

Chapter 12

CEMETERIES*

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Cross References: Administration, ch. 2.

State Law References: Municipal authority regarding cemeteries, G.S. 160A-341 et seq.

ARTICLE I. IN GENERAL

Sec. 12-1. Name of city cemetery.

The city cemetery shall be known as "City Memorial Park."
(Code 1973, § 6-24)

Sec. 12-2. City manager to regulate.

(a) The city manager, either directly or through his representative, shall have general management and control of the cemeteries and burial places owned, operated and maintained by the city, and the persons employed therefor. He may make such rules and regulations for the operation and use of the cemeteries of the city as he may deem requisite and proper, not inconsistent with the provisions of this chapter or the laws of the state. In order to properly maintain such cemeteries and burial places he shall be authorized to employ such persons as are provided for in the budget, and to fix their compensation subject to the approval of the city council. Any such employees may be removed at any time by the city manager; or the City Manager may choose to contract the cemetery maintenance out on a yearly basis.

Sec. 12-3. Permit prerequisite to burial.

The City Manager or his representative in charge of any city cemetery shall not inter or permit the interment, disinterment or other disposition of any body on such premises unless it is accompanied by a burial-transit permit as required by state law.
(Code 1973, § 6-2)

Sec. 12-4. Burial records.

The City Manager or his representative in charge of any city cemetery shall keep and maintain a permanent record of all bodies interred, reinterred, disinterred or otherwise disposed of on the premises of a city cemetery, stating when available the name, sex, age, residence at death, place of birth, place of death and marital status of such deceased person, the cause and date of death, the date of burial, the lot and grave or vault number in which interred, and the name and address of the funeral director. The City Manager or his designee shall mark opposite the record of interment, any body disinterred and the date of disinterment.
(Code 1973, § 6-3)

Sec. 12-5. Application and approval required for disinterment.

A person who desires to have removed the remains of a person interred in any cemetery of the city shall apply in writing to the City Manager for permission, stating the name of the deceased, the date and cause of death, relationship of deceased to applicant, number of lot, vault or space of the interred, the owner thereof, and number of lot, vault or space (or name of cemetery, if elsewhere), in which the remains are to be reinterred, and reason for removal. No such permission for such disinterment shall be granted, nor shall such disinterment be made, until such application has been approved by the county health department and a burial-transit permit issued therefor.

(Code 1973, § 6-4)

Sec. 12-6. Second interment in same grave.

(a) Interments in single grave portions shall conform to the spaces, but nothing in this chapter shall be construed to prohibit or prevent the opening of a grave in which a previous interment has been made for the purpose of making a second interment therein.

(b) Second interments shall be allowed, provided the same shall be done with the written approval and consent of the owner of the lot or grave and the nearest of next of kin of the first interment, and with the approval and in a manner satisfactory to the City Manager of the cemetery in which the same is proposed to be made and provided further, that any person aggrieved by the determination of the City Manager may appeal to the City Council or his representative, whose determination shall be final and conclusive.

(Code 1973, § 6-5)

Sec. 12-7. Burials restricted to dead human bodies and cemeteries.

Only a dead human body may be buried in a city cemetery, and no person shall bury or cause to be buried any dead human body in any place within the city other than a city cemetery, in a church cemetery or in a cemetery licensed by the state burial association commissioner.
(Code 1973, § 6-6)

Sec. 12-8. Open during specified hours.

Cemeteries operated by the city shall be open to the public daily between the hours of 7:00 a.m. and 7:00 p.m.
(Code 1973, § 6-7)

Sec. 12-9. Requirements for purchase, transfer and use of cemetery lot or grave.

(a) *Price.* The council shall determine the purchase price for any cemetery lot or lots.

(b) *Procedure for purchase and payment.* Any individual desiring to purchase a cemetery lot or single grave portion shall contact the City Manager or his representative, who shall furnish them with the proper section and lot numbers. The purchaser shall then present the section and lot numbers to the city clerk's office with payment of the purchase price for the lot or portions purchased. The city clerk's office shall then furnish the purchaser with the appropriate deed therefor.

(c) *Interments for remuneration.* The owner of any cemetery lot or single grave opening in a city cemetery shall not permit or allow any interment therein for money or services.

(d) *Loss of deed.* In case of the loss or destruction of a cemetery deed, the city manager or his designee on proof satisfactory to him of such loss or destruction shall have issued a new deed executed to the original holder or his heirs, upon payment of the currently required fee.

(e) *Transfer of deed.* The transfer of a deed to any cemetery lot or single grave portions of a city cemetery by the owner thereof shall be binding and effective as to the city only when done as provided in this section. Any person desiring to transfer any cemetery lot or single grave portions to any individual shall present to the city clerk such person's deed thereto, together with the currently required transfer fee and a duly executed and notarized deed thereto from such person back to the city. The city clerk shall then present such written request, together with such transfer fee and such two deeds, to the city clerk, who shall retain the same and issue another deed for such cemetery lot or single grave portions to such designated grantee.

- (1) The owner may exchange or swap a lot for another lot owned by the city by executing a deed to the city for his then owned lot, and the city will thereafter cause a deed to be executed to the owner for the lot for which the exchange or swap is made, subject to the transfer fees and any costs to be paid by the owner.
- (2) If, on any date subsequent to such exchange, the owner desires to sell and reconvey the lot resulting from the exchange back to the city, the purchase price to be paid by the city shall be the

purchase price paid by the owner to the city for the original lot prior to the exchange.

(f) *Succession ownership on death.* In case of the death of the purchaser of a lot or single grave portion in a city cemetery, the ownership of the lot or portion shall be vested in the heirs of the purchaser. The heirs, executor or administrator of such deceased owner should notify the city clerk and obtain a new deed under the provisions of subsection (e) of this section.

(g) *Records of ownership.* The city clerk shall keep records showing the ownership of all cemetery lots or single grave portions in any city cemetery, including all changes in ownership by transfer or death when notified.

(h) *Maintenance fee.* If, at the time of interment, the person to be interred is a nonresident of the city, a maintenance fee established by the city council shall be due prior to interment.

- (1) If the person to be interred resided in a health care facility at the time of death but, immediately prior to admission to such health care facility, the person to be interred was a resident of the city or was a taxpayer listed individually for ad valorem taxes in the property tax records of the city during the taxable year immediately preceding the proposed interment, the maintenance fee shall be waived.
- (2) If the person to be interred was a property taxpayer or spouse of a property taxpayer listed individually for ad valorem taxes in the property tax records of the city during the taxable year immediately preceding the proposed interment, the maintenance fee shall be waived.
- (3) If the person to be interred is related to the cemetery lot owner or a taxpayer in the following manner, the maintenance fee shall be waived:
 - a. A natural or adopted dependent child less than 22 years of age during the taxable year immediately preceding the proposed interment, with dependency to be established pursuant to the guidelines, codes

and standards of the Internal Revenue Service.

- b. The maintenance fee shall also be waived if the person to be interred was an employee of the city for a period of ten years continuously or is a dependent child of an employee.

(i) *City purchases.* The city may purchase a cemetery lot from any owner thereof at the price paid when purchased from the city.

(j) *Number of lots limited.* The city manager may limit the number of lots sold to any owner and/or the number of lots sold to any purchaser at one time and/or from time to time.
(Code 1973, § 6-8)

Sec. 12-10. Reversion of title to city; publication of notice.

(a) When any cemetery lot or single grave openings shall remain without any interment therein for 20 years or more since the last cemetery deed therefor was issued or since the last interment therein, whichever is later, and the owner of record shall have died or is not a resident of the city, and the whereabouts of such record owner or any relative by blood, marriage or adoption of such owner is not known by any member of the council, the title to such cemetery lot or single grave openings shall revert to the city when the conditions of subsection (b) of this section have been complied with.

(b) The city council shall cause notice to be published once a week for four successive weeks in a newspaper, having a circulation in the city meeting the requirements of state law for publication of legal notice, a notice setting forth the conditions of subsection (a) of this section, designating the cemetery lot or single grave openings, and stating that title thereto will revert to the city if prior to the expiration of 30 days from the last date of publication the record owner or a relative by blood, marriage or adoption of such owner does not appear and confirm to the city their claim of ownership thereto. If after such publication such record owner or relative does not appear and confirm such claim of ownership thereto, title to such cemetery lot or single grave openings shall revert to the city.
(Code 1973, § 6-9)

Sec. 12-11. Interment regulations; notice and hours.

(a) *Notice.* Arrangements for an interment in a city cemetery must be made at least 24 hours in advance of the time set for the funeral service.

(b) *Hours.* The hour of the funeral must be arranged so that the grave may be properly filled and all surplus ground cleaned away before 7:00 p.m. Funeral should not be no later than 4:00pm/

(c) *Permit and insurance required.* No person shall open or close a grave or make an excavation or cause the same to be done in any cemetery operated by the city without first having secured permission for such work from the city manager or his representative, and no such permission shall be granted unless such person shall then have in effect, and will have in effect with an insurance company licensed by the insurance commissioner of this state, public liability and property damage insurance, including completed operations coverage, of not less than one million dollars (\$1,000,000.00), and bodily injury of not less than five hundred thousand dollars (\$500,000.00) per person and not less than five hundred thousand dollars (\$500,000.00) per accident, covering acts and work to be performed under such permission. No such permission shall be granted unless a certificate of insurance or other satisfactory written evidence of the fact that such person has the above-required insurance coverage is filed with the city clerk. Grave openings and closings will be performed exclusively by the city or its authorized agents. (Amended 6-8-98, Adopted 7-1-98)

(d) *Depth of graves.* Every grave shall be of sufficient depth to provide for a minimum distance of two feet from the top of the graveliner or vault lid to the top of the grave at all points.
(Code 1973, § 6-10; Ord. of 7-13-92, § 2)

Sec. 12-12. Enclosures, curbing, maintenance and vehicles.

No enclosure or curbing shall be placed around any cemetery lot or part thereof in any section that may be opened or laid out in any city cemetery. Sand, gravel, crushed stone or similar material shall not be permitted on any lot or grounds. All graves shall be at ground level, flat and without a mound. Vehicles shall not be operated upon the grounds except in existing roads and driveways.

Sec. 12-13. Carrying flowers from cemeteries prohibited.

No person shall remove any flowers from any city cemetery without first obtaining permission from the city.

(Code 1973, § 6-16)

Sec. 12-14. Changing grades of lots; requirement.

Persons who do any work upon lots shall not raise or change the grade of same or make any changes without first getting the proper grade from the city.
(Code 1973, § 6-17)

Sec. 12-15. Ornaments prohibited.

Ornaments, furniture, glass vases, glass cases or any other glass or porcelain items, decorative flags, light fixtures, toys, wooden or any other articles on poles, watering cans or any other article that may be considered objectionable by the city are prohibited, and the city reserves the right to remove same without notice to the owner, any relative or other person. Exceptions to these rules are allowed at certain holidays, but items must be removed immediately after the holiday, or they will be removed by the city.
(Code 1973, § 6-20)

Sec. 12-16. Cemetery superintendent authorized to remove flowers and decorations.

The city's authorized representative shall remove all fresh flowers, permanent arrangements, and decorations whenever, in his opinion, it may be necessary or proper to do so. Under present policy – fresh flowers will be removed in one week. All permanent arrangements will be allowed to remain on graves for six weeks, unless they deteriorate prior to this period.
(Code 1973, § 6-21)

Sec. 12-17. Removal of rubbish; liability for damage.

Cemetery lot-owners who work on their cemetery lots shall remove all rubbish and excavated earth which they may take to such areas as shall be designated by the cemetery superintendent. Employers shall also be liable for any damage done by their employees to enclosures or other cemetery property.
(Code 1973, § 6-22)

Cross References: Solid waste, ch. 22.

Sec. 12-18. Signs prohibited.

No sign indicating that any cemetery lot or single grave openings are "for sale," and no signs, cards or advertisements of stonecutters or any other person shall be permitted in any city cemetery.
(Code 1973, § 6-23)

Secs. 12-19--12-45. Reserved.

ARTICLE II.

PERPETUAL CARE TRUST FUND*

* **Cross References:** Taxation and finance, ch. 26.

Sec. 12-46. Established.

A cemetery perpetual care trust fund is hereby established under the authority of G.S. 160A-347.
(Code 1973, § 6-25)

Sec. 12-47. Certain surplus revenue placed in fund.

Surplus revenue as determined by the city council from charges and fees and the sale of grave spaces shall be placed in the perpetual care trust fund.
(Code 1973, § 6-26)

Sec. 12-48. Expenditures.

The expenditure of moneys in the perpetual care trust fund may be made at any time or from time to time for all or part of the cost of acquisition, construction, reconstruction or enlargement of and extensions to properties used or useful in connection with city cemeteries.
(Code 1973, § 6-27)

Sec. 12-49. Interest from investments.

Any interest derived from investments of the perpetual care trust fund shall be transferred to the general fund for operation and maintenance of city cemeteries.
(Code 1973, § 6-28)

Sec. 12-50. Depository.

A bank shall be designated the depository in which moneys of the perpetual care trust fund shall be deposited.
(Code 1973, § 6-29)

Sec. 12-51. Withdrawals.

Any withdrawal of moneys in the perpetual care trust fund shall only be by a resolution adopted by the city council.
(Code 1973, § 6-30)

