

CHAPTER 913: CEMETERIES

Section

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Statutory reference:

Allowing for burials to be prohibited, see R.C. § 759.05

Union cemeteries, see R.C. § 759.27

§ 913.01 RULES FOR LOT SALE AND BURIAL.

The rules and regulations for the operation of the municipal cemeteries within the City of Brecksville shall be as follows, and as provided in other applicable sections of this Chapter:

(a) Cemetery lots, burial spaces, graves, and columbarium niches may be sold only to persons or their estate representative who on the date of purchase are, or were, and for one (1) year or more next preceding such date have or had been bona fide residents of the municipality or on such date are, or were, and for one (1) year or more next preceding such date have or had been owners of real property located in the municipality, except that no more than one (1) burial space may be sold to any other person and only for the sole purpose of burying therein the deceased spouse of any person then buried in the same cemetery or for the sole purpose of burying therein any former elected or appointed official of the City of Brecksville.

(b) Only the following persons may be buried in any of the cemeteries maintained by the municipality: The owner of record or qualified grantee of any cemetery lot, grave or burial space therein, columbarium niche, his or her parents or grandparents, children and grandchildren, and any person who at the date of his or her death is the husband, wife, daughter-in-law or son-in-law of the owner of record, whether then living or deceased, and any blood relative of

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such record owner.

(c) Upon the death of an owner, it is the duty of the heirs, devisees to file with the Sexton of Cemeteries competent proof of their right to the continued use and ownership of the cemetery lot, grave or columbarium niche. Further burials may not be permitted until such proof is presented and accepted.

(d) The Mayor, upon the approval of a majority of the members elected or appointed to Council, may waive the provisions of Subsections (a) and/or (b) hereof upon the express finding of the existence of extenuating or mitigating circumstances, which, in the sole discretion of the Mayor and Council, warrant the waiver of either or both of such Subsections.

(e) The owner of any cemetery lot, grave or burial space, or columbarium niche, may at any time convey same to the municipality and receive therefor the original purchase price paid, but no owner of any cemetery lot, burial space or grave, or columbarium niche, shall sell or offer the same for sale except to this municipality.

('64 Code, § 913.01) (Ord. 2919, passed 11-3-87; Am. Ord. 3986, passed 10-15-02; Am. Ord. 4068, passed 11-18-03) Penalty, see § 913.99

§ 913.02 LOT OWNERSHIP, BOUNDARIES AND SIZE.

(a) The deed or certificate of ownership to any cemetery lot, grave or burial space, columbarium niche, in any municipal cemetery conveys only the right of burial as provided in § 913.01(b) of this Chapter. The title to the land remains in the municipality and its successors or assigns. When a cemetery lot, grave or burial space, or columbarium niche is conveyed to two (2) or more persons, they shall have equal rights of burial therein. All cemetery lots, graves or burial spaces, columbarium niches in any of the municipal cemeteries are exempt from taxation and cannot be seized for debt nor attached by any process at law and cannot be mortgaged.

(b) No sale, transfer or assignment of the certificate of ownership or deed of any cemetery lot shall be valid without the consent thereto of the Service Director. When any person acquires a lot by transfer, the deed or certificate of ownership shall be presented to the Director of Public Service for a proper record thereof.

(c) The municipality shall retain control and supervision of all cemetery lots, graves, burial spaces, or columbarium niches which have been sold. It shall be the duty of the Director of Public Service to enter upon any such cemetery lot, grave or burial space and modify or remove any structure, object, planting or adornment on such cemetery lot, grave or burial space which may have been erected or placed thereon in violation of the rules and regulations governing the cemetery.

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(d) The ownership of a deed or certificate of ownership to any cemetery lot, graves, burial space, or columbarium niche in any municipal cemetery does not confer any right to do any planting or to erect any monument, headstone, mausoleum, monumental vase or any other structure thereon, except in accordance with the rules and regulations of as approved by City Council.

(e) If any permanent planting of trees or shrubbery by the owner of any cemetery lot, graves or burial space shall be approved by the Director of Public Service, the trees or shrubs shall become the property of the municipality. If any tree or shrub standing on any cemetery lot, graves, burial space shall by reason of disease or decay or by means of its roots or branches or otherwise become detrimental to adjacent lots, walks or driveways, the Director of Public Service shall cause the removal of such tree or shrub or any part thereof as in his or her sole judgment may be necessary.

(f) The boundaries of all cemetery lots or graves in the municipal cemeteries are designated by cornerstones set by the municipality. The locations of any cornerstones shall not project above the surface of the ground.

(g) A cemetery lot in Sections 3 and 4 of the Highland Drive Cemetery shall consist of four (4) burial spaces. One (1) or more burial spaces in any cemetery lot may be sold to any person permitted under this chapter to purchase a cemetery lot, burial space or grave. ('64 Code, § 913.02) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02) Penalty, see § 913.99

§ 913.03 LOT SALE PRICE; TERMS OF PAYMENT.

(a) The price of graves in any of the cemeteries owned by the municipality, except for sections of the Highland Drive Cemetery, shall be \$275 per grave space, except in the Baby Section, which shall be \$40 per grave space.

(b) In Section 5 of the Brecksville Highland Drive Cemetery, the prices for interment spaces are as follows:

(1) Cremation graves (3' x 3') shall be \$225 per grave. A cremation grave may contain no more than two (2) cremation urns placed one (1) above the other.

(2) Graves which are permitted to have only flush headstones shelf shall be \$325 per grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement.

(3) Graves which are permitted to have raised markers shall be \$450 per

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grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement. A flush headstone in lieu of a raised marker may be permitted on these graves.

(4) Graves which are permitted to have upright monuments (a monument being a structure consisting of two (2) components) shall be \$500 per grave. One (1) cremation urn shall be permitted to be placed in the same grave with one (1) casket regardless of the order of placement. A raised marker or flush headstone in lieu of an upright monument may be permitted on these graves.

(5) A niche in a columbarium shall be \$500. This niche may contain not more than two (2) cremation urns.

(6) Graves that are designated for the use of monuments may be converted into raised marker graves.

(7) Full sized graves may contain no more than two (2) cremation urns in lieu of containing a casket.

(c) When any sale or authorized transfer of a cemetery lot or grave space is made, the municipality shall give a deed in conformity with R.C. §§ 517.07 through 517.11 and 759.14 through 759.17, conveying only the burial rights provided for by this chapter and not ownership of the lot or grave space described therein.

(d) All lots shall be paid for in cash at the time of purchase.
(‘64 Code, § 913.03) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 3986, passed 10-15-02)

§ 913.04 GRADES AND PLANTING.

(a) The grade of all cemetery grounds shall be established by the municipality. The Director of Public Service shall, as nearly as practicable, bring the surface of all cemetery lots, graves or burial spaces to the existing established grades.

(b) An owner of any cemetery lot, grave or burial space shall not be permitted to change the grade of any cemetery lot, grave or burial space to conform to a raised marker, monument or for any other purpose.

(c) No fences, walls, hedges, posts, chains, curbing or enclosures of any kind around any cemetery lot, grave or burial space shall be permitted.

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(d) No plants, shrubs, trees, potted plants, benches, chairs or planters, trellises, candles, statues or other items shall be permitted on any grave or burial space. A wooden cross, the size and location of which as approved by the Director of Public Service, is permitted as a temporary marker for a period not to exceed one (1) year from the date of burial. The use of flower receptacles projecting above ground level are prohibited. Only ground level metal bouquet holders of the kind and size available at the office of the Director of Public Service may be used. In Section 5 of the Highland Drive Cemetery, annual flowers may be planted in mulched headstone/marker/ monument areas within the boundaries of an owner's cemetery lot or grave. All holiday decorations, religious symbols and wreaths may be placed no earlier than thirty (30) days prior to a national or religious holiday and must be removed within thirty (30) days after such national or religious holiday.

('64 Code, § 913.04) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02) Penalty, see § 913.99

§ 913.05 INTERMENTS; RULES AND CHARGES.

(a) No interment may be made unless the body or remains is accompanied by a burial permit.

(b) The location of graves upon a cemetery lot shall be designated by the Director of Public Service.

(c) The charge for interment, opening and closing of a grave, providing green carpet, the use of a mechanical lowering device and the final leveling and seeding of the grave site shall be as follows:

(1) For a grave in the Baby Section the charge shall be \$100 per grave.

(2) For a full-sized grave the charge shall be \$200 per grave.

(3) For burial of remains in the case of cremation the charge shall be \$100. For the placement of remains in a niche of any columbarium the charge shall be \$100.

(4) An additional fee of \$200 shall be required for Saturday and holiday burials and \$100 for the burial or placement of a cremation urn.

(5) When a body is to be exhumed the fee will be as determined by the Director of Public Service and payable at the time the request for exhumation is made.

(d) All burials shall be in graves equipped with concrete vaults constructed in accordance with specifications on file in the office of the Director of Public Service, and

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installed by persons skilled in such work. In the case of cremations, all burials shall be in crematory urns constructed so as to constitute an air-tight, water-tight container.

(e) All charges for the opening and closing of a grave are due and payable when the request is made. Unless special permission is obtained from the Director of Public Service, two (2) days' notice is required for the preparation of a grave.

(f) Interments on Sunday are not permitted except with the approval of the Director of Public Service.

(g) No more than one (1) casket shall be placed in one (1) burial space or one (1) grave, and no more than four (4) crematory urns shall be placed in one (1) grave site, except as provided in § 913.03(b)(7) of this Chapter.

('64 Code, § 913.05) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 2702, passed 2-21-84; Am. Ord. 3986, passed 10-15-02)

§ 913.06 DISINTERMENTS.

Notice shall be given to the Cemetery Sexton of a desire to disinter a body or other remains. The date and time of such disinterment shall be at the discretion of the Director of Public Service. A disinterment may only occur if the Cemetery Sexton is first provided in writing the appropriate consent or authority to perform such disinterment in accordance with the following:

- (a) Upon the issuance of a court order from a court of competent jurisdiction.
- (b) The duly appointed Administrator of the estate of the individual sought to be disinterred.
- (c) The surviving spouse of the deceased.
- (d) In the event there is no surviving spouse, then an adult child of the deceased provided that all other surviving adult children of the deceased consent in writing to such disinterment.
- (e) In the event there is no surviving spouse or surviving adult children, then the parent of the deceased provided that the other surviving parent of the deceased consents in writing to such disinterment.
- (f) No other individual, who is not listed in subsection (b) through (e) of this section, shall be entitled to disinter the body or remains of any individual in the absence of court order

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from a court of competent jurisdiction.
(Ord. 3986, passed 10-15-02)

§ 913.07 MONUMENTS AND HEADSTONES.

(a) No monument may be erected or placed in any municipal cemetery until its size and proposed location upon any cemetery lot, grave or burial space shall have been approved by the Director of Public Service.

(b) Monuments, monumental urns, headstones and markers shall be set with reasonable uniformity of as to line, grade and setting. To maintain such uniformity the Director of Public Service may reset any such structure at the expense of the municipality. The location of headstones or other markers on smaller lots shall be as designated by the Director of Public Service.

(c) No monument shall be placed nearer than one (1) foot to the boundary line on the cemetery lot or grave on which it stands. Its base shall not exceed one-half (½) of the width of the cemetery lot or grave nor more than twenty-five percent (25%) of the area of the cemetery lot or grave. The foundation for all monuments, headstones or markers shall be of like construction and built under the direction of the Director of Public Service. The cemetery lot or grave owner shall pay for the construction of the foundation at the rate of \$15 per square foot, with a minimum charge of \$30. Payment shall be made when the request is made.

(d) No headstone shall be placed nearer than six (6) inches to the cemetery lot line or grave border. The cemetery lot or grave owner shall pay a fee of \$30 for the base and setting of an individual marker not over twenty-four (24) inches long; a fee of \$45 for the base and setting of a double headstone up to thirty-six (36) inches long; and a fee of \$60 for the base and setting of a double headstone forty-eight (48) inches long.

(e) Only one (1) headstone or grave marker may be placed upon any one (1) grave, except in the case of an approved military headstone, and no headstone or marker more than twenty-four (24) inches long or more than twelve (12) inches wide may be used in any cemetery. The location of any headstone or marker shall first be approved by the Director of Public Service.

(f) No monuments, headstones or markers shall be set in any of the cemeteries between May 20 and May 31, inclusive, of each year. In Sections 3 and 4 of the Highland Drive Cemetery, all headstones or markers hereinafter installed shall be granite or bronze flush with the ground surface to meet cemetery regulations.

(g) In Section 5 of the Highland Drive Cemetery:

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(1) Only single, flush headstones or flush markers shall be permitted on graves in the cremation section.

(2) All plaques on columbarium niches shall be of uniform design as determined by the Cemetery Sextant. The cost of engraving the columbarium plaque is included in the purchase price of the niche.

(3) Flush headstones shall conform with subsection (e) listed above; raised headstones markers and monuments shall not be wider than twelve (12) inches.

(4) A minimum of two (2) graves located directly contiguous to each other must be purchased to erect a monument. The length of the monument shall not exceed six (6) feet; if six (6) graves located directly contiguous to each other, are purchased, the length of the monument shall not exceed eight (8) feet.

(5) There shall be a height limit of six (6) feet for all raised headstones, markers and monuments.

(6) Where there is a monument which contains only the last name of the family, a single, flush head or foot stone may be placed on a burial space with the individual's name and dates of birth and death.

('64 Code, § 913.06) (Ord. 2236, passed 7-6-76; Am. Ord. 2511, passed 8-5-80; Am. Ord. 3986, passed 10-15-02) Penalty, see § 913.99

§ 913.08 RULES OF CONDUCT.

(a) Cemeteries are established for the burial of the dead and to perpetuate their memory. All visitors shall respect the solemnity of the municipal cemeteries.

(b) No person shall discharge firearms within any municipal cemetery, except at military funerals, Memorial Day exercises or other occasions approved by the Director of Public Service.

(c) No hunting of any kind is permitted within the limits of any municipal cemetery.

(d) All persons are prohibited from cutting or removing any plants or flowers, whether wild or cultivated, in any municipal cemetery and are further prohibited from cutting, trimming or injuring any tree or shrub or marring any monument or landmark or in any way defacing the cemetery grounds.

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(e) No person shall deposit any debris or waste material of any kind at any place within the municipal cemeteries except in receptacles provided therefor.

(f) The placing of any advertisement of any nature anywhere within a municipal cemetery is prohibited.

(g) The use of bicycles in all cemeteries is prohibited. The speed of motor vehicles within the cemeteries shall not exceed fifteen (15) miles per hour.

(h) No animals of any kind, except for guide dogs or other animals used in the assistance of disabled individuals, are permitted within any of the municipal cemeteries.

(i) Only vehicles of those people who are visiting or working in the municipal cemeteries are permitted. All vehicles shall be parked so that all tires of such vehicles shall be located on the hard surface of the cemetery roadway.

(j) No person shall enter upon any municipal cemetery grounds during the hours from sundown to sunup except upon written permission of the Director of Public Service. Any person found within any municipal cemetery grounds during such hours without written permission of the Director of Public Service shall be prima-facie guilty of trespass, and upon being found guilty thereof shall be subject to punishment as provided in § 913.99 of this chapter. ('64 Code, § 913.07) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02) Penalty, see § 913.99

§ 913.09 POLICE POWERS OF DIRECTOR OF PUBLIC SERVICE.

The Director of Public Service is hereby appointed as a special police officer of the municipality with full power and authority to enforce the laws of the state and this chapter in and about the municipal cemeteries, and is authorized to arrest without warrant and bring before the proper authorities any person he or she may find violating state law or the terms of this chapter. This section shall in no way limit the power or authority of police and other authorized personnel to enforce the laws of the State of Ohio or of this municipality.

('64 Code, § 913.08) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02)

§ 913.99 PENALTY.

(a) Whoever violates § 913.07(j) of this chapter shall be deemed guilty of a misdemeanor of the first degree.

(b) Whoever violates any other provision of this Chapter or any lawful order of the

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Director of Public Service shall be deemed guilty of a minor misdemeanor.

(c) Whoever commits any other crime or other type of offense within the boundaries of any municipal cemetery not specifically mentioned in this Chapter, said individual shall be punished as may be provided in that applicable law.

('64 Code, § 913.99) (Ord. 2236, passed 7-6-76; Am. Ord. 3986, passed 10-15-02)