

## **CHAPTER 12**

### **CEMETERIES**

#### **ARTICLE I. ESTABLISHMENT AND FUNDING**

##### **Section 12-1 Establishment of Town Cemeteries**

- a) The Town hereby establishes and endeavors to operate and maintain cemeteries on certain parcels of land owned by the Town and located within the Town's jurisdiction. Said parcels are commonly described as follows:
  - 1) Cedarwood Cemetery;
  - 2) Cedarwood Cemetery Addition;
  - 3) Cedarwood Cemetery Phase III; and
  - 4) Roadside Cemetery.
  
- b) The combined parcels of Cedarwood Cemetery, Cedarwood Cemetery Addition and Cedarwood Cemetery Phase III shall be established as Cedarwood Cemetery and the Roadside Cemetery parcel shall be established as Roadside Cemetery.

##### **Section 12-2 Operation of Town Cemeteries**

The Town Manager shall supervise cemetery operations in a manner consistent with this chapter and policies established by the Town Council.

##### **Section 12-3 Funding of Cemetery Operation and Maintenance**

The development, operation and maintenance costs of Town-owned cemeteries shall be paid for from revenues derived from the sale of lots in the cemeteries and other revenues as provided for by the Town Council. A cemetery fund known as the Perpetual Care Fund shall be established in the town budget to account for revenues and expenditures.

##### **Section 12-4 Establishment of Perpetual Care Fund**

A fund, to be known as the Perpetual Care Fund, for the purpose of perpetually caring for and beautifying the city cemeteries is hereby established. The Town Clerk may accept gifts and bequests to the fund upon such terms as the donors may prescribe, and there shall be set aside for the fund all of the annual proceeds of sales of cemetery lots, less \$5,000 in annual lot sales revenue or actual lot sales whichever is less. The principal of the Perpetual Care Fund shall be invested in the same manner as other Town funds and for the purpose of perpetual care of individual lots and for the general purpose of maintaining, improving and beautifying the Town- owned cemeteries.

### **Section 12-5 Establishment of Monument Maintenance Fund**

A portion of the Perpetual Care Fund, to be known as the Monument Maintenance Fund, shall be maintained by the Town for the purpose of repairing damage to monuments whose owners cannot be located. The Town Clerk shall account for 10% from the sale of each cemetery lot sold within a Town-owned or Town maintained cemetery to be included in the Monument Maintenance Fund. The principal of the Monument Maintenance Fund shall be used to repair substantially damaged monuments that are reasonably repairable and shall not be used to replace monuments.

## **ARTICLE II. BURIALS AND INTERMENTS**

### **Section 12-6 Interments Not to Be Made Except in Cemetery**

No person shall bury or inter a human corpse within the Town limits except in a cemetery.

### **Section 12- 7 Interments Only of Human Remains**

No person shall bury or inter any body, corpse or cremains of any creature other than that of a human being in any Town-owned or Town-maintained cemetery.

### **Section 12-8 Permission required for burials, placing improvements, etc: burials generally**

- a) No person shall bury any corpse; dig a grave; plant any tree, shrub, bush, vine or plant; erect or place any fence, curb stone, monument or other improvement or obstruction of any kind; or remove any of the aforesaid articles; or open any grave or make changes of any kind in any Town-owned or Town-maintained cemetery, without first obtaining the consent and permission of the Town Manager or the Town Manager's designee.
- b) Any person who shall bury a corpse in any Town-owned or Town-maintained cemetery without first having obtained the Town Manager's consent and permission or having met all requirements of this Chapter and any other applicable local, state or federal law shall be subject to the fines and penalties established by the Town's ordinances for each offense.
- c) Only one (1) interment allowed per lot; except that, upon request, the Town Manager or the Town Manager's designee may grant a permit to inter a second corpse in the same lot provided the first interment shall have been, or is, of such depth so as to accommodate more than one casket and vault and provide a depth of not less than two feet between the top of the second casket and vault and the top of the ground.

- d) Interment of two (2) cremains, or two (2) infant remains, will be allowed in a single lot.

**Section 12-9 Grave Openings**

All grave openings shall be conducted and made by a licensed funeral director only after obtaining proper grave opening permission from the Town Manager or the Town Manager's designee.

**Section 12-10 Vault or Grave Liner Required**

All bodies interred in the cemeteries of the town shall be interred in a concrete vault or grave liner.

**ARTICLE III. MAINTENANCE OF LOTS, MONUMENTS AND FIXTURES**

**Section 12-11 Alteration and Changes to Lots**

No person shall make any change or alteration in or on any lot without written consent of the Town Manager or the Town Manager's Designee pursuant to Section 12-7(a) of the Chapter. This restriction shall not apply to the placement of appropriate flowers and other appropriate items, which are typically placed at a gravesite to remember and celebrate the deceased.

**Section 12-12 Coping, Curbing and Fencing**

No person shall place, install, construct or maintain any coping, curbing, fencing, or other similar border around any lot.

**Section 12-13 Walks and Pathways**

No person shall create, construct or maintain any walks or pathways other than those established by the Town.

**Section 12-14 Removal of Unsightly or Undesirable Items**

Any toy, trinket, vase, jar, tin can or anything, which is determined unsightly or undesirable by the Town, shall be moved or removed without notification.

**Section 12-15 Persons Authorized to Perform Work**

No person shall perform any work on any lot, monument, fixture or other portion of any Town-owned or Town-maintained cemetery except the following: (i) Town employees acting in their employed capacity on Town business; (ii) contractors secured by the Town and authorized by the Town to enter a cemetery contrary to perform work; (iii) licensed funeral directors acting in their capacity as such; (iv) employees or authorized personnel of a monument company which holds a monument work permit issued by the Town Manager; and/or (v) emergency or public safety personnel acting in their official capacity.

This provision shall not apply to the placement of appropriate flowers and other appropriate items, which are typically placed at a gravesite to remember and celebrate the deceased or for those owners and family members who wish to maintain the grass on their lots.

**Section 12-16 Approval of Monument Setting**

All monuments must be approved as to the setting by the Town Manager or the Town Manager’s designee.

**Section 12-17 Limitation on Size of Monuments**

No monument shall be larger in width than the lot on which it is placed, except that two (2) or more contiguous lots in common ownership may use one (1) monument not to exceed the width of the lots in common ownership.

**Section 12-18 Removal of Items Placed at Gravesites**

All perishable items placed at any gravesite within a Town-owned or Town-maintained cemetery, including, but not limited to live flowers, wreaths, and other perishable items typically placed at a gravesite to remember and celebrate the deceased, must be removed within two (2) weeks after they have been placed at the gravesite. If not so removed, the Town may remove them without notice. Non-perishable items such as artificial flowers may be removed at the discretion of the Town Manager or the Town Manager’s designee if they have become faded, unsightly, otherwise impaired or has served their usefulness.

**ARTICLE IV. PROHIBITED ACTS**

**Section 12-19 Speed Limit**

No person shall drive a vehicle in any Town-owned or Town-maintained cemetery over five (5) miles per hour, unless otherwise posted.

**Section 12-20 Entering or Leaving Cemeteries**

No person shall enter or depart from any Town-owned or Town-maintained cemetery except at the gates or other places of ingress or egress provided therefore by the Town.

**Section 12-21 Injuring or Removing Fixtures**

No person shall remove, injure, deface, mutilate or destroy any fence, railing, curb, stone, monument, structure, walk, driveway, tree, shrub, plant, flower or thing whatsoever, encompassing or within any Town-owned or Town-maintained cemetery, without first obtaining a permit from the Town Manager or Town Manager's designee.

**Section 12-22 Recreational Use of Cemetery Prohibited**

No person shall use or allow or direct any other person to use any part of a Town-owned or Town-maintained cemetery as a playground, picnic area or for any other recreational purposes unrelated to typical cemetery activities such as funerals and visiting of gravesites.

**Section 12-23 Throwing Stones or Other Missiles; Shooting Firearms**

No person shall carelessly or recklessly throw any stone or other missile or shoot any firearms within the boundaries of or within one hundred (100) feet of any Town-owned or Town-maintained cemetery, with the exception of military funerals or special occasions with Town approval.

**Section 12-24 Hours of Operation**

No person shall enter or remain within the boundaries of a Town-owned or Town-maintained cemetery except during those daylight hours between sunrise and sunset with the exception of (i) Town employees acting in their employed capacity on Town business; (ii) contractors secured by the Town and authorized by the Town to enter a cemetery contrary to this provision; (iii) licensed funeral directors acting in their capacity as such; and/or (iv) emergency or public safety personnel acting in their official capacity.

**Section 12-25 Consumption, Possession and Use of Alcohol and Illegal Drugs**

No person shall consume, possess and/or otherwise use illegal drugs and/or alcoholic beverages within the boundaries of any Town-owned or Town-maintained cemeteries.

**Section 12-26 Adoption of Rules and Regulations**

The Town Manager may, within his sole discretion, adopt such rules and regulations as are necessary to maintain or to prevent injury or damage to any Town-owned or Town-maintained cemetery or any lot, fixture or monument located within such a cemetery. Any such rules shall be maintained at the Town offices in a written form, which shall be available to any member of the public upon request.

**ARTICLE V. OWNERSHIP, TRANSFER AND CONVEYANCE OF LOTS**

**Section 12-27 Transfer of Lots by Deed**

The sale, transfer or conveyance of any lot within any Town-owned or Town-maintained cemetery shall be by deed initially issued by the Town. In no event shall any such deed be construed to convey any right, title or interest to the holder other than that of exclusive right of interment of the dead within the boundaries of the lot conveyed by said deed.

**Section 12-28 Duties of Owner**

It shall be the duty of the owner, purchaser, devisee, heir or transferee of any lot within any Town-owned or Town-maintained cemetery to ensure that his or her conveyance or transfer of the right to interment of the dead within said lot has been recorded in the records of the Town. It shall also be the duty of anyone alleging ownership of any lot within any Town-owned or Town-maintained cemetery to prove such ownership at the time that any action is to be taken by said person relating to said lot.

**Section 12-29 Reliance on Records of the Town**

The Town may rely on the records of cemetery lot transfers maintained by the Town for the purposes of the Town's recognition of the owner of such cemetery lot even if the Town's records are not consistent with the public records of Perquimans County. The Town shall have no duty to inspect or consult the public records of Perquimans County to determine ownership of any such lot. The Town shall not be held liable for mistakes made in determining the ownership of any such lot where it reasonably relied upon its own records.

**Section 12-30 Updating or Modification of Records**

An alleged owner of any lot who disputes the records of the Town with regard to the ownership of said lot may request that the Town update or modify such records upon proving ownership. In determining such ownership, the Town may require a title opinion on the cemetery lot issued by a licensed North Carolina attorney.

**Section 12-31 Issuance of Deeds**

- a) Upon selling a cemetery lot or burial space, the Town shall issue in the name of the purchaser a cemetery deed showing the lot number and the section or map number of the lot or burial space referring to a map or plat thereof. A record of the sale, the lot purchased and the name of the purchaser shall be kept in a permanent record by the Town.
- b) No deed for cemetery lot or burial space shall be issued by the Town until the full purchase price has been paid to the Town.
- c)
- d) All owners of lots, lots and burial rights granted pursuant to any deed issued by the Town for a lot within a Town-owned or Town-maintained cemetery shall be subject to this Chapter and any rules or regulations adopted by the Town Manager pursuant to Section 12-26 of this Chapter.
- e) Lot ownership shall not be transferred from one cemetery to another.

**ARTICLE VI. RIGHTS AND RESPONSIBILITIES OF THE TOWN**

**Section 12-32 Right to Ingress and Egress**

Officers, employees and designated agents and contractors of the Town shall have the right of chamber@perquimans.com ingress and egress across any lot in any Town-owned or Town-maintained cemetery.

**Section 12-33 Right to Grade Lots**

The Town reserves the right to determine, establish and change the grade of any lot located with the boundaries of any Town-owned or Town-maintained cemetery and shall not be liable for any alleged loss or damage caused thereby.

**Section 12-34 No responsibility for Theft, Loss or Damage**

The Town shall not be responsible for any theft, loss or damage done to any memorial, monument, plant vase or any other real or personal property within any Town-owned or Town-maintained cemetery.