

Midway City Council
2 February 2021
Regular Meeting

Ordinance 2021-06 /
Cemetery Regulations



**ORDINANCE
2021-06**

**AN ORDINANCE AMENDING TITLE 2 OF THE MIDWAY
CITY MUNICIPAL CODE REGARDING THE CITY
CEMETERY**

WHEREAS, the City Council of Midway City finds that certain amendments to Title 2 of the Midway City Municipal Code pertaining to the City cemetery are necessary and will serve the public interest; and

WHEREAS, the City Council now desires to amend Title 2 of the Midway City Municipal Code as set forth herein.

NOW THEREFORE, be it ordained by the City Council of Midway City, Utah, as follows:

Chapter 2.16 (Cemetery) of the Midway City Municipal Code is deleted in its entirety and is replaced as attached in Exhibit "A":

This ordinance shall take effect upon publication as required by law.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah
this day of , 20 .

	AYE	NAY
Council Member Steve Dougherty	_____	_____
Council Member Jeff Drury	_____	_____
Council Member Lisa Orme	_____	_____
Council Member Kevin Payne	_____	_____

Council Member JC Simonsen

APPROVED:

Celeste Johnson, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)

DRAFT

Exhibit A

DRAFT

CHAPTER 2.16 CEMETERY

Section 2.16.010 Conduct and Access

Section 2.16.020 Cemetery Sexton

Section 2.16.030 Burials

Section 2.16.040 Decorations and Flower Policy

Section 2.16.050 Headstone Policy

Section 2.16.060 Lot Ownership and Privileges

Section 2.16.070 Perpetual Care

Section 2.16.080 Miscellaneous

Section 2.16.010 Conduct and Access

A. Conduct. Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

B. Location and Access. The Midway City Cemetery is located at 500 South 700 West, Midway, Utah. Access to the cemetery is restricted to daylight hours.

C. Speed Limit. The speed limit is 10 miles per hour.

D. Driving and Parking. It is unlawful for any unauthorized person to drive any motor vehicle upon any cemetery lot, back over any grave, cut corners, or drive any vehicle upon any part of the cemetery which is not an established roadway.

E. Animals. It is unlawful for the owner, caretaker, custodian, or other person or persons in charge of any horse, dog, or other types of pet to allow or negligently permit animals to run at large or trespass on the cemetery grounds.

F. Off-Road Vehicles. Motorcycles and all-terrain vehicles are not permitted in the cemetery except for those used for maintenance or professional suppliers or those that are part of a funeral procession.

Section 2.16.020 Cemetery Sexton

A. Appointment. The sexton shall be appointed by the City Council.

B. Duties of the Sexton. It shall be the duty of the sexton to take charge of the City cemetery under the supervision of the Council Member assigned to the cemetery. The sexton shall be responsible for care and improvement of the grounds. The sexton will dig or cause to be dug, all graves required for burial of the dead and keep a record of the same.

Section 2.16.030 Burials

A. Human Dead. Interments are limited to human dead.

B. Ordering a Grave Opening. At the office of Midway City, arrangements for a new grave opening can be made by the funeral director or other responsible party at least 24 hours in advance of the burial. The following information is required: the name of the deceased; the place of the interment; the location, date and time of funeral services; and the name of the funeral director or mortuary.

C. Errors. Midway City will not be responsible for any mistake occurring from the lack of precise and complete instructions as to the proper space on the lot where interment is desired. When a grave on a lot cannot be opened where specified, the sexton may, at his/her discretion, open it in such location on the lot as he/she deems best and proper, so as not to delay the funeral and affect the interment.

D. Burial Permits. The sexton requires the following forms and fees prior to the opening and closing of all requested interments:

- i. A copy of the burial permit filed with Midway City;
- ii. A copy of the certified death certificate;
- iii. A copy of an intrastate transfer form (if applicable); and
- iv. Opening and closing fees paid to the Midway City Treasurer.

E. State Transit Permit: Remains sent from other states must also be accompanied by a transit permit to be filed in the Recorder's office.

F. Hours when Burials Permitted. Burials are accepted between 8:00 a.m. and 2:00 p.m., Monday through Thursday. Additional fees will be required for Friday or Saturday burials. No burials will be performed on Sundays or holidays. Additional charges may also be assessed for each hour of additional time required of City employees beyond that which is reasonable or customary.

G. Burials per Grave. The following burial options are available for a standard four by eight foot plot:

- i. One standard buried adult;
- ii. One standard buried child;
- iii. Two standard burials stacked one on top of the other with single headstone (in designated sections only);
- iv. Six cremations with single headstone;
- v. Four infant burials with single headstone;
- vi. One infant cremation placed above an existing standard adult plot with a small ground-level headstone.

H. Cremation Niche. One cremation shall be permitted within each ten inch by ten inch niche space. The name, birth date, and death date of the deceased may be engraved into the exterior stone of the niche.

I. Vaults. Other than infant vaults, all interment vaults must be made of concrete materials. A vault is required for all internments except for cremations located within the cremation niche.

J. Indigents: Indigent burial spaces shall, from time to time, be designated by the Mayor and/or sexton with the consent of the City Council for the burial of indigent persons.

K. Orientation of Graves. By convention, burial spaces are laid out in rows with the head of the grave to the west and the foot to the east. Standard individual graves measure four feet wide and eight feet long except on odd size lots. Traditional burial custom has the wife placed to the left of the husband; all exceptions must be made in writing. The sexton will assist in this process as needed.

L. Disinterment or Exhumations. Cemetery grounds are sacredly devoted to the interment or repose of the dead. In those circumstances where it is necessary to disinter or remove remains from the cemetery, all applicable laws must be complied with. The sexton will schedule and direct the exhumation after applicable fees have been paid. Consultation with a funeral director is required for this procedure.

M. Cremations. All cremations will utilize a columbarium niche or a standard four by eight foot burial plot for permanent placement of remains. Fees for niche assignment and cremation placement will be as set forth from time to time by the City Council by resolution.

Section 2.16.040 Decorations and Flower Policy

A. Flowers Placed on New Graves. Decorations or flowers placed on new graves will be removed by the cemetery crew after seven days. Special flower mementos should be removed at the conclusion of services by family members. After the grave is closed, the casket spray shall be placed at the center of the grave. Other flower containers and wreaths shall be laid in an orderly fashion around the spray with the containers extending outward. Flowers are laid down to prevent them from being windblown around the cemetery.

B. Flower Regulations. All flowers, real or artificial, must be placed in a container or attached to a monument so as to not interfere with cemetery maintenance.

C. Flower Containers. Permanent containers must be part of the marker or cast into the cement base.

D. Artificial Flowers/Fresh Cut Flowers and other Decorations. Artificial or fresh cut flowers and any other decorations will be permitted at any time, provided they do not interfere with the upkeep of the cemetery, such as grass mowing and edging.

E. Holiday Decorations. All holiday decorations will be removed after seven days.

F. Removal of Decorations. Artificial and fresh-cut floral pieces and other decorations will be removed without notice when they become unsightly.

G. Planting of Flowers, Trees, and Shrubs. The planting of any trees, shrubs, or flowers or digging or disturbing the sod within the cemetery is prohibited. Tree donations or gifts will receive designated and appropriate planting sites.

H. General Clean-up. All flowers and decorations not in permanent containers and those that are damaged or wilted in permanent containers will be removed from the cemetery during the first week of April and the fourth week of October every year. All such flowers and decorations are put in the garbage for disposal. Persons who regularly bring flowers are encouraged to wait until the spring and fall clean-ups are completed before freshening up their displays.

I. Memorial Day. Cemetery crews begin early in the spring to prepare for Memorial Day. Preparations include mowing, watering, edging, spraying, planting, and tree trimming, and require all spring to accomplish.

1. The cemetery shall be prepared and ready for decorations by the Friday afternoon before Memorial Day weekend. The sprinklers shall be turned off from the preceding Friday afternoon through the end of Memorial Day to allow for the placement of decorations.
2. The removal of decorations will begin the Monday morning following Memorial Day. Anyone desirous of picking up their wreaths or decorations should do so prior to that Monday.

J. City Responsibility. Flowers properly displayed add to the beauty and character of the cemetery. However, Midway City and the cemetery staff will not be responsible for flowers, arrangements, mementos, or other personal property left in the cemetery, or removed without permission or staff's knowledge.

Section 2.16.050 Headstone Policy

A. Ownership and Responsibilities. Headstones are personal property. All headstones within the cemetery are the property of lot owners, their heirs, or the responsible party who ordered and placed them. All care and upkeep of the headstones are the responsibility of the owner. The cemetery is maintained by City crews who exercise great care in keeping the grounds groomed. The City will not be responsible for inadvertent scratches and chips that occur from routine maintenance. Such happenings are conditions that go with the privilege of placing markers in the cemetery. It shall be unlawful for any person to place or have placed any headstone upon any lot or lots in said cemetery except under the direction and supervision of the cemetery sexton. A Soft stone, such as sandstone, is not recommended for headstones.

B. Specifications for Headstones. It shall be unlawful for any person to place or to have placed any monument on any lot in the cemetery not made of metal inlay, stone, or cement. Such monument shall be securely set in a cement foundation at least four inches deep with a cement mow strip not less than seven inches around said marker. The following are headstone size recommendations. Maximum lengths are: singles, 40 inches; doubles, 80 inches; and triples 120 inches. Maximum height is 36 inches. Maximum width is 30 inches. Any marker size that exceeds these recommendations requires written approval from the cemetery sexton.

1. Only one headstone per grave is permitted. Said headstone shall be at the head of the grave. Headstones will be placed in an orderly manner in pre-designated rows and as directed by the cemetery sexton.
2. Placement of permanent markers is encouraged to take place within one year after interment.

C. Vases. All permanent vases must be attached to the stone base or cast into the cement base with at least two inches from the edge of the cement base.

D. Obstructions. No metal ornaments, brackets, foot markers, flag poles, or other obstructions or installations, except a headstone or monument, will be permitted in the cemetery.

E. Modifications. If a monument is determined by the sexton to be oversized and interfering with the sprinkler irrigation system, the owner will pay for the necessary modifications.

F. Interference with Excavation. The owner or responsible party is responsible for the removal and replacement of a marker that must be moved for the excavation of a grave, or for the expenses of such services if contracted.

G. Recommendations. Consult with a monument manufacturer on monument materials suitable to handle conditions at the cemetery. Markers are subject to temperature extremes, snow, ice, sprinkler irrigation water, and occasional nicks and chips from mowing equipment. It is recommended that raised markers have a rough-nosed base or edge rather than a polished, smooth surface. Persons ordering headstones from a monument dealer should check, or cause to be checked, the restrictions first, to ensure that the stone will meet cemetery specifications.

H. Cemetery Supervision. All work in the cemetery, including but not limited to interments, disinterment, planting, landscaping, grading, record keeping, placement of grave markers, grounds keeping, construction, and all maintenance, improvements, and beautifying of the grounds shall be approved by and done under the supervision of the cemetery sexton.

Section 2.16.060 Lot Ownership and Privileges

A. Nature and Extent of Burial Rights. Only permissive burial rights are sold. The City retains title to the cemetery property. A separate certificate of burial rights for each grave site in the cemetery will be issued to each purchaser after the applicable fees are paid in full. Only a person whose legal primary residence is located within postal zip code 84049 at the time of purchase or transfer may purchase or transfer a permissive burial right. A burial right certificate may be used to bury only the owner of the right named in the certificate or a person related to that owner by blood, marriage or adoption (regardless of whether the deceased was a resident of postal zip code 84049 at any point during his or her lifetime). The named owner of a certificate, or his or her legal heirs, must give written permission at the time of the burial for use by a specific deceased individual of the specific grave site identified in the certificate, subject to all applicable City ordinances and policies. For all purchases of burial rights made after the effective date of this section, as revised, a person may own in his or her name at any given time no more than four grave site certificates for future burial.

B. Record of Rights Conveyed. The cemetery master file is considered to be the correct record. Any discrepancy between the master file and the certificate of burial rights will be considered a clerical error. The City reserves the right to recall, correct, and re-issue the correct certificate.

C. Transfer of Ownership of Certificate. Burial right certificates for a specific grave site may be transferred and re-issued to a different owner, in accordance with the standards contained in this

Code, by written application to the City by the certificate owner or his or her legal heirs. The sexton shall re-issue the certificate upon the applicant's payment of any required fees and compliance with all applicable standards and procedures.

D. Unused Lots. Ownership of burial rights for grave sites that have been unused for 60 years or longer may revert to the City in accordance with the procedures set forth in Utah Code.

Section 2.16.070 Perpetual Care

A. Nature of Care. The care and upkeep of the cemetery provided by the City includes, but is not limited to, mowing the grass at reasonable intervals, laying sod, reseeding, filling in sunken graves, sprinkler irrigation, trimming trees and shrubs when necessary, removing wilted flowers and decorations, edging around headstones, and other clean-up as needed. Perpetual care does not include repairing or replacing markers, monuments, or other personal property.

B. Perpetual Care Fees. This fee is collected and used for the general care, maintenance, and improvement of the cemetery. Unless otherwise specified, perpetual care fees are included in the charges for burial rights. Voluntary contributions to perpetual care costs will be graciously accepted.

Section 2.16.080 Miscellaneous

A. Office-Records. The official cemetery records are kept at the cemetery sexton's office. The office is open Monday through Thursday from 7:30 a.m. to 5:30 p.m., with the exception of holidays. All business pertaining to the cemetery is to be transacted at this office. All maps and records are on file at the cemetery sexton's office. All owners of lots or spaces are requested to notify the sexton's office of any change of address.

B. Powers of Sexton. The cemetery sexton, subject to the direction of the City Council, is responsible for enforcing policies and procedures of the cemetery. The sexton may take such action necessary to protect property, graves, space owners, and the cemetery from injury; to preserve the peace and good order; and to prevent injury to the appearance of the lots, graves, grounds, and buildings.

C. Cemetery Fees. Fees for services are set by resolution of the City Council and are changed from time to time as needed and without notice. A copy of current fees charged is available at the cemetery sexton's office. Additional charges will be made for interment on Fridays and Saturdays.

D. Contractors and Outside Workers. Contractors and others performing work in the cemetery must provide the sexton with 24 hours' notice before any work may begin.

E. Boundaries, Roads, and Waterlines. The right to enlarge, reduce, re-plat, or change the boundaries of the cemetery or of a section or sections from time to time, including the right to modify or change the locations of roads and drives, is hereby expressly reserved by Midway

City. The right to maintain and operate pipelines or gutters for water supply or drainage is also expressly reserved.

F. Location of Documents. All maps, plats, records, and other documents pertaining to the Midway City cemetery are on file at the cemetery sexton's office.

G. Liability of Cemetery. Midway City personnel will, at all times, exercise diligence and reasonable care in the protection of the right and property of the lot owners, but shall not be liable for any damage or loss.

H. Alteration and Repeal of Policies and Procedures. Midway City reserves the rights to make, amend, and repeal the policies and procedures of the cemetery and to make exceptions thereto.

I. Walkers and Joggers. Walkers and joggers are encouraged and welcome to enjoy the beauty and serenity of the cemetery.