

Article 2. City Cemetery

12-201. Name of cemetery.

The cemetery heretofore acquired by the city and named “The Downs Cemetery” shall hereinafter be referred to in this article as the cemetery.

(Code 1963, 6-101)

12-202. Care and supervision.

The care, government and control of the Downs Cemetery shall be under the supervision and management of the governing body, who shall have full power and authority to make all rules and regulations necessary and proper in respect thereof, and no improvements upon or about any lot in the cemetery shall be made or permitted without the consent of the governing body.

(Code 1963, 6-102)

12-203. Caretaker.

It shall be the duty of the governing body to employ a caretaker for the cemetery who shall be under the charge and direction of the governing body, and whose term of employment and salary shall be subject to the will of the governing body.

(Code 1963, 6-103)

12-204. Duties of caretaker.

The caretaker shall at all times keep the cemetery in good and presentable condition. The caretaker shall have the supervision and management of the planting or removal of all plants or trees in the cemetery, and no person shall be allowed to plant any tree or plant of any kind upon any lot that would be injurious to other lots. The caretaker shall not do any special work on any lot for any individual except by direction of the governing body.

(Code 1963, 6-104)

12-205. Unlawful desecrations of cemetery.

It shall be unlawful for any person or persons to:

(a) Conduct themselves in an obscene, indecent, boisterous or improper manner, or use obscene, profane, indecent or improper language;

(b) Dig, remove or carry away any earth, sod, living flower, shrub or ornament of any kind whatsoever from the cemetery without the consent of the caretaker or governing body;

(c) Intentionally, carelessly, wantonly or maliciously mark the face of or destroy any markers, tombstones, monuments, vaults, urns, or other property in the cemetery;

(d) Leave or deposit therein any trash, rubbish, filth or other substances that may in any way interfere with the maintenance and appearance of the cemetery;

(e) Drive any vehicle of any kind whatsoever over the cemetery except upon the streets and roads laid out therein; the vehicles not to exceed a speed of 20 miles per hour;

(f) Trespass upon the cemetery grounds to dig any grave or inter any body without first obtaining written consent of the governing body at the office of the city clerk;

(g) Allow any cattle, horses, swine or other animals owned by him or her under his or her control or care or in his or her possession to stray or go upon the cemetery grounds;

(h) Conduct a picnic or party with refreshments, or discharge firearms or fireworks upon the cemetery grounds, except that firing squads will be permitted in the cemetery for ceremonial functions;

(i) To be and remain within the cemetery between sunset and sunrise, without special permission of the governing body or any city police officer.

(Code 1963, 6-105)

■ **12-206. Law enforcement power extended over cemetery.**

The law enforcement power of the city is hereby extended to and over the cemetery.

(Code 1963, 6-106; Code 2006)

■ **12-207. Interment of human bodies only.**

Only human bodies shall be interred in the cemetery. All bodies interred in the cemetery shall be enclosed in a wooden box, metal, stone or cement burial vault and the top of such box or vault must be at least three feet below the surface of the ground. Interment shall be restricted to the immediate family of the owner or members of his or her household, unless special permission has been obtained in writing from the lot owner and filed with the city clerk.

(Code 1963, 6-107)

■ **12-208. Licensed funeral director required.**

No funeral or burial service shall be conducted in the cemetery unless supervised and directed by a duly authorized funeral director or assistant funeral director, duly licensed under the laws of the State of Kansas. All such funeral directors shall be responsible for opening and closing graves, for payment of burial permit fees for all services supervised and directed by them.

(Code 1963, 6-108)

■ **12-209. Funeral services.**

Funeral directors must so arrange the time for funerals as to be able to leave the grounds by sunset. Workmen must suspend labor if in the immediate vicinity of an interment until the conclusion of the service.

(Code 1963, 6-109)

■ **12-210. Burial permit required.**

No lot owner or other person shall inter any body in the cemetery without first procuring from the city clerk a burial permit which shall be in writing, signed by the clerk, and shall state the name, age and sex of the deceased, the disease or ailment which caused death, and the block and lot in which the interment is made.

(Code 1963, 6-110)

■ **12-211. Cost of burial permit.**

The fee for such burial permit shall be \$50.00, plus county filing fees, payable to the city clerk before such permit shall be issued.

(Code 2006; Code 2023)

█ **12-212. Fences prohibited.**

Hereafter, no fence, railing, stone or other coping shall be placed above the level of the ground around any lot, part of lot or grave.

Cornerstones must be set level with the surface of the ground. All gravestone foundations shall be built no higher than the level of the ground on the high side.

(Code 1963, 6-112)

█ **12-213. Removal of old structures.**

If any vault, tomb, mausoleum, sarcophagus, columbarium, fence, railing or similar structure erected in and upon any lot shall become dilapidated or decayed, and the structures shall be determined by the governing body to be offensive, dangerous or detrimental to the general appearance of the grounds, the caretaker shall have the right and it shall be his or her duty to cause such dilapidated structure to be removed and the bodies therein, if any, to be interred on the lot and lot graded and improved to correspond with the surrounding grounds.

(Code 1963, 6-113)

█ **12-214. Vaults, tombs, mausoleums.**

Vaults, tombs, sarcophagi, mausoleums and columbariums may be permitted; provided, that complete working plans and specifications for the same shall first be submitted to the governing body, and the site, design and construction of the structure receive the approval of the governing body. All such structures, whether built partially or entirely above the ground, must be of natural stone, and all exposed parts of granite or marble. In all cases, they must be furnished with crypts made of stone, slate or marble where interments can be made separately, and hermetically sealed.

(Code 1963, 6-114)

█ **12-215. Perpetual care of vaults, tombs, mausoleums, etc.**

Before any vault, tomb, sarcophagus, mausoleum or columbarium is erected, the proprietor must deposit with the city clerk a sum of money in the amount of 10 percent of the sale price of such edifice, the money to be invested in interest-bearing securities approved by the governing body, the income from such investment to be used for the proper care of such structure in perpetuity.

(Code 1963, 6-115)

█ **12-216. Inscriptions.**

No monument, vault, tomb, effigy or any structure whatever, nor any inscription thereon, which shall be determined by the governing body to be improper, shall be placed in or upon any lot.

(Code 1963, 6-116)

█ **12-217. City clerk; sale of burial lots.**

The city clerk shall be in charge of the sale of burial lots in Downs Cemetery, and shall sell the lots for cash for the sum of:

(a) Single space - \$100.00;

1/2 lot (4 spaces) - \$300.00

Original and 1st addition - \$500.00,

(b) 2nd addition, 1 lot (4 spaces) - \$500.00,

(c) 3rd addition, 1 lot (4 spaces) - \$500.00,

(d) 4th addition, 1 lot (4 spaces) - \$500.00,

Upon payment, a cemetery deed shall be issued by the city clerk which shall be signed by the mayor and attested by the clerk under the seal of the city. All moneys received from the sale of lots and burial permits shall be paid to the city clerk and by him or her turned over to the city treasurer.

(Code 1963, 6-117; Code 2006; Code 2023)

12-218. Payment in full required.

No lot or grave space shall be used for the purpose of burial, nor a cemetery deed issued, until the purchase price thereof shall have been paid in full to the city.

(Code 1963, 6-118)

12-219. Reopening of graves.

Any person or persons desiring to reopen any grave in the cemetery to disinter or remove any body therefrom, or for any other purpose, shall first obtain a disinterment permit from the Kansas State Board of Health, and make written application to the city clerk requesting the right to have such work done.

(Code 1963, 6-119)

12-220. Burial of poor.

The governing body of the city shall have the authority to use any unused lots whatsoever for the burial of the poor, and burial permits therein shall be granted upon such conditions and at such prices as the governing body shall determine.

(Code 1963, 6-120)

12-221. Planting in cemetery.

No person shall plant any bushes, shrubs or trees in the Downs City Cemetery, without having first obtained written consent of the governing body.

(Ord. 681, Sec. 1; Code 1990)

12-222. Endowment fund.

The owner or purchaser of any lot in the cemetery or any other interested person, may pay to the city clerk any sum of money, with the income from the investment of such fund to be used for the perpetual care and upkeep of the cemetery, and the sum will be placed in the perpetual care fund. No part or portion of the principal of such fund ever shall be used, but such fund shall be invested in safe interest-bearing securities, as the governing body shall select, and as provided by law, and the interest and income only shall be used and expended for the purpose of beautifying, repairing and keeping in order the cemetery.

(Code 1963, 6-202)

12-223. Certificate for perpetual care.

To each person making an endowment for the perpetual care of the cemetery, the city clerk shall issue a certificate with the seal of the city affixed, which shall read substantially in the following form:

“We do hereby certify that ____ has paid to the City of Downs, Kansas, to aid in the perpetual care of the Downs Cemetery, in consideration whereof the interest and income, which shall be obtained from the investment of such sum, shall hereafter as occasion may require be expended for the upkeep and care of the cemetery.”

(Code 1963, 6-203)

■ **12-224. Recording.**

The city clerk shall cause to be entered in a register that shall be kept for that purpose at the office of the city clerk, the name of the person paying any such money under this article.

(Code 1963, 6-204)

■ **12-225. No repayment of funds.**

In no event shall the city be liable to repay the principal sum received under the provisions of this article, or any income therefrom, but shall be liable only for the faithful discharge of the trust imposed by this article.

(Code 1963, 6-205)