

## Chapter 1: Sale and Conveyance of Lots, Interment Rights, and Disposition of Lots

The owner of a right of interment receives a right, or burial easement, to be interred in a grave only, and the city as owner of the cemetery retains fee simple ownership of the land. The owner of the right of interment does not receive with the right of interment any easement rights or other property rights in the land. In the absence of specific disposition by the owner of rights of interment in a will or other written declaration of record, the owner and his or her spouse have the primary rights of interment. Any remaining interment space may be used by the descendants of the original owner, to be used first by children in order of need, then by other closest relatives in order of need.

### **Sale and Conveyance of Lots (§ 12-6; § 12-18).**

The price for lots in municipal cemeteries is set from time to time by the Mayor and City Council. Conveyances of burial lots shall be executed in the name of the city by the Mayor and City Clerk and have affixed thereto the seal of the city. Such conveyances shall not convey fee simple title, but shall convey to the purchaser of each burial lot an easement for the exclusive right of interment in such lot. The department shall keep full and complete records of the ownership of all lot easements in the municipal cemeteries, of the burial capacity of each lot, of the location of each grave, of the names and ages of the persons buried in each grave that has been or shall be used, and of the date of burial of each.

The purchaser of a lot or lots is conveyed only the right of interment of human remains and the right of installation of a memorial on each lot.

Lots may not be sold or transferred unless approved in writing by the city, and no lots may be acquired solely for resale. All conveyances executed by the city contain a clause reserving to the city the right of first refusal to repurchase the lot if the grantee subsequently desires to offer the lot for sale. If lot transfers are approved by the city, then a new lot easement will be prepared and recorded with the new owner of record listed.

### **Purchasing Cemetery Lots (§ 12-6; § 12-18).**

Interment rights to cemetery lots will be sold Monday through Friday during normal business hours except in cases of unforeseen immediate need, and at that time only when approved by the Cemetery Director.

Lots can be purchased for cash or on a time payment plan. The following is the only installment plan available: Twenty percent (20%) of the purchase price down, and the balance in monthly payments equal to ten percent of the sale price until paid in full. Therefore, the lot will be paid in full no longer than eight months after the initial down payment is made. No lots may be reserved without being purchased or without entering into an installment payment plan. In the event of default in making installment payments which shall continue for more than six months, the city reserves the right to resell unused portions of lots, or to declare all rights and title to lots forfeited, or to remove bodies interred therein to other locations selected by the city.

Upon full payment of cemetery lots, a document of ownership, or burial easement, will be issued by the city evidencing ownership. Easements to lots purchased on the installment plan shall not be delivered until the purchase price is paid in full. No monuments, markers, or other structures shall be placed on a lot, and no interments shall be allowed until the burial right has been paid for in its entirety.

In the event that any lot is purchased immediately prior to the time of interment, arrangement must be made for full payment of such lot before the interment will be made. A purchaser has no right, interest, estate, or title whatsoever to any lot until the purchase price is paid in full.

### **Disposition of unused or abandoned lots (§ 12-19).**

To preserve the active nature of the cemetery, any interment space will be deemed abandoned if there is no recorded activity on the lot for a period of 60 years, subject to notice as hereinafter provided. For purposes hereof, the city shall give notice to the lot holder that due to the passage of 60 years with no recorded activity, the city will consider the interment space abandoned if the lot holder does not notify the city within 30 days of the lot holder's intent and desire to maintain rights to the interment space. Such notice shall be given by regular mail to the lot holder at the address on file with the city. Any lot deemed abandoned may be reclaimed by the city, and disposed of as the city sees fit.

Should a lot holder of an unused interment space no longer need the lot in the cemetery, he or she may sell the lot back to the city at the original purchase price.

### **Passing of Interment Rights after the Death of the Lot Owner.**

All interment rights purchased shall be presumed to be owned by the person named as the owner on the burial easement until the owner's demise. In the absence of specific disposition by the owner of rights of interment in a will or other written declaration of record, the interment rights of unused lots will pass to the original owner's legal spouse. The legal spouse of the owner at the time of the owner's demise shall have a vested right of interment in any unused burial space of the owner. A vested right of interment as herein provided may be waived and shall be terminated upon disposition elsewhere of the remains of the person entitled thereto.

The owner and his or her spouse have the primary and secondary rights of interment pursuant to a spouse's vested rights. In the absence of specific disposition by the owner of rights of interment in a will or other written declaration of record, remaining interment spaces may be used by the descendants of the original owner. Any unused burial spaces may be used by the children of the original owner in order of need. In the event that a child of the original owner is interred, a reservation will be established of the spouse to that deceased child. After the children of the original owner are deceased or after the children of the original owner relinquish any interest in any remaining interment space, then the descendants of those children may use the spaces in order of need. Should the owner of the right of interment die without leaving directions for the plot's future use, any rights of interment will become the property of the city.

## Chapter 2: Interment Services and Procedures

The City of Elberton is the exclusive service provider for interment services in the municipal cemeteries. Interment services include the opening and closing of graves. Interment services by the city are available seven days a week provided that personnel are available to meet the needs of the department. The city reserves the right to refuse service if a request for burial is received less than 24 hours before the funeral service.

The price for interment services by the city are set from time to time by the Mayor and City Council. Fees must be paid prior to services being rendered. Additional charges apply to burials that take place prior to 9:00 a.m. or later than 4:00 p.m., Monday through Friday. Additional charges apply to burials on Saturdays, Sundays, or adopted city holidays. No burials are permitted on Thanksgiving Day or Christmas Day. No burials are permitted after sunset, and no funeral service should begin later than two hours before sunset. Interment services must be completed, graves, niches or crypts must be closed, and all persons associated with the funeral must be out of the cemetery by sunset.

### **Rules for Interment (§ 12-7; § 12-9).**

No deceased person shall be interred in any municipal cemetery until the Cemetery Director has found that:

1. The person arranging for such burial has the right to use such lot; and
2. Such lot is not used beyond its capacity; and
3. Proper record is made of the name and age of the deceased person and of the exact location of grave; and
4. A legal burial order has been issued.

All graves shall be opened and closed by the city, under the supervision of the Cemetery Director. The department shall be notified at least 24 hours prior to the planned time of interment for the purpose of opening and preparing the grave site.

Interments shall be made in vaults of approved steel, concrete or an alternative non-biodegradable material of sufficient strength. Vaults must be water resistant and air tight and contain a tongue and groove locking system. The use of wooden vaults shall not be allowed in municipal cemeteries. All vaults shall be buried to a minimum depth of 12 inches measured from the top of the vault to the finished grade of the closed grave.

The city recommends, but does not require, that a permanent marker be placed on a person's place of interment.

### **Interment Rights, Interment Orders and Instructions.**

No remains shall be buried in any earthen grave or entombed in any crypt except by written consent of the owner of the interment rights or his or her heir or agent. The city shall not be held responsible for any interment order given verbally or by telephone, or for any mistake occurring from the lack of precise and proper instructions as to the particular space or location in a lot or mausoleum where an interment is desired. Interment orders must be filed with the city by next-of-kin, owner of the interment rights, or the owner's agent.

The owner of the interment rights, next-of-kin or agent of the owner must physically select a specific space and sign an interment order attesting to burial space selection prior to an interment, unless specific interment instructions, signed by the owner of the interment rights and notarized, have been filed with the department. The size of each burial lot is normally five and one-half feet by eleven feet, although there are varying sized lots that may be slightly smaller or larger. The city shall mark all burial lots prior to burials and shall mark all corner markers, headstones, and monuments prior to being set.

An urn which is to be interred in the ground must be placed in an outer burial container designed for urns, or the urn itself must be of sufficient strength and designed as a single system for interment in the ground. The outer burial container for an urn must not exceed 18 inches in length and 18 inches in width and 18 inches in height.

Only one casket, vault or full interment shall be allowed per burial space. Up to four urns of ashes or cremains may be interred in a single space with no casket, vault or full interment, provided however that a burial plan for urns has been established for multiple burials on one grave space prior to the first interment. In no circumstances will an urn be exhumed or moved in order to make space for future burials.

### **Funeral Directors' Responsibilities.**

Funeral Directors will be held responsible for the actions of all vehicle drivers or others employed by them while within the grounds of the cemetery. The Funeral Director will be held responsible for all vehicles in a funeral procession. All vehicle and traffic regulations must be observed. The Funeral Director must ensure that vehicles are parked properly for a burial service. If a Funeral Director is not used, the person making funeral arrangements will be held responsible for the interment service.

Any equipment used in the cemetery for any purpose will be under the strict supervision of the city. No vaults or other materials may be stored within the city cemetery area.

### **Columbaria and Mausolea.**

Owners of a private columbarium or mausoleum are responsible for inurnment or entombment, however, such activities must be performed under the supervision of the city. The city will not open and close doors, niches and crypts in columbaria and mausolea.

### **Funeral Service Equipment.**

Any tents, chairs, lowering devices, or other temporary items used for a burial service must be removed within 24 hours after the funeral service, by the rightful owner of such items.

Suitable devices for placing caskets, vaults or other burial containers into earthen graves or mausolea, or such devices for removal of the same, may be requested from Monument Companies or Funeral Directors when planning a burial service. The city does not provide devices for handling, lowering or lifting.

In no event shall the removal of excess material result in the damage to surrounding lots, cause ruts to develop, cause damage to surrounding trees, shrubbery, flowers, or monuments. In the event of such damage the person responsible shall pay to the city the cost of repair of such damage.

### **Private Contractors Work Activities and Responsibilities.**

Work activities on cemetery lots include, but are not limited to, installation, construction, maintenance or removal of vaults, structures, or monuments. All persons who perform any private work of any description on any cemetery lot in which they do not own burial rights must be employed by a company with a current business license for the type of work performed. The owners or heirs of the burial rights may perform general cleaning and upkeep to the structures and grounds on their cemetery lots.

Contractors shall be responsible for any damage on private cemetery lots or within the general areas of the cemetery incurred during the process of work activities. Contractors will be held responsible for the actions of all persons employed by them while within the cemetery grounds. Contractors must immediately report to the city any damage to trees, shrubbery, turf, signs, coping, lot markers, monuments, utilities or structures caused by their personnel, vehicles, or work activities in the cemetery. Contractors must restore any damage to the turf

including the filling of ruts and the removal of any tire tracks or other evidence of vehicles or equipment caused by work activities.

Any firm conducting business within the city cemetery is responsible for maintaining the cleanliness of the area in which they work.

Contractors shall remove from the cemetery and legally dispose of any surplus or waste materials generated by their work activities daily and immediately upon the completion of their work. This includes any vegetative materials removed from cemetery lots. The city may require more frequent disposal of excessive waste or waste which may detract from a scheduled funeral or special event.