

## CHAPTER 5

### CEMETERIES

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#### Nebraska statutes

For statutory provisions on city cemeteries, See R.R.S. § 16-241 et seq.

#### **5-1-1. Cemetery grounds; subdivision monuments, plats; certification, filing.**

In laying out cemetery grounds, the corners of the subdivisions shall be indicated by substantial monuments fixed permanently in the ground as starting points for future measurements and surveys, and such monuments shall be plainly indicated on the plats of such grounds. Such plats, when completed, shall be certified by the surveyor or engineer who made the same, subscribed by the Mayor and City Clerk under the seal of the City, acknowledged before any officer authorized by law to make acknowledgment of deeds, and

filed for record in the office of the Register of Deeds of Scotts Bluff County, Nebraska. The filing of such plat shall operate as a legal vacation of any other plat of subdivisions of such grounds and of any streets, roads or avenues passing through such grounds.

**5-1-2. Cemetery records; accountkeeping.**

The City Manager or the City employee designated by the City Manager shall keep a true and correct list of cemetery lots sold and to be sold, with the price thereof, which information shall be indicated and kept current on accurate maps or plats of the cemetery. A true and accurate account of the cemetery receipts and expenditures. All other records, plats, papers, correspondence and documents pertaining to the cemetery shall be safely kept and preserved by the City Manager or the City employee designated by the City Manager.

**5-1-3. Cemetery lots; purchase prices.**

The purchase price of lots and burial spaces in any cemetery of the City shall be that fixed by the City Council. Such price shall be adequate to provide for the perpetual care of the lot or burial space as well as the cemetery in general. (Ord. 2177 § 1 (part), 1976; Ord. 1116 § 5-101.)

**5-1-4. Same; Fairview.**

The purchase price of burial spaces in Fairview Cemetery shall be as provided in Chapter 6, Article 6.

**5-1-5. Conveyance by City; signatures; seal.**

All certificates of conveyance of cemetery lots owned by the City shall be signed and acknowledged by the Mayor and countersigned by the City Clerk, under the seal of the City. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-102.)

**5-1-6. Retransfer of title.**

Title to a cemetery lot in respect of which a certificate of conveyance shall have been issued by the City shall be subject to retransfer in the same manner as title in fee simple to real estate generally; provided, such title shall be for the sole purpose of interment under regulations of the City Council. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-104.)

**5-1-7. Speculation; interment for compensation; prohibited.**

Burial lots shall not be held and used for speculation, and no lot proprietor shall permit interment in or upon any lot held by him for compensation. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-105.)

**5-1-8. Care; City assumes.**

The City agrees to care for all lots, parts of lots or burial

spaces in cemeteries of the City, now platted or to be platted, in accordance with the ordinances of the City, and to keep the lots and grounds free from weeds. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-106.)

**5-1-9. Burial; permit.**

Every person owning a lot, or part of a lot or burial space in a cemetery of the City, before he shall be entitled to bury upon such lot, part of a lot or burial space, shall be required to exhibit to the City employee designated by the City Manager a burial or removal permit in the form prescribed by law. A record of such burial or removal permit shall be retained by the City. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-107.)

**5-1-10. Service charges; Fairview.**

The charges be made for services rendered by the City in Fairview Cemetery shall be as provided in Chapter 6, Article 6.

**5-1-11. Grave; location; excavation.**

Upon exhibition of a burial permit, and payment of the grave-digging fee, it shall be the City employee designated by the City Manager shall locate and excavate the grave. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-108.)

**5-1-12. Same; depth.**

The top of the burial vault shall be buried at a depth of not less than two (2) feet below the surface of the ground. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-108.01.)

**5-1-13. Burial vaults; required; exemption.**

All bodies interred in Fairview Cemetery shall be enclosed within a burial vault constructed of concrete, metal or fiberglass, except as herein provided. Upon a request in writing for an exemption from such requirement, signed by the survivor(s) by whom burial arrangements are being made, the requirement shall be waived by the Director of Parks and Recreation:

(1) if the Director shall find in writing the deceased held, or that such survivor(s) hold, a belief, based upon religious or philosophical grounds, that a body should not be interred within any container constructed of material (other than wood) which will impede disintegration of the body,

(2) if such survivor(s), prior to interment, shall pay into the cemetery fund of the City an additional fee in the amount of one hundred twenty-five dollars (\$125.00) to hold the City harmless from the expense of additional maintenance of the grave or adjacent areas which may become necessary because of absence of a burial vault, and

(3) if the body is interred in a container constructed of wood. (Ord. 2734 § 1, 1982.)

**5-1-14. Open hours.**

Cemetery grounds shall be open during hours established by the Director of Parks and Recreation. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-110.)

**5-1-15. Flowers, plants, shrubbery, trees, wildlife.**

It shall be unlawful for any person other than an authorized employee of the City to gather, remove, disturb or damage flowers, plants, shrubbery or trees, either wild or cultivated, or to feed or disturb birds or animal life in a cemetery of the City. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-111.)

**5-1-16. Signs, notices.**

No signs, notices or advertisements shall be erected or placed in a cemetery of the City, except regulatory or informational signs erected by the City. (Ord. 2177 § 1 (part).)

**5-1-17. Littering; refreshments.**

It shall be unlawful to throw or leave any rubbish upon the cemetery grounds or cemetery buildings, or to have in possession or consume any refreshments within the cemetery grounds or buildings. This section shall not be construed to prohibit City employees assigned to duty in a cemetery from eating their lunches or having coffee breaks within the cemetery grounds or buildings. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-113.)

**5-1-18. Motor vehicles.**

Motor vehicles shall not be operated within a cemetery of the City at a speed in excess of fifteen (15) miles per hour, shall be operated only on the right side of the roadways, and at no time, except while in attendance at a funeral, shall be parked within any of the main roadways or in front of an open grave. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-114.)

**5-1-19. Children.**

No child under fifteen (15) years of age shall come, or be permitted to come, upon the cemetery grounds or within the cemetery buildings unless accompanied by an adult. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-115.)

**5-1-20. Dogs.**

No unleashed dog shall be permitted anywhere in the cemetery. Properly leashed dogs must be kept on the roadways. If a dog defecates within the cemetery grounds the person in charge of the dog shall pick up after it. (Ord. 3421, 1995: Ord. 2177, 1976.)

**5-1-21. Firearms.**

No firearms shall be brought or discharged within the cemetery

grounds or cemetery buildings except for purposes of military services authorized by the City Manager or the City employee designated by the City Manager.

**5-1-22. Monuments; markers; setting.**

It shall be unlawful for any person or firm to set a monument or other grave marker in a cemetery of the City until such person or firm shall have procured a written permit from the City employee designated by the City Manager. Before a permit shall issue, such

person or firm shall file with such employee a bond with two or more sureties, or of a surety company, to be approved by such employee, in the penal sum of one thousand dollars (\$1,000.00), conditioned that such person or firm:

(1) will perform and complete the work in a workmanlike manner, and will comply with all laws, ordinances, and written rules and regulations governing monuments and other grave markers, and the setting thereof, in cemeteries of the City, and

(2) will indemnify the City and hold it harmless from liability for injuries or damages to persons or property caused in whole or in part by negligence on the part of such person or firm, or of persons in his or its employ, in the performance, or in the protection of persons or property during the performance, of the work, and for any other injuries or damages sustained by the City as a result in whole or in part of failure on the part of such person to complete the work, or to do the work in a workmanlike manner. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-118.)

#### **5-1-23. Same; destruction; mutilation.**

It shall be unlawful for any person to wilfully destroy, mutilate, deface, injure, remove any tomb, monument or gravestone or other structure placed in any cemetery of the City, or any fence, or railing or other work for the protection or ornamentation of the cemetery or tombs, monuments or gravestones, or other structures of the same, or of any cemetery lot within such cemeteries. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-118.01.)

#### **5-1-24. Burial; in City; restrictions.**

No burial of human remains (whether of bodies or cremated remains) may be made within the City except in a municipal cemetery of the City or except as otherwise provided herein. Cremated remains may be buried in a columbarium constructed, in accordance with plans and specifications approved by the Planning and Building Official, on a lot or tract owned by an incorporated church organization on which there also exists a church sanctuary building used for religious purposes. (Ord. 2435 § 1, 1978.)

#### **5-1-25. Rules and Regulations.**

The City Manager may prepare such rules and regulations as may be deemed necessary for the management and care of the cemeteries, and to ensure the orderly use of the cemeteries by the owners of lots and the public and the protection thereof from acts of vandalism or malicious mischief. Such rules and regulations shall be submitted to the Council for approval and adoption and, when approved and adopted by the Council, shall be published in the manner provided for the publication of ordinances, and at least three (3) copies thereof shall be kept on file at the office of the City Clerk for public inspection. (Ord. 2697 § 2, 1981.)

**5-1-26. Fairview Cemetery; name.**

The name of the present cemetery shall be "Fairview Cemetery."  
(Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-121.)

**5-1-27. Same; perpetual care fund; established; donations.**

There is hereby created a permanent fund to be known as the "Fairview Cemetery Perpetual Care Fund" of the City of Scottsbluff. The Council may allocate to, and cause to be deposited in such fund, such part of the moneys appropriated for cemetery purposes as, in the discretion of the Council, is necessary or desirable. The City of Scottsbluff may receive money by donation, bequest or otherwise for the use and benefit of the cemetery, to be used for such purpose or purposes as the donor may direct; and insofar as the donor has not otherwise directed, the Council may allocate to and cause to be deposited in such fund such part of the moneys so received as have been appropriated for cemetery purposes and, in the discretion of the Council, is necessary or desirable to be allocated to and deposited in such fund. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-122.)

**5-1-28. Same; perpetual care fund; use.**

The income derived from the investment of funds in the Fairview Cemetery Perpetual Care Fund shall be used for the perpetual care of the Cemetery. Perpetual care includes mowing, watering, raking and cleaning of the Cemetery; the general care and pruning of trees or shrubs placed in the Cemetery by the City; the general preservation of the plots and the grounds, walks, roadways, boundaries and structures so that the grounds shall remain and be reasonably cared for as Cemetery grounds forever. Perpetual care shall not include maintenance, repair or replacement of any gravestones, monument structures or memorials placed or erected on lots or burial spaces, the planting of flowers or ornamental plants; the doing of any special or unusual work in the Cemetery; or the reconstruction of any marble, granite, bronze or concrete work on all or any portion of any section, lot or burial space damaged by causes beyond the control of the City. No part of the principal of the Fund shall be used for any purpose except for the purchase of additional land. (Ord. 3172 § 3, 1990.)

**5-1-29. Violations; penalties.**

A violation of any provision of this Chapter, or of any rule or regulation adopted pursuant to this Chapter, is a Class II violation. (Ord. 2177 § 1 (part), 1976: Ord. 1116 § 5-123.)