

ORDINANCES OF THE CITY OF SEVERY, KANSAS
ORDINANCE NO. 440

**AN ORDINANCE PROVIDING FOR MANAGEMENT AND OPERATION OF CEMETERIES AND
REPEALING ORDINANCE NO. 425**

Be it ordained by the Governing Body of the City of Severy, Greenwood County, Kansas:

Section 1

Each cemetery owned and operated by the City of Severy, Kansas, shall be governed and operated under the policies, rules and regulations contained in this Ordinance. Ordinance 425 is hereby repealed.

Section 2

DEFINITIONS

For purposes of this Ordinance, the following definitions are used:

- a. "Burial" is the interment of human remains, including "cremated remains".
- b. "Burial space" or "cemetery lot" is a space within a cemetery, which space has been designated for the interment of individual human remains.
- c. "Burial register" is the City's official record of basic information such as age, date of death, and date of burial, for each interment.
- d. "Cemetery" is a parcel of land set apart for the interment of human remains. The fact that such land has been set apart shall be evidence of its use for burial purposes, whether or not graves are visible.
- e. "Columbarium" or "mausoleum" is a free-standing, above-ground structure designed to hold human remains.
- f. "Cremation" or "cremated remains" includes any method recognized under Kansas law for reducing human remains to bone fragments.
- g. "Exhumation" is the removal of human remains from a burial site.
- h. "Interment" is the ceremonial placement of human remains in a grave.
- i. "Lot owner" is the purchaser of a cemetery lot, or the purchaser's heirs, administrators, trustees, legatees, devisees, or assigns.

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j. "Plot" is the space allotted in a given cemetery lot for burying the remains of one individual. Cemetery lots may be of different sizes and may include more than one plot.

j. "Purchase price" is the gross amount, less sales tax, if any. The purchase price does not include finance charges or state- or county-imposed burial fees or charges.

k. "Requestor" is an individual or entity who has been served with a Notice of Violation and has requested a hearing pursuant to Section 17 of this Ordinance.

l. "Sexton" or "Cemetery Superintendent" is a person in charge of a cemetery.

m. "Violator" means an individual or entity who has been served with an Order of Violation" and who either has not requested a hearing under Section 17 of this Ordinance or has been found by the Governing Body, after such hearing, to have violated one or more policies, rules, or regulations of this Ordinance.

Section 3

The Governing Body may appoint a City employee or engage an independent contractor to serve as a cemetery sexton or supervisor, to include safe and proper maintenance of the cemetery grounds, walkways, driveways, and fences; care of trees, shrubs, and foliage growing in the cemetery; coordination with funeral homes and lot owners; and assistance with the City's management of cemetery records.

Section 4

The City Clerk shall manage and maintain the burial register and all legal and public cemetery records of burials and exhumations, including deeds and land ownership maps, and shall administer cemetery lot purchases and endowment fund matters.

Section 5

All headstones or grave markers placed on a cemetery lot must be constructed of granite, bronze, or marble. The size of such markers is limited to a maximum size of twenty-four (24) inches high and sixteen (16) inches wide. All foundations for such markers shall be no less than twelve (12) inches deep. Construction requirements and materials for columbarium and mausoleum structures will be determined by the Governing Body as needed for a given structure.

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Section 6

The City may mark a cemetery lot with a cement post that provides markings to identify the number and location of the lot. Such posts will be erected in the extreme southwest corner of the lot and will not project above ground level.

Section 7

With the exceptions listed in sections 5 and 6 of this Ordinance, nothing permanent shall be placed upon a cemetery lot. Flowers, vases, wreaths, flags, and other temporary decorations will be removed when they become unsightly and will not be returned to the lot owner unless previous arrangements have been made with the Sexton.

Section 8

No planting of flowers, shrubs, or trees by a cemetery lot owner, or by someone acting with authority of a cemetery lot owner, is permitted without prior approval of the Governing Body. No one shall disturb sod, plants, shrubs, or trees on cemetery grounds without authority of the Governing Body.

Section 9

Fencing, hedging, coping, or other covers or enclosures around a cemetery lot is prohibited. All such enclosures or covers must be removed after notice to the affected cemetery lot owner(s) by the City, served by hand delivery or regular first-class mail. If not promptly removed, the City will remove such materials without further notice and shall not be required to provide them to the lot owner(s).

Section 10

No vehicle shall be permitted to drive within the cemetery except on the driveways. Driving on the alleys or on any cemetery lot is prohibited.

Section 11

No one, including a cemetery lot owner or anyone acting with authority of a cemetery lot owner, may disturb a burial plot or any part of a cemetery lot. Only the Sexton or someone under the direct supervision of the Sexton is authorized to open or close a cemetery lot in a cemetery owned or operated by the City of Severy. Exhumations, whether they involve removing a buried body or cremated remains, are expressly prohibited absent prior delivery to the Sexton or Superintendent of an exhumation order from a court of competent jurisdiction.

Section 12

Each cemetery plot is limited to the remains of one individual. Exceptions require the authority of the Governing Body, in its sole discretion, and no exception will be granted unless it also is permissible under Kansas law. If the remains of more than one individual are intended to be comingled or separately interred in a single plot, only one marker may be placed, with multiple names engraved for identification purposes.

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Section 13

The body must be delivered to the City for burial in a casket or an alternative container made of wood, pressed wood, fiberboard, or cardboard. Cremated remains must be delivered to the City for burial in a sealed container.

Section 14

COSTS AND FEES OF LOTS AND BURIALS

a. Burial spaces shall be purchased at the following prices:

- One lot (1 plot) (5'x10') \$500.00
- One lot 10'x10' (2 plots) \$1,000.00
- One lot 20x10' (4 plots) \$1,500.00
- One lot 20'x20' (8 plots) \$2,000.00

b. Opening and closing a grave for a burial on a weekday that is not a federal or state holiday is \$500.00.

c. Opening and closing a grave for a deposit of cremated remains on a weekday that is not a federal or state holiday is \$150.00.

d. Opening and closing a grave for a burial on Saturday, Sunday, or a federal or state holiday is \$600.00.

e. Opening and closing a grave for a deposit of cremated remains on a Saturday, Sunday, or a federal or state holiday is \$200.00.

f. Opening and closing a grave for any other purpose permitted by a court of competent jurisdiction shall be a variable amount as determined by the Governing Body and based on the decision of the permitting court.

g. The prices of purchasing plots and/or lots and the costs of opening and closing graves contained herein shall be reviewed by the Governing Body in June of each calendar year for the purpose of evaluating whether any changes should be made. The decision shall be made by a majority of the governing body, and a resolution to implement the decision shall be passed and entered into the record, to become effective for the following calendar year.

Section 15

Cemetery lots in Section B of the South Lawn Cemetery will be sold only for the construction of mausoleums or columbaria due to the rocky subsurface. Permission for construction of a mausoleum or columbarium will be granted or denied based upon the size, building materials,

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and construction methods of the structure, so as to ensure safety and permanency. The price of a columbarium or mausoleum site will be variable depending on lot size and construction requirements.

Section 16

ENDOWMENT FUND

- a. The assets on hand of the existing Endowment Fund for the South Lawn Cemetery (the "Endowment Fund") shall be set aside and invested in a location listed in KSA 12-1675(b)(2), with the applicable investment vehicle to be determined from time to time by the Governing Body by a resolution passed by majority vote.
- b. Fifty percent (50%) of all money received from the sale of cemetery lots and plots shall be deposited into the City's budgeted General Cemetery Fund, and the other fifty percent (50%) shall be deposited in the separate Endowment Fund account as required in Section 16a. With the exception of the assets identified in Section 16c, the Governing Body may, by a resolution passed by majority vote, transfer some or all sale assets in the Endowment Fund to the General Cemetery Fund and expend the same for permanent improvements of any cemetery owned by the City of Severy.
- c. Any additional money or other property deposited to the Endowment Fund by popular subscription donations, or given by any donor by gift, grant, or Last Will and Testament, shall remain in the Endowment Fund as a permanent endowment, except as otherwise directed by the donor.

Section 17

PUBLIC OFFICER; INQUIRY AND INSPECTION; ORDER OF VIOLATION; HEARING

The Governing Body shall designate a Public Officer, who shall be charged with administration and enforcement of this Ordinance, shall make inquiry and inspection of any reported violation of this Ordinance, and shall make a written report of findings.

- a. Upon review of the written report of the Public Officer, the Governing Body shall decide whether to issue an Order of Violation to any person, corporation, company, partnership, association, or organization,
- b. The Public Officer is hereby designated by the Governing Body for the purposes of issuing all such orders, upon the written resolution of the Governing Body stating a finding of a violation of this Ordinance. Such orders shall be issued in the name of the Governing Body and shall be served by certified mail, return receipt requested.

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CONTENT OF ORDER OF VIOLATION

c. In addition to stating the condition(s) in violation of this Ordinance, the Order of Violation shall state that the Requestor(s) shall have 10 days from the date of service of the Order of Violation to request a hearing before the Governing Body, and failure to timely request a hearing within the time allowed shall be deemed a waiver of the right to a hearing before the Governing Body.

HEARING

d. If a hearing is requested as provided herein, the request shall be made in writing to the Governing Body and timely presented, either by personal service on a City official or employee at City Hall, on or before the end of the ten (10)-day period, or by regular first-class mail postmarked on or before the end of the ten (10)-day period. Failure to make a timely request for a hearing shall constitute a waiver of that Requestor's right to contest the findings of the Governing Body as to the existence of a violation of this Ordinance. The hearing shall be held by the Governing Body as soon as possible after the filing of the request therefore, and the Requestor shall be advised in a writing from the City Clerk of the time and place of the hearing, delivered by hand-delivery or first-class mail, at least five (5) working days in advance thereof. At any such hearing, a Requestor may be represented by another individual, and a Requestor and the City may introduce such witnesses and evidence as are deemed necessary and proper by the Governing Body. The hearing need not be conducted according to formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by adopting a Resolution, to include a Final Order of Violation, and serving it upon the Requestor by certified mail, return receipt requested. The Resolution will also be served upon any Requestor who did not request a hearing, by hand delivery or regular first-class mail.

Section 17

FAILURE TO COMPLY; PENALTIES

a. If a cemetery lot owner does not timely comply with the Order of Violation and Resolution issued by the City as its final ruling, City employees, or an independent contract retained by the City, will remove any and all structures, objects, and personal property identified in the final Order of Violation and dispose of them at the direction of the Governing Body.

If the City abates or removes the violations identified in the final Order of Violation, the City shall give notice to the cemetery lot owner(s) or an owner's agent, by certified mail, return receipt requested, of the total costs of the abatement or removal incurred by the City. The notice shall also state that payment is due within 30 days following receipt of the notice. The City also may recover the costs of providing notice of both the original and final Order of Violation, including any postage required by this Section 17. The notice shall also state that, if the costs of the removal or abatement are not paid within the 30-day period, those costs shall be collected in the manner provided by Kansas law at the time of the removal or abatement. If there is a change in the record owner of title to the property after notice has been given, the City may not recover costs until the new record owner has been provided notice as required in this Section 17.

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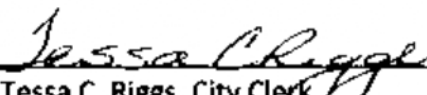
b. In the alternative, should a cemetery owner fail to comply with the final Order of Violation by either abating or removing the violation(s) or by having failed to timely request a hearing as provided by Section 16, the Governing Body may direct the Public Officer to file a complaint in the Municipal Court of the City against such owner(s). Upon conviction of any violation of this Ordinance, he, she, they, or it may be fined in an amount not to exceed one hundred dollars (\$100.00) or be imprisoned not to exceed thirty (30) days or be both fined and imprisoned. Each day during or on which a violation occurs or continues after an Order of Violation has been served shall constitute an additional or separate offense.

Section 18

This Ordinance shall be in full force and effect from and after its summary publication in the official City newspaper and full publication on the City's website. Any prior ordinances or parts of prior ordinances are repealed in whole or in part, to the extent they may conflict with this Ordinance, and Ordinance 425 is hereby repealed in its entirety.

Adopted by the Governing Body on the 4th day of March 2024.

Approved: 
Donna Wiss, Mayor

Attest: 
Tessa C. Riggs, City Clerk