMITTEE.**

(A) *Committee established.* A committee is hereby established for the purpose of advising and assisting the City Council and the Superintendent of the City Cemetery in the administration, maintenance, and improvement of the Benson City Cemetery. ('75 Code, § 5.6000)

(B) *Membership of Cemetery Committee.* The Benson City Cemetery Committee shall be composed of five members who shall be appointed to such membership by the City Council. The first members to be appointed shall serve for the following terms of office, to-wit: one member shall serve for a term of one year, two members shall serve for a term of two years, and two members shall serve for a term of three years. After the expiration of the first terms of office all members shall thereafter be appointed for a term of three successive years. The City Manager and the Superintendent of the City Cemetery shall serve as ex-officio, non-voting members of said Committee. The City Manager shall also serve as the Secretary of the Cemetery Committee and shall also act as liaison between said Committee and the City Council. ('75 Code, § 5.6001)

(C) *Meetings; term of office of Chairperson.* The Cemetery Committee shall hold an annual meeting on the third Tuesday of each January for the purpose of electing a Chairperson and transacting such other business as may come before the meeting. The term of office for the Chairperson shall be for a period of one year, but he or she may be thereafter re-elected to said office. The Chairperson or the City Manager may call other meetings of the Cemetery Committee. ('75 Code, § 5.6002)

(Ord. 1027.82, passed 8-5-82)

***Cross-reference:***

*Cemetery Commission as Cemetery Committee, see § 32.55*

### **§ 91.16 SUPERINTENDENT OF CITY CEMETERY.**

The City Council shall appoint a Superintendent who shall have control and management of the cemetery and be responsible for its maintenance and improvement. He or she shall have such powers and duties as are prescribed by law or by the City Council.  
(‘75 Code, § 5.605)

### **§ 91.17 PAYMENTS AND RECEIPTS; CEMETERY FUND.**

All money received from the sale of lots, donations to the cemetery, and other services shall be paid to the City Treasurer who shall give a receipt therefore. No deed to any cemetery lot shall be issued until a receipt showing payment to the Treasurer of the cost thereof shall be exhibited to the person whose duty it is to give the deed. All money received from the sale of lots and for the performance of services shall be placed in the Cemetery Fund, which fund shall be

used for the payment of the purchase price of grounds or for maintenance and improvements and for no other purpose. The Treasurer shall keep an account of all receipts and disbursements of money belonging to the Cemetery Fund and shall pay money out of the Fund only on orders approved by the City Council, which orders shall specify that the money shall be paid from the Cemetery Fund. ('75 Code, § 5.603)

#### **§ 91.18 PERMANENT CARE AND IMPROVEMENT FUND.**

(A) *Fund established.* A Permanent Care and Improvement Fund is hereby established as a separate fund for use in maintaining, caring for, and improving the cemetery and cemetery lots in the city cemetery known and designated as the "Benson City Cemetery." The interest accruing from the amount set aside from the sale of lots shall be expended in caring for and keeping such lots and cemetery except as provided in subsection (C). Proceeds to the fund are to be collected by the City Clerk from the sale of lots by the city and shall equal 20% of the sale price. ('75 Code, § 5.700)

(B) *Investment of funds.* On the 1st day of January, April, July, and October in each year, all sums credited to the Permanent Care and Improvement Fund shall be invested in the same securities in which savings banks are by law permitted to invest. Records of the investments shall be kept and maintained in the office of the City Clerk showing the nature and amount of the invested funds. Any of the income unexpended and unappropriated for one year after becoming available for care, maintenance, or improvement shall be returned to the Fund and become a part of the principal. ('75 Code, § 5.701)

(C) *Donations.* The city is authorized to receive, accept, and deposit any donation or gift of money made to said Fund, and any such donation or gift together with the interest therefrom shall be used for the purpose specified by the donor, but if the donor fails to designate the specific purpose for which the gift is to be used then such gift or donation shall be deposited to such Fund and the interest therefrom shall be used in the care and beautifying of the City Cemetery or for the care and beautifying of any particular lot or lots in said Cemetery, provided, however, that if funds are lacking for the general care of the Cemetery, then in the discretion of the city, a one-fifth part of the income received annually from that portion of the Permanent Fund credited to any particular lot or lots may be used for the general care of the Cemetery. ('75 Code, § 5.702)

(D) *Accounting.* On or before January 31 of each year a full and complete written accounting shall be made to the City Council of the city reporting in detail the nature and value of all assets deposited to said Fund and where all cash deposits are invested, to include the amount of each and every such investment; the nature and amount of all gifts and donations made to the Fund during the year; the income earned from said Fund; and the nature and amount of each and every disbursement from said Fund, together with such other information that shall be needed to provide a full and complete accounting of the operation of said Fund. ('75 Code, § 5.703)