

- 11.1 Purpose
- 11.2 Appointment of Huntsville Town Cemetery Clerk
- 11.3 Appointment of Huntsville Town Cemetery Caretaker
- 11.4 Lots, Sale of Moneys, Fees
- 11.5 Burials
- 11.6 Decoration of Graves
- 11.7 Markers and Monuments
- 11.8 General Platting and Landscape
- 11.9 Throwing or Depositing Debris Prohibited
- 11.10 Damaging Cemetery Property Prohibited
- 11.11 Perpetual Care Fund
- 11.12 Penalties

11.1 Purpose

This Title provides for a Huntsville Town Cemetery for the perpetual maintenance of a nonsectarian, beautiful, peaceful park for burial of the human dead. This objective can be achieved only through careful, farsighted planning by those having direction of the cemetery, and full support on the part of those who are to be its beneficiaries. This Title, and those amendments which may hereafter from time to time be adopted are designed for the benefit and protection of every lot owner, and every grave and lot of the cemetery is acquired and held subject to them.

11.2 Appointment of Huntsville Town Cemetery Clerk

There is hereby created the office of Huntsville Town Cemetery Clerk, which office shall be filled by appointment by the Huntsville Town Council. It shall be the duty of the Huntsville Town Cemetery Clerk to sell, record, and maintain up-to-date records pertaining to the cemetery. The Clerk shall also direct the digging of all graves required for the burial of the dead therein, to direct all removals, changes and other authorized operations.

11.3 Appointment of Huntsville Town Cemetery Caretaker

There is hereby created the office of Huntsville Town Cemetery Caretaker, which office shall be filled by appointment of the Huntsville Town Council. It shall be the duty of the Huntsville Town Cemetery Caretaker to take charge of the Huntsville Town Cemetery, to maintain and improve the grounds thereof, and any other duties as described in a work contract.

11.4 Lots, Sale of Moneys, Fees

- A. The Huntsville Town Cemetery Clerk is hereby empowered to sell plots in the Huntsville Town Cemetery and to collect before occupancy all amounts arising from such sales and all moneys, dues and fees collected by them shall be turned into the Huntsville Town Treasurer. The Huntsville Town Clerk shall give to each purchaser, a receipt describing each plot so purchased, together with the price thereof, which receipt, when presented to the Huntsville Town Cemetery Clerk, shall entitle the purchaser to receive from the Huntsville Town Cemetery Clerk a cemetery certificate to the purchased plot. The Huntsville Town Clerk shall keep a duplicate receipt and shall file the same for record in the Huntsville Town Clerks office. The prices of grave plots shall be established by the Huntsville Town Council, and shall include the perpetual care fee.
- B. Contracts of Purchase. The Huntsville Town Cemetery Clerk may sell lots. In no event shall title to any plot pass to the purchaser, nor shall any person be buried therein until the purchase price and perpetual care fee for said plot has been paid in full; provided, however, that burials may be made in any plot for which there has been executed a title-retaining purchase agreement providing for the payment of the total purchase price, including the perpetual care fee, within six (6) months from the date of burial.

- C. Deeds, Single Graves and Easements. A certificate for a burial plot from Huntsville Town and its record on the books of the Huntsville Town Cemetery is the sole evidence of title recognized.

In case of the removal of the body from a single grave and no heir files a claim with the Huntsville Town for the grave within seven years, the ground shall revert to the Huntsville Town Cemetery.

The Huntsville Town Cemetery reserves a right of way and easement over and in all plots for the purpose of providing access to plots, laying and maintaining water and drain pipes and for any other development of care of the Huntsville Town Cemetery. The Huntsville Town Cemetery also reserves the right to move equipment over any lot for the purpose of maintaining and developing the Huntsville Town Cemetery.

- D. Records and Certificates. All certificates and records are made in the names of the contracted parties; and after the issuance of a certificate, the Huntsville Town Cemetery will charge a fee for and changing of the instruments and records made at the request of the purchaser or owner, provided such change is allowed.
- E. Assignability of Title and Interest. No assignment or transfer of any lot or a portion thereof or interest therein by a plot owner or purchaser shall be valid until the consent of the Huntsville Town Cemetery has been endorsed thereon and payment has been made to the Huntsville Town Cemetery of the current transfer fee. The Huntsville Town Cemetery reserves the right to withhold such consent whenever it shall deem it proper to do so.
- F. Descent and Inheritance of Ownership. Upon the death of the plot owner, the plot descends to those named in his will or to his heirs as designated by law.

Upon the death of the plot owner or purchaser the Huntsville Town Cemetery shall act upon its best judgment in determining heirship and successorship, unless an affidavit of heirship together with the power appointing one of the heirs to represent all (all minors being represented by guardians) or a certified copy of the decree of distribution of the estate of the deceased lot owner or purchaser is first filed with the Huntsville Town Cemetery Clerk. The Huntsville Town Cemetery shall in no way be held responsible for a failure to properly determine the legal successorship of the said lot owner or purchaser.

The heirs and successors to the lot owner desiring graves opened or other work done are required to present the deed to the lot if requested to do so.

The heirs are entitled to the same use of the lot as the original owners.

- G. Abandonment of Cemetery Plot. If the grantee or holder of a lot or parcel in the Huntsville Town Cemetery has not used portions of the plots or parcels for the purpose of burial for more than sixty (60) years, and during the time and has not given to Huntsville Town a written notice of claim or interest in the plots or parcels shall be prima facie evidence that the grantee or holder has abandoned the plots or parcels.
- H. Termination of Rights of Grantee or Holder. In the event a plot or parcel in the Huntsville Town Cemetery is deemed under the provisions of the preceding paragraph to have been abandoned, the Huntsville Town Council may pass a resolution demanding that the owner of the plot, or portion of the plot which has been unused for burial purposes for more than sixty (60) years file with the Huntsville Town Clerk notice of any claim to the plot.

The Huntsville Town Council shall then cause a copy of the resolution to be personally served on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner must, within sixty (60) days after service of the resolution on the owner, express interest in maintaining the cemetery plot and submit satisfactory evidence of an intention to use the plot for a burial.

If the owner cannot be personally served with the resolution of the Huntsville Town Council as required in the preceding paragraph, the Huntsville Town Council must publish its resolution for three successive weeks in a newspaper of general circulation within the county and mail a copy of the resolution within 14 days after publication to the owner's last known address, if available.

If after 30 days after the last date of service or publication of the Huntsville Town Council's resolution, the owner or person with a legal interest in the cemetery plot fails to state a valid interest in the user of the cemetery plot for burial purposes, the owner's rights are terminated and that portion of the cemetery shall be vested in the municipality.

The owner or person claiming through the grantee shall have the right, on presentation of the certification of title or right to burial to Huntsville Town, for any plot or parcel which has been reverted to Huntsville Town, at the option of Huntsville Town, to (a) be compensated for the plot at the reasonable value of the plot as of the date the certificate is presented to Huntsville Town, or (b) receive a right to burial to another plot if the right to burial or title to the lot has been sold by Huntsville Town, or (c) receive the right to burial to the plot if Huntsville Town has not sold the right to burial to the plot.

If the owner of the plot or person claim under the owner has not paid for perpetual care charges, Huntsville Town may claim such charges from the person claiming under the owner prior to permitting an individual to be buried in the plot.

11.5 Burials

- A. Dead must be buried in Cemeteries. No person or persons shall be allowed to bury their dead within the limits of Huntsville Town, except in the Huntsville Town Cemetery, and no cemetery shall be established without the permission of the Huntsville Town Council. No person, except the owner of a plot upon which interment is to be made, shall use a plot in the Huntsville Town Cemetery, without first obtaining a written permit from the owner of said lot, or legal heirs, which permit shall be filed with the Huntsville Town Cemetery Clerk.
- B. Permits. The Huntsville Town Cemetery Clerk, before burying the body of any deceased person in the Huntsville Town Cemetery or before permitting the removal of the body of any person buried therein, shall require the production of a permit from the Weber-Morgan County Health Department. After burial or removal, the Huntsville Town Cemetery Clerk shall endorse upon the permit the initial letter of the plat and the numbers of the block and lot, together with the position where said body is buried, or from which said body is removed, and shall file said permit in the permanent records of the Huntsville Town Cemetery.
- C. Statement Furnished before Burial. Before burying any body in the Huntsville Town Cemetery, the relatives or persons having charge of said body shall be required to furnish, in writing to the Huntsville Town Cemetery Clerk a statement giving the name of the person deceased, with the names of his or her parents, wife or husband, date and place of birth, date and place of death, date of funeral, together with a signed statement of permission from the plot owner or heirs allowing the burial to be made on the plot. The Huntsville Town Cemetery Clerk shall enter such information in the cemetery records.
- D. Interments are limited to Human Dead. One interment only shall be allowed in a casket, except a parent with his or her infant child. Except as provided hereafter, not more than one casket is allowed in a grave plot.

However, if a body is cremated and the ashes placed in a sealed urn, not more than three urns may be buried in one grave plot.

- E. Removals. No person shall disinter any body buried in the Huntsville Town Cemetery, except under the direction of the Huntsville Town Cemetery Clerk, and before disinterment the Huntsville Town Cemetery Clerk shall require a written order from the owner of the lot or heirs authorizing such removal, together with a permit from the Weber-Morgan County Department of Health. It shall be unlawful to remove the body or a person that has died of a contagious disease within two years of the date of burial, unless such body has been buried in a hermetically sealed casket or vault, and is found to be so incased at the time of removal. Huntsville Town assumes no responsibility for the condition of any casket or vault involved in any removal. Fees for such removals will be charged according to the work involved, with a base fee established by the Huntsville Town Council.

- F. All Burials must be made in Vaults. All burials in the Huntsville Town Cemetery must be made in concrete, metal or fiberglass vaults of standard sizes and approved designs.
- G. Burials - Hours and Days. Except in so-called Health Department cases, there shall be no burials on Sundays or legal holidays, except by permission of Huntsville Town Council. No interments, removals or interment's whatsoever will be permitted on Memorial Day.

Burials will be allowed between the hours of 8:00 a.m. and 4:30 p.m. In case of death from contagious disease or in case of great emergency, special permission may be obtained from the Huntsville Town Cemetery Clerk. The right is reserved to make an additional charge for any interment on Saturday and during other than the regular days and hours as herein set out.

- H. Funeral Processions. Funeral processions, upon entering the Huntsville Town Cemetery shall be under the control, and subject to the direction of the Huntsville Town Cemetery Clerk.
- I. Contagious Diseases. Advance notice must be given to the Huntsville Town Cemetery Clerk of the intention to inter remains of any person who died of any contagious disease so that a proper time for interment may be appointed and suitable arrangements may be made, to insure the safety of employees and the public.

Remains of persons dying of any contagious disease shall not be disinterred in less than the time specified by law.

- J. Grave Opening Fee. The Huntsville Town Council, by resolution may set a single fee for the opening and closing of a grave. However, no individual or organization may prepay the fee for opening and closing of a grave.

11.6 Decoration of Graves

- A. Funeral Flowers and Floral Pieces. The Huntsville Town Cemetery shall not be responsible for floral pieces, artificial flowers, baskets or frames in which or to which such floral pieces or artificial flowers are attached, beyond the acceptance of such floral pieces and artificial flowers for funeral services held in the Huntsville Town Cemetery.

Funeral designs, floral pieces and artificial flowers will be removed without notice as soon as they become unsightly. Lot owners desiring to retain funeral designs and floral pieces must remove them within 48 hours after the interment. Cemetery employees will decline attempting to find any decoration pieces after it has been removed.

- B. Flower Containers - Artificial Flowers (optional). Regulation adjustable receptacles for cut flowers can be obtained, at owner's expense, to be placed below the surface of the lawn as not to obstruct the mowing of the grass or to appear unsightly. Bronze vases approved by the Huntsville Town Cemetery Caretaker may be used when set by the Huntsville Town Cemetery Caretaker. The Huntsville Town Cemetery will not be responsible for loss or damage of any container or vase.

Artificial flowers are allowed as grave decorations in the Huntsville Town Cemetery during mowing season, as long as they remain on the grave marker. Artificial flowers shall be removed without notice and disposed of when they become unsightly.

- C. Planting and Ornamental Decoration. The planting of any flowers or plant of any variety upon the grave is strictly prohibited. Digging or disturbing the sod is forbidden; nor shall the established grade of lots be changed. When any plants become unsightly, they shall be removed without notice, and will not be allowed to plant again.

Boxes, shells, toys, wire screens, arbors, trellises, tripods, so called ornaments, rustic work, or designs of any description, are considered injurious to the beauty and dignity of the Huntsville Town Cemetery, and will not be permitted.

- D. Rubbish. Receptacles for waste materials are located at convenient places. The throwing of rubbish on the roadways and paths or any part of the grounds is prohibited.

11.7 Markers and Monuments

- A. Grave Markers - Kind, Size, Placement and Maintenance. Monuments should not exceed six feet in height. Markers should be constructed of a durable stone, such as granite, and must be reasonably uniform in thickness, not less than three inches and have a four to six inch border for setting. Not more than one grave marker shall be allowed except for military markers, of which two markers may be allowed as approved by the Huntsville Town Cemetery Clerk. The two markers must be substantially adjacent to minimize trimming of the grass.

No marker shall be removed from the Huntsville Town Cemetery unless the written order of the plot owner is first presented and approved by the Huntsville Town Cemetery Clerk, except as herein provided. The Huntsville Town Cemetery shall not be responsible for the maintenance of the marker except for the day-to-day grounds care.

- B. Monuments Not Permitted Without Approval. No monuments of any kind other than markers as outlined, shall be permitted in the Huntsville Town Cemetery, unless specifically approved by Huntsville Town Cemetery Clerk. Placing of all monuments must be approved by the Huntsville Town Cemetery Clerk before the work is commenced and all work shall be performed under their direction. In the case of disputes between relatives on selection of marker, the court or an approved mediated decision will be followed. Markers will only be installed by a monument company after coordination with the Huntsville Town Cemetery Clerk. Any damages to the cemetery ground will be the responsibility of the installer.

11.8 General Platting and Landscape

- A. Entrance Regulations. Access to the Huntsville Town Cemetery is allowed through the entrance gates or side gate only. These will be open during the daylight hours. Entrance during any other hours will be considered trespassing.
- B. Improper Conduct Prohibited. Visitors are reminded that the grounds are dedicated for interment of the dead, and that the provisions, and penalties of law will be strictly enforced in all cases of wanton injury, disturbance or violation of the rules. Employees of the Huntsville Town Cemetery are empowered by law to enforce all by-laws, rules and regulations. The Huntsville Town Cemetery will not in any case be responsible for any damage to lots or structures thereon or for loss of or damage to articles placed on lots or graves. Any loss or damage should be reported promptly to the Huntsville Town Cemetery Caretaker, who will endeavor to discover the offender and recover the property.

All persons are prohibited from writing on, defacing, or injuring any monument, marker, or other structure in the Huntsville Town Cemetery. Persons are prohibited from taking flowers, plants or ornaments on lots or graves from the Huntsville Town Cemetery without special permission of the Huntsville Town Cemetery Caretaker, or from picking flowers either wild or cultivated, or breaking any tree, shrub or plant otherwise disturbing property.

No parties with picnics, refreshments, or alcoholic beverages are allowed on grounds of Huntsville Town Cemetery.

Unseemly behavior, loud talking, loafing, lounging or conduct unbecoming to the Huntsville Town Cemetery is forbidden. Children are not allowed to use the property for playing or as a walk, cutoff or thoroughfare.

- C. Visitors and Children. Plot owners, their families, and visitors will be permitted daily and are requested to observe all the rules adopted for the regulation of visitors.
- D. Horses and Dogs. Horses and dogs are not permitted in Huntsville Town Cemetery without prior approval.

11.9 Throwing or Depositing Debris Prohibited

It shall be unlawful for any person to throw or deposit in any part of the Huntsville Town Cemetery the carcass of any dead animal, or meat, fish, rubbish, refuse, filth, trash, garbage, building materials, or any like substance, or any object or substance that will detract from the beauty of said Huntsville Town Cemetery.

11.10 Damaging Cemetery Property Prohibited

No person may injure, molest, or deface, or otherwise damage or remove any headstone, curbing, monument, tree, shrub, flowers, funeral flowers, floral pieces, vases and containers, or any other property in the Huntsville Town Cemetery.

11.11 Huntsville Town Cemetery Perpetual Care Fund

- A. The Huntsville Town Cemetery Perpetual Care Fund. The "perpetual care" fund is an endowment care fund which is a trust fund composed of a percent of the cemetery lots purchase price to be determined by the Huntsville Town Council and deposited with the Huntsville Town Treasurer. Such deposits are accumulated together to form the endowment care fund in order that the income from the fund may provide for the general care and maintenance of the cemetery property.
- B. Investment of Funds. The endowment care fund is administered by Huntsville Town charged with prudent investment of the fund. The principle of the fund cannot be used for the general care and maintenance of the property; only the income can be used. Since only the income from such funds can be used for the general care of the property the amount of care given is always dependent upon the current net return from the investment of the fund. Neither Huntsville Town nor anyone can guarantee against contingencies which may arise in the future whereby, as the result of changed economic conditions or lowered interest rates, the income received from the endowment care fund would be sufficient to keep the property in its present condition.
- C. Definition. "Perpetual care" or endowment care is defined as that general care and maintenance necessitated by natural growth and ordinary wear which may be provided at reasonable intervals with the limits of the income from the endowment care fund. It includes the planting, cutting, watering and care of lawns ' trees, and shrubs, cleaning and upkeep of buildings, and the maintenance of proper records, utilities, walls, fences, roadways, and walks. Inasmuch as the endowment care fund is a part of the payments by property owners, it provides care for only those things from which every owner benefits. It does not cover the care of such things as memorial tablets, flower vases or monuments.

11.12 Penalties

Any person violating any of the provisions of this Title established hereunder shall be deemed guilty of a Class C misdemeanor and shall be subject to fines as stated in the fee resolution and/or restitution to property owners.

This Cemetery Title shall take effect upon approval by the Huntsville Town Council.

PASSED and ADOPTED this 3rd day of January 2008.

Mayor, James C. McKay

ATTEST:

Dated this 3rd day of January 2008.

Clerk/Recorder, Gail Ahlstrom

| Vote of the Town Council | yea | nay |
|--------------------------|-----|-----|
| Council Member Ferre | ___ | ___ |
| Council Member Johnson | ___ | ___ |
| Council Member Sorenson | ___ | ___ |
| Council Member Truett | ___ | ___ |
| Mayor McKay | ___ | ___ |