

CHAPTER XX.

CITY CEMETERY

ARTICLE I. RULES AND REGULATIONS

20-101. CEMETERY: LOCATION. All of the real property deeded to the City of Gwinner which has heretofore been platted as Gwinner Cemetery and appearing of record in the office of the Register of Deeds of Sargent County, North Dakota is set apart for the use of the City of Gwinner as a cemetery or burial ground.

20-102. POTTER'S FIELD. That portion of said cemetery designated from time to time by the City Council or the lessor of said cemetery for the interment of the "poor" shall be known as Potter's Field.

The citizens of the City of Gwinner shall have the right to inter in the Potter's Field free of charge excepting sexton's fees, and non-residents may inter in said Potter's Field upon first paying to the City Auditor One Dollar (\$1.00) for each grave and to the City Sexton his fees for interring.

20-103. SEXTON, CARE OF CEMETERY. The said cemetery shall be under the immediate care of the City Sexton who shall be elected annually by the City Council at their first regular meeting in May or as soon thereafter as practicable; said sexton shall hold his office for one year and until his successor is elected and qualified. He shall give bonds for the faithful performance of his duties in such sum as the City Council may determine. Said sexton shall be annually appointed by the City Council a policeman of said cemetery without pay.

20-104. CEMETERY BOARD OF CONTROL: COMPOSITION: FINAL AUTHORITY. The City Council of the City of Gwinner shall have the general supervision of the City Cemetery, and in seeing that all state laws and city ordinances relating to sale of lots in said City Cemetery, the disposition of all cemetery funds, care of the grounds, and in prescribing all rules and regulations.

20-105. FUNDS, USE OF, FROM SALE OF LOTS: CITY AUDITOR. The money received from the sale of lots and rights of burial in the City Cemetery shall be appropriated by the City Council for the improving and maintaining of said cemetery grounds, and for no other purpose. The cemetery account shall be kept separate from all other accounts of the City. All money received by the City Auditor on account of the cemetery shall be deposited with the City Auditor and his receipt taken therefore. The City Auditor will keep in his office a list of all lot owners. The City Auditor shall keep an account of all moneys received for lots and all moneys coming into his hands or paid out by him on account of the cemetery in a book or books provided for that purpose by the City Council. Any person desiring to purchase a burial lot shall pay or cause to be paid to the City Auditor, the price for which the Auditor shall give to the purchaser his receipt. No moneys shall be expended from said fund except upon voucher duly

passed, by the City Council and which voucher relates to the improving maintaining of said cemetery grounds.

20-106. PRICE OF LOTS: INTERMENT: FEES FOR OPENING AND CLOSING GRAVES. The cost of a lot, of interment, fees for opening and closing graves will be that sum as if fixed and prescribed by resolution by the City Council from time to time.

20-107. REGULATIONS.

1. General -Care Area.

a. Lot owners or authorized persons may have any special work consistent with the rules and regulations done by the City by making arrangements with the cemetery sexton who will furnish estimates of cost to perform the same. Lot owners or authorized persons wishing to have such work done must give the sexton a signed order covering the proposed improvements.

b. Lot owners or members of their families shall be permitted to do any work not involving construction and not otherwise prohibited in these regulations on their own lots either before or after interments, and the performance of such work must be confined as much as possible to the working hours of the Cemetery Department. All such work shall be subject to the general directions of the sexton.

c. No corner stakes of any lot shall be disturbed.

d. No lot or grave shall be defined by any fence, railing, coping, hedge, embankment. or depression, nor can trees or shrubs be planted to define corners of boundaries. No cement or stone curbs or lot corners will be permitted and all unsightly curbs or corners shall be removed.

e. The planting of common lilac bushes and any kind of iris or vines is not permissible and any uncared for common lilacs may be removed at the discretion of the cemetery sexton.

f. To prevent injury to adjoining lots and to preserve the beauty of the grounds no trees, shrubs, or plants shall be planted on lots or graves, nor any existing trees, shrubs, or plants cut down, removed or trimmed except by permission of and under the direction of the sexton.

g. Vases and urns not properly painted and otherwise cared for will be removed from the cemetery.

h. The decoration of graves shall be limited to the placing of wreaths, sprays, or flower boxes only (no planting of flowers) and the placing of cut flowers shall be restricted to only those graves which have a regular container for the purpose. The use

of jars, tin cans, etc., shall be prohibited. Spading up of graves will be permitted only for the purpose of planting grass.

i. Neglected plants and flowers will be removed from lots, vases or urns as soon as they become withered.

Chairs, settees, benches, or steps leading to lots, or boxes, shells, tops, wire screens, rustic work, ornaments or architectural objects will not be permitted.

20-108. GENERAL RULES AS TO ACQUIRING LOTS.

1. Persons desiring to purchase lots are invited to visit the cemetery where the sexton or his assistants will aid in making a selection.

2. Lots in the cemetery are conveyed by deed securing to the purchaser, his or her family, and heirs a title forever for the purpose of burying the human dead only, subject to the rules and regulations that are now in force or may be adopted by the City of Gwinner, but exempt from taxation and liability for debt.

3. All deeds which shall be executed to purchases of lots in the cemetery grounds shall contain a covenant whereby the purchaser covenants and agrees to release to the city full jurisdiction over the cemetery grounds as is specified by this chapter, and to all regulations made by the City Council in conformity herewith.

4. No deed will be issued until a lot is fully paid for, and if interment is permitted before such time, the City retains the right to refuse future interments or any improvements until any balance due on such lot is fully paid, and in case of persistent default to remove any body already interred to the single grave section.

5. A deed from the City of Gwinner and its record on the books of the City kept under the direction of the City Auditor is the only evidence of title of the proprietor recognized by the City; therefore, no lot shall be subdivided, or transferred by deed or otherwise, and in event of any subdivision or transfer or use of said property contrary to any of the provisions of the deed, the whole thereof shall revert to the City.

6. The City may by mutual agreement with any lot owner repurchase any unused lot or lots from a lot owner or authorized person paying therefore a sum not to exceed the sum originally paid to the City for such lot.

7. No lots shall be sold on ground before it has been surveyed and platted.

8. On the death of an owner or part owner of a lot, the heirs or devisees of the deceased, if required, shall file in the office of the City Auditor satisfactory proof of their heirship for the purpose of establishing the new ownership in the books of the City.

20-109. USE OF VAULT.

1. In cases where lots have already been acquired for the interment of a deceased person and it is desired that the remains be stored in the vault for a time, there will be no charge for the use of the vault but the regular interment charges shall be paid on or before the time the remains are placed in the vault.
2. In cases where it is desired that the remains of a deceased person shall be stored in the vault for a time, and burial elsewhere than in Gwinner Cemetery, a vault charge of Ten Dollars (\$10.00) shall be made. If a decision is thereafter made to purchase a lot and interment is made, the vault charge will be credited to the cost of the same.
3. In no event will any retrans be accepted for storage before October 15 nor be kept in the vault after April 15, except at the discretion of the sexton.
4. Remains of person having died of contagious disease can only be placed in the vault when all legal requirements relating to the handling of such cases have been complied with.
5. The city reserves the right of interment of any remains whenever it may appear necessary for sanitary reasons on twenty-four hours notice to the undertaker in charge.
6. The City reserves the right to refuse the storage of any remains which are in an offensive condition, or during epidemics, or during the period of time between April. 15 and October 15.
7. Burials from the vault will not be made on Sunday or a public holiday.
8. Visiting the vault will not be permitted.

20-110. INTERMENTS AND FUNERALS .

1. The time of funeral services shall be scheduled by the funeral director with the sexton twenty-four hours in advance of such services during the summer and forty-eight hours during the winter. Requests are to be accompanied by the legal burial permits and local burial requests. There shall be not more than two adult services scheduled for any one day.
2. During the period of the year when in the Judgment of the sexton the ground is sufficiently free from frost so that excavation of graves is not materially interfered with by reason thereof, the regular rates for interments shall be in force.
3. During the period of time when in the judgment of the Sexton the ground is frozen sufficiently hard to materially interfere with the digging of graves a winter interment rate will be applied.

4. The following particulars are required for record: Name of deceased, color, place of nativity, late residence, age, disease, date of death, date of interment, place of death, whether married, widowed or single, and name of nearest kindred. No burials will be allowed without such information.
5. If the order for an interment is for a deceased not of the immediate family of the lot owner, permission in writing from such lot owner or authorized person must be filed with the Sexton.
6. When lots are held jointly by two or more persons, either by descent, devise or purchase, an order will be accepted from either of them or their heirs for interment in such lots as they shall require.
7. The required charge for an interment must be paid in advance of any work unless such charges are guaranteed by an approved responsible party.
8. Orders for burial over the telephone will be accepted only at the option of the Sexton because of the liability of mistakes and a lot owner or other authorized person in ordering in interment may be required to call at the cemetery personally to obviate the possibility of error.
9. Only one interment will be allowed in one grave, except in case of a mother and infant, or twin children or two children buried at the same time.
10. Funerals while within the cemetery grounds be under the control of the Sexton.

20-111. DISINTERMENT'S, RELOCATING BODIES, VACATION OF LOTS.

1. Graves will be reopened for official inspection or for any other purpose only when all statutory provisions relating to the opening of graves have been complied with and regular charge for disinterment paid to the City.
2. Should the owner of a lot in which an interment has been made wish to secure a lot elsewhere in the cemetery he may have the body disinterred and reinterred in the new location by paying the regular charges both for disinterment and for reinternment and by giving to the City a deed to the vacated lot. The amount of the refund for such vacated lot, if any, shall be determined by the Sexton.
3. Should any single lot be vacated and the body removed from the cemetery, the regular charge for disinterment must be paid and the title to the lot so vacated shall revert to the City.

20-112. MONUMENTS AND FOUNDATION.

1. Any stone exceeding any one or more of the following dimensions shall be classified as a monuments; one foot in height, two feet in length, or one foot in thickness.

2. No monuments or portion thereof made of any other material than granite, marble, or standard bronze will be allowed in the cemetery.
3. The rolling of stone work across sections must not be done without the consent and supervision of the Sexton.
4. The turf around and near where work is to be done must always be thoroughly protected by planks and boards when required by the Sexton.
5. All stone work shall have the surface next to the foundation squared so as to allow full bearing on the foundation.
6. All monuments must be located as directed by the Sexton.
7. All foundations for monuments shall be of concrete built by the City at the expense of the owner of the lot or lots. Reasonable notice must be given and payment made at the time the order for such work is given unless such payment is guaranteed by an approved responsible party.
8. The foundations shall be built so as to provide a border five inches in width around the bottom of the base of the monument and shall be adequate to permanently support the monument in true position. Any failure of foundations constructed by the City will be corrected by the City without additional charge to the owner.
9. After the foundations for any monument has set sufficiently, as determined by the Sexton, the monument shall be installed on the foundation by a representative of the manufacturer of the particular monument.
10. No person or firm is allowed to remove any monument from the cemetery or to clean or to alter any monument erected in the cemetery without first securing permission from the Sexton.

20-113. MARKERS AND FOUNDATIONS.

1. Any stone not more than one foot high and not more than two feet in length and not more than one foot nor less than six inches thick shall be classified as a marker.
2. All markers shall be of the surface type and must be set approximately flush with the sod as may be directed by the Sexton.
3. No permanent marker made of any other material than granite, marble, or standard bronze will be permitted for use in the cemetery.

4. All foundations for markers shall be constructed by the City at the expense of the lot owner. Reasonable notice must be given and payment made at the time the order is given unless such payment is guaranteed by an approved responsible party.

5. All markers shall be set in a concrete foundation which shall provide a five inch concrete border around the marker, such concrete border to be flush with the level of the ground and such work shall be done by the City.

6. The location of markers and all work in connection with setting them shall be under the direction of the Sexton. All markers which have been installed by the City will be maintained in true position without further cost to the owner.

20-114. OTHER WORK AND CHARGES.

In those instances where special work of any kind is required which in the opinion of the Sexton can reasonably be requested of the City and for which the cost has not been established by these ordinances, the Sexton shall fix the price thereof.

20-115. PAYMENT OF CHARGES AND SERVICES.

1. All payments for lots and charges for all services are payable in advance except as otherwise provided.

2. In all instances where an undertaker arranges for lots and/or interments such undertaker shall assume the liability for payments to the City of the cost of such lots and/or interments.

3. In instances where monument dealers order bases installed for monuments or markers, they shall assume the liability for payment of the cost of such work.

20-116. DISCLAIMER.

The City will take every reasonable precaution to protect the property of lot owners within the cemetery; but it distinctly disclaims all responsibility for loss or damage, whether direct or collateral., from the acts of thieves, vandals, rioters and malicious mischief-makers; from all acts of Providence, including winds, tornadoes, cyclones, hail, snow, frost, fire, explosion or lightning; and from breakage or accident to equipment of whatsoever kind and character and from all causes beyond its reasonable control.

20-117. RULES TO BE OBSERVED.

1. Lot owners, their families and visitors will be admitted daily and are requested to observe all rules adopted for the regulation of visitors.

2. Children unattended by persons who will be responsible for their conduct will not be admitted.

3. Bicycle riding will not be permitted over the sections.
4. Bicycles must not be leaned up against stone work at any time.
5. Automobiles must proceed at slow speed and be kept under complete control at all times. The cemetery drives are narrow and winding. The view ahead is often obstructed by shrubbery and the drives are in constant use by pedestrians so that inattention or recklessness on the part of a driver may result in accident.
6. Refreshments of liquors will not be allowed within the grounds.
7. No persons with firearms or dogs will be admitted.
8. Discharging of firearms, other than regular voiles at burial services, is prohibited by law in and around the cemetery grounds.
9. All persons are forbidden to sit, walk upon, or otherwise occupy any lot not their own. Strangers must not approach the grave at a funeral.
10. Trucks and vehicles of cumbersome description will not be allowed to enter the grounds without special permission of the Sexton.
11. All persons are strictly prohibited from plucking any plants whether wild or cultivated breaking any tree or shrub, marring any stone work or in any defacing of the property of lot owners of the City.
12. It is of the utmost importance that there should be a strict observance of all the proprieties due the place, whether embraced in these regulations or not. No impropriety will be tolerated and all well-disposed persons will confer a favor by informing the Sexton at once of any breach of decorum that may come to their notice.
13. No improper use of the National Flag will be permitted in the cemetery nor will the display of any worn out and tattered flag be allowed.

20-118. INJURY TO PROPERTY.

Any person who shall willfully destroy, mutilate, injure, write upon, mark, deface, or remove any tombstone, monuments, gravestone, buildings, or other structure placed in said cemetery, or any fence, railing, or other work for the protection or ornament hereof, or who shall willfully destroy or injure any trees, shrubs, or plants within the limits of said cemetery shall be punished by fine or imprisonment as is more specifically indicated in Article III of this Chapter.

20-119. PENALTY FOR OPENING GRAVE. Any person, excepting the Sexton, City Auditor, or someone under their direction who shall dig a grave on said cemetery

grounds shall be subject to fine or imprisonment as is more specifically indicated in Article III of this Chapter.

20-120. FINES: DISPOSITION OF. All fines and moneys derived from this chapter shall be paid into the cemetery fund.

ARTICLE II. GWINNER CEMETERY ASSOCIATION.

20-201. RECOGNITION OF GWINNER CEMETERY ASSOCIATION.

The City Council of the City of Gwinner herewith recognized the existence of an incorporated association known as the Gwinner Cemetery Association to which the City has heretofore lease to and placed in supervision of Gwinner Cemetery. For and during the time that said association is a legal entity and assumes its duties and obligations the City Council will permit it varied duties and functions in accordance with its rules and regulations and its bylaws, subject only to hereinafter stated reservations and qualifications:

1. The City Council of Gwinner reserves unto itself final and arbitrary right to Gwinner Cemetery, and may fix rules and regulations by resolution or Ordinance distinct and apart from any rules and regulations or By-Laws of any other cemetery association or organization, and
2. The Gwinner Cemetery Association, or any other association may undertake their duties and functions accepting the paramount rights of the City Council of Gwinner in relation to the Gwinner Cemetery, and subject to any further rules and regulations the City Council may in its best discretions adopt.
3. The City Council reserves the right to approve, accept, adopt, reject, or modify any rules and regulations, or By-Laws, promulgated by the Gwinner Cemetery Association.
4. The City Council will. permit the Gwinner Cemetery Association to conduct the cemetery affairs provided (a) That all state laws and city ordinances applicable to cemeteries are adhered to by said Association; (b) That said association is and continues on a recognized legal basis; and (c) No such confusion. representations, or divergences occur as to make it manifest to the City Council that said association cannot operate or conduct itself to the best interests of the City Cemetery.

ARTICLE III. PENALTY

20-301. PENALTY FOR VIOLATION OF CHAPTER. Any person, firm,. or corporation violating any of the terms or provisions of this chapter shall upon conviction be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or imprisonment not to exceed Thirty (30) days, or by both such fine and imprisonment in the discretion of the court; the court to have power to suspend said sentence and to revoke the suspension thereof.