

## ORDINANCE 218

### BIRD ISLAND CEMETERY ORDINANCE

THE CITY COUNCIL OF THE CITY OF BIRD ISLAND, RENVILLE COUNTY, MINNESOTA ORDAINS:

#### **SECTION 1. DEFINITIONS.**

**City.** The City of Bird Island, Minnesota, owning and controlling the cemetery.

**Cemetery.** A tract of land used for burials.

**Burial Permit.** Legal written permission for burial to occur.

**Burial Vault.** A container that houses a casket for final interment in the cemetery.

**Interment.** Disposition of human remains or cremains by burial.

**Memorial.** A monument or marker bench (marked).

**Monument.** A memorial of granite or other approved material that extends above the surface of the lawn.

**Marker.** A memorial of granite or other approved material that does not extend above the surface of the lawn.

#### **SECTION 2. ESTABLISHMENT.**

A cemetery has been established and continued upon land owned by the City of Bird Island, Minnesota, and described as Bird Island Cemetery, City of Bird Island. The plat of the cemetery filed with the county recorder in Renville County, Minnesota, is adopted as the official plat of the cemetery. No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of dead except in Bird Island Cemetery, or some other tract of land duly designated as a cemetery.

#### **SECTION 3. SALE OF LOTS.**

The prices of cemetery lots and services will be set by Resolution of the City Council. Any person paying for a lot is entitled to a license agreement conveying the lot. A license agreement conveying a lot gives the purchaser only the right of burial therein and shall be considered as a license that restricts the use to burial purposes. The City Council by Resolution may periodically alter the forgoing fees to accommodate increased cost and needed reserve funds for cemetery maintenance and acquisition.

Lot sizes shall be four (4) feet wide, eight (8) feet long, six (6) feet deep.

Lot fees shall be two hundred (200) dollars lot fee and one hundred (100) dollars perpetual care for a total of three hundred (300) dollars for City residents and four hundred (400) dollars lot fee and one hundred (100) dollars perpetual care for a total of five hundred (500) dollars for non-residents.

#### **SECTION 4. CONDITIONS OF LOT PURCHASE.**

All lot agreements are subject to reasonable rules and regulations as the Council may adopt relative to the use of the cemetery. No lot shall be used for any purpose other than the burial of human remains and the placing of memorials as permitted by this ordinance or any additional regulation that the Council may provide.

#### **SECTION 5. HANDLING OF FUNDS.**

All money received from the sale of lots and other services must be paid to the City of Bird Island. No lot agreement to any cemetery lot shall be issued, nor any cemetery service performed until a receipt showing payment to the City of the cost thereof is exhibited to the person who issues the deed or performs the services. All money received from the sale of lots and performance of services shall be placed in the cemetery fund. The fund may be used only for payment of the purchase price of grounds or maintenance and improvements to the cemetery. The Administrator shall keep an account of all receipts and disbursements of money belonging to the cemetery fund and shall pay money out of the fund as approved by the City Council.

#### **SECTION 6. BURIAL PERMITS.**

Before any interment, a burial permit shall be obtained from the funeral home of State Registrar of Vital Statistics. No interment shall be made unless the City is notified and a copy of such burial permit is filed with the City. Within thirty-six (36) hours after the death of any person in the City and before the body is removed for burial within the City, the mortician, funeral director, or person having charge of the interment shall apply for the permit. This application shall be accompanied by a death certificate as prescribed by the Minnesota Department of Health. No burial permit shall be issued until the application and death certificate is completed and presented. The body of a deceased person shall not be brought into the City for burial unless accompanied by a death certificate and permit for removal issued by the registrar of the registration district wherein the death occurred.

#### **SECTION 7. INTERMENTS**

(a) Permission in writing from a lot owner must accompany all requests for permission to bury bodies of persons that are not members of the immediate family of the lot owner. All excavations shall be made under the direction of the cemetery superintendent. When graves are requested to be dug by the superintendent or his agents, at least twenty-four (24) hours notice shall be given, and the outside dimensions of the case to be used and the location shall be specified. No interment may be made in the cemetery unless all laws, ordinances, rules, and regulations regarding interments have been complied with and until purchase price of the lot and all burial fees are paid.

(b) All buried cremations shall be in reinforced tin, metal, marble, concrete vaults or equivalent material as approved by the cemetery supervisor. No wooden vaults are allowed.

(c) No person shall scatter cremains in the City Cemetery. Above ground cremation urns shall not be allowed.

(d) No burials shall be allowed in the City Cemetery for other than human remains unless a written request is approved by the City Council.

(e.) Burials in the City Cemetery will be in a manner that the male is buried on the south side and the female is buried on the north side of the double lot.

#### **SECTION 8. BURIAL VAULTS.**

All caskets must be encased in a permanent type burial case or vault. Fiberglass vaults are prohibited.

#### **SECTION 9. FUNERAL SUPERVISION.**

All funerals, on reaching the cemetery, shall be under the supervision of cemetery management.

#### **SECTION 10. DISINTERMENT AND REMOVAL.**

Before any grave may be opened, written permission of the lot owner and the next of kin shall be filed with the cemetery superintendent, a permit from the county health officer shall be secured and presented, and the required fees paid. This provision does not apply when disinterment is ordered by a duly authorized public authority.

- (a) Removal of a body by the heirs so that the lot may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original lot owner is forbidden.
- (b) A body may be removed from its original lot to a larger or better lot in the cemetery when there has been an exchange or purchase for that purpose.
- (c) The City shall assume no liability for damage to any casket or burial case in making the disinterment and removal.

#### **SECTION 11. TRANSFER OF LOTS.**

No cemetery lot or fractional lot may be resold or otherwise disposed of, except by will, without the approval of the City Council, in accordance with the procedures outlined in Minn. Stat. 306.15.

#### **SECTION 12. CITY REPURCHASE OF UNUSED CEMETERY LOT.**

A lot owner may sell his or her unused lot back to the City. The City may purchase the lot, and will purchase at fifty (50) percent of the original cost per recommendation of the Cemetery Board and approval of the City Council.

#### **SECTION 13. CONDUCT OF PERSONS IN THE CEMETERY.**

- (a) No person may discharge any firearm within the cemetery grounds without written permission of the superintendent.
- (b) No person may remove any object from any place in the cemetery or make any excavation without the written permission of the superintendent.
- (c) No person may obstruct any drive or path in the cemetery or in any way injure, deface, or destroy any structure, grave, flower, tree, or other thing in the cemetery.
- (d) No person may drive any vehicle at a speed exceeding ten (10) miles per hour. All automobiles must be kept off the grass.
- (e) No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.
- (f) No person may enter or leave the cemetery except at the entrances provided.
- (g) No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes relating to the cemetery.

(h) Children shall not be permitted to engage in playing within cemetery grounds, and children under ten (10) years of age shall not be admitted to the grounds unless accompanied by an adult, who shall be responsible for their conduct while therein.

(i) Animals must be on a leash and under control at all times.

#### **SECTION 14. MONUMENTS AND MARKERS.**

All monuments and markers shall be placed in the space shown on the cemetery plat or as directed by the superintendent. No monument may be placed on a lot platted for less than one (1) traditional or two (2) cremorial burials. No monument or marker may be placed unless the location has been approved by the superintendent and the full purchase price of the lot has been paid. Monuments and markers must be constructed of granite, marble, or bronze material. The base area of monuments shall not exceed fifty (50) percent of the lot area nor shall the height exceed zero (0) inches above the ground surface.

Single markers shall consist of one piece and shall not be less than sixteen (16) inches nor more than forty-eight (48) inches in width nor less than six (6) inches in height and shall not exceed thirty-six (36) inches in height above the ground surface. Double markers shall not exceed forty-eight (48) inches in length. Other dimensions of double markers shall be the same as for single markers. All headstone's vertical extensions must be within the base perimeter. These restrictions shall not apply to monuments provided by the federal government. Larger ornamental monuments and markers (tear drop, candle, statues, etc...) require approval from the cemetery board.

Monuments will be placed in a manner that the surname may be placed on one or both sides. Monuments with birth dates and death dates shall be placed: (A) on the east side with the male on the south side and the female on the north side. Or: (B) vertically on the east side in a manner that either the male or female be above or below.

Foot markers shall be placed at the east end of the plot.

#### **SECTION 15. FOUNDATIONS.**

All monuments and markers shall be placed on foundations of solid masonry at a depth and size to be determined by the cemetery superintendent. Markers of the base of a monument shall not extend over the foundations more than one-half inch. The top of all foundations shall not be higher than two inches below the established grade. The City reserves the right to excavate and build all foundations.

#### **SECTION 16. INSTALLATION OF MONUMENTS AND MARKERS.**

Upon placement of an order for a monument, the lot owner or monument salesperson shall furnish the dimensions of the proposed monument to the cemetery superintendent, who in turn will authorize the construction of the foundation and all charges must be paid before the monument is placed thereon.

(a) Persons engaged in erecting monuments and other structures shall provide adequate planking to protect turf and shall remove all materials, equipment, and refuse immediately upon completion of the work.

(b) Scattering of materials on adjoining lots, or leaving materials on the ground longer than absolutely necessary is prohibited. In all cases the work is subject to the control of the cemetery superintendent and work must be conducted within the regulations of the cemetery.

#### **SECTION 17. DECORATION OF LOTS.**

(a) Plants, shrubs, and flowers may be placed on cemetery lots in areas designated by the cemetery superintendent. No trees or vines may be planted, nor may fences be erected. The City reserves the right to remove any tree, shrub, vine, plant, or flower that may become unsightly, dangerous, or not in keeping with the landscape design of the cemetery. The City shall not be responsible for damaged, lost, or misplaced flower containers.

(b) The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass, wood or iron cases, and similar articles upon lots shall be permitted only during the mourning period of no more than 15 days; if such items are placed, the City may remove them.

(c) The City reserves the right to remove all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the owner whenever any of these objects become unsafe.

**SECTION 18. HOURS.**

The cemetery will be open to visitors during the hours of dawn to dusk. Permission to enter at other times may be secured from the superintendent.

**SECTION 19. PENALTY.**

Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to fines as set by the court.

**SECTION 20. WINTER BURIALS.**

The cemetery shall, as far as possible, provide for burials at all times of the year including winter. The cemetery shall make additional charges up to one hundred fifty (150) dollars for the actual cost of a burial during difficult weather. The City Council by Resolution may periodically alter the forgoing fee to accommodate increased costs.

**SECTION 21. DISCLAIMER.**

The City disclaims all responsibility for loss or damage from causes beyond its reasonable control, and from damage caused by the elements, Acts of God, thieves, vandals, malicious mischief, explosions, riots or order of any military or civil authority, whether the damage is direct or collateral.

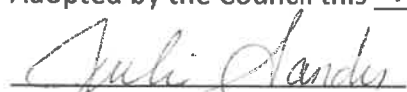
**SECTION 22. SEVERABILITY.**

The provisions of the within Ordinance are hereby declared to be servable and should any provision, section or part thereof be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of such Ordinance which shall continue in full force and effect.

**SECTION 23. REPEAL**

All ordinances and provisions of any ordinances inconsistent with this ordinance are hereby repealed.

Adopted by the Council this 10 day of Dec., 2018.

  
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Mayor

Attest:

  
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City Administrator