



**ACTION AGENDA ITEM
2020**

To: Rhonda Sommers
From: Ben Scoggins

Action Item # 00
Meeting Date: December 8, 2020
Date Submitted: November 19, 2020

ISSUE/ACTION REQUESTED:

Public Hearing: YES OR NO

This is to update the current Town of Selma, Code of Ordinance, Chapter 7 Cemeteries

BACKGROUND/PURPOSE OF REQUEST:

This update is to better define and clarify, Ordinance 7-11 Lot purchase on terms (add) clarify of ownership. 7-15 Monuments (add) Clarification of responsibility

CONTRACTS/AGREEMENTS

REVIEWED BY TOWN ATTORNEY: YES OR NO

ADVISORY BOARD RECOMMENDATION:

TOWN MANAGER'S OPINION:

FINANCE DIRECTORS OPINION:

- **Chapter 7 - CEMETERIES^[1]**

Footnotes:

-- (1) --

Cross reference— Administration, ch. 2; development regulations, ch. 17.

State Law reference— Municipal cemeteries, G.S. § 160A-341 et seq.

- **Sec. 7-1. - Illegal burial.**

No person shall bury or cause to be buried any dead body in any place within the town other than in a public cemetery owned by the town or a public cemetery owned by private persons duly licensed and operated as provided in this chapter.

(Code 1974, § 8.04.010)

- **Sec. 7-2. - Cemetery operation; compliance with statutes.**

No corporation, association, partnership or individual shall be licensed to operate a public cemetery for private gain or profit within the corporate limits of the town without first complying with [Article 9](#) (section 65-46 et seq.) of Chapter 65 of the General Statutes.

(Code 1974, § 8.04.020)

- **Sec. 7-3. - License.**

Any corporation, association, partnership or individual complying with the provisions of [section 7-2](#) shall be licensed to operate a public cemetery for private gain upon the payment of an annual privilege license.

(Code 1974, § 8.04.030)

- **Sec. 7-4. - Burial permit required, contents.**

Before any dead body is buried within the corporate limits of the town, a burial permit shall first be obtained. The permit shall be issued by the finance officer upon a proper showing of compliance with this chapter, and the permit shall state the name of the deceased person, the undertaker conducting the burial and a general description of the place of burial.

(Code 1974, § 8.04.040)

- **Sec. 7-5. - Cemetery committee—Composition.**

The cemetery committee shall consist of five (5) members appointed by the city council for staggered terms of three (3) years.

(Code 1974, § 8.04.060)

Cross reference— Administration, [ch. 2](#).

- **Sec. 7-6. - Same—Duties.**

The cemetery committee shall make recommendations to the city council as to the planning and operation of Selma Memorial Gardens.

(Code 1974, § 8.04.070)

- **Sec. 7-7. - Lot sale.**

No contract for the sale of lots in Selma Memorial Gardens shall be executed until a plat of the same shall have been made and duly recorded in the office of the register of deeds of the county.

(Code 1974, § 8.04.080)

- **Sec. 7-8. - Deed—Execution.**

No deed shall be executed to any lot or portion of lot in a cemetery until the purchase price therefor shall have been paid in full.

(Code 1974, § 8.04.090)

- **Sec. 7-9. - Same—Recordation.**

All deeds for cemetery lots shall be recorded in the office of the register of deeds of the county by the finance officer at the expense of the purchaser before delivering the deed to the purchaser.

(Code 1974, § 8.04.100)

- **Sec. 7-10. - Same—Contents.**

All deeds to lots in Selma Memorial Gardens shall contain the following provisions:

- (1) The property shall be used for the purpose of sepulchre only.
- (2) Graves in which an interment has been made may be marked only by a flat tablet or grave marker, set flush with the sod, of the size, type and material approved by the town unless otherwise specifically and expressly set forth herein.
- (3) No monumental work, tombstone, marker, vault, fence, memorial, mound or other object of any kind protruding above the surface of the ground may be erected or any hedge, plant, tree or flower may be planted on or removed from the property except such as may be approved by the town.
- (4) Where it is expressly and specifically set forth herein that a monument, tombstone or mausoleum may be erected, it shall be erected at the owner's expense under the supervision of the town and must meet the approval of the town as to the size, type and material.
- (5) Special written permission for the transfer of lots, portions of lots or grave sites, mausoleum lots, portions of lots or crypts within a mausoleum may be given by the town manager or the town manager's duly appointed cemetery designee appearing on record at the Selma Town Hall.
- (6) In addition to the foregoing, the property is subject to all rules, regulations, conditions, restrictions and ordinances of the town governing the operation of Selma Memorial Gardens whether now adopted or hereafter adopted or amended.
- (7) There shall be a charge for the supervision of the installation of grave markers or other monuments. This charge is payable in advance of the installation.

(Code 1974, § 8.04.110; Ord. of 3-8-11(3))

- **Sec. 7-11. - Lot purchase on terms.**

Contracts for the purchase of lots in Selma Memorial Gardens on terms may be entered into by the town upon such terms and conditions as the council may set. (Code 1974, § 8.04.120)

Burial rights of lot and grave owners.

(a) *Certificate of ownership.* Upon receipt of payment in full for any lot, the city shall execute and deliver to the or purchasers a certificate of ownership (deed), granting to such purchasers and their heirs and assigns, the exclusive right of interment in said lot, subject to the rules and regulations contained in this chapter and in any amendments hereto which may hereafter be made by the city council.

(b) *Right of interment under owner's declaration of reservation.*

(1) At the time of the purchase of a lot or grave, or at any time thereafter during the lifetime of the purchaser or transferee, and in accordance with these rules and regulations, the owners of any such lot or grave may present their certificate of ownership and may file in the office of the management a declaration of reservation, therein specifically designating the persons entitled to be buried in any or all of the graves in the lot.

(2) No other person may be buried in any grave designated by the owner in the declaration of reservation except by an amended declaration of reservation executed by the owner and filed in the office of the management.

(3) The owner of any lot may in the declaration of reservation limit the persons entitled to be buried in said lot to those persons designated in the declaration of reservation.

(4) In the event that the owner shall fail to designate burial rights as to each grave in said lot, or shall fail to limit burials in said grave to those designated in the declaration of reservation, then, as to the graves not designated, the right of burial shall be as provided in subsection (c) of this section.

(5) Upon application by any person for interment of a body in a given grave, the burden of proof as to the identity of the person to be interred rests upon the applicant; and no liability shall be incurred by the management or the city as the result of a false statement in the application, but the management shall make reasonable effort to see that only persons entitled to be buried in a given grave are so interred.

(c) *Interment in absence declaration.* In the absence of a declaration of reservation by the registered owner of a lot, the right of interment shall be in the following order:

(1) One grave shall be reserved for the owner and one for the owner's surviving spouse, if any.

(2) The remaining graves in said lot shall be held in trust by the city for burial of the following persons in the order of their death, and a request for burial, to wit:

a. Children of the owners and their respective spouses.

b. Lineal descendants of the owners and their respective spouses.

c. Parents of the owners.

(d) *Vested rights of lot owners.* The burial rights in all lots and graves conveyed shall be presumed to be the sole and separate property of the persons named as grantees in the certificate of ownership, in accordance with these rules and regulations; provided, however, that the husband or wife shall have a vested right of interment of his or her body in any burial grave conveyed to the other, which shall continue as long as he or she shall remain the husband or wife of the grave owner, or shall be his or her wife or husband at the time of such grave owner's demise. No conveyance or transfer shall divest the husband or wife of any owner of his or her vested right of interment without the joinder therein executed by the spouse and filed in the office of the management.

(e) *Alienability of cemetery grave.* All lots, the use of which has been conveyed in a certificate of ownership, are indivisible. Whenever an interment of the remains of a member, or of a relative of a member, of the family of the recorded owner, or of the recorded owner, is made in a lot, the lot

thereby becomes inalienable and shall be held as the family lot of the owner, except as otherwise provided by the owner's declaration of reservation.

- **Sec. 7-12. - Lot information.**

The finance officer shall maintain a current schedule of the number and size of lots available for sale and the purchase price thereof as set by the city council.

(Code 1974, § 8.04.130)

- **Sec. 7-13. - Perpetual care fund.**

There shall be set aside from the proceeds of the sale of lots in Selma Memorial Gardens at least twenty (20) percent thereof which shall be placed in a perpetual care fund. The perpetual care fund shall be invested as provided by law and the interest thereon shall be used for the maintenance and care of Selma Memorial Gardens; the balance of the proceeds from the sale of lots shall be placed in the cemetery fund and be used in accordance with the current budget appropriations.

(Code 1974, § 8.04.140)

State Law reference— Perpetual care fund, investment, G.S. § 65-64.

- **Sec. 7-14. - Perpetual care guarantee.**

The town guarantees perpetual care of all lots sold in Selma Memorial Gardens.

(Code 1974, § 8.04.150)

- **Sec. 7-15. - Monuments.**

No deed shall contain a provision for the erection of a monument, tombstone or mausoleum in a cemetery except or unless the lots are in the following sections and in all events the type, size and material shall meet the approval of the town:

- (1) A monument or tombstone will only be allowed in Cedarlawn Gardens;
- (2) If a mausoleum is to be erected, it must be so stated in deed;

(3) Only mausoleums will be allowed in Magnolia Garden and must conform to the following requirements:

- a. No mausoleum will be constructed on any lot less than four hundred (400) square feet.
- b. All mausoleums will be constructed in the center of the lot and shall be a maximum of six (6) crypts, not to exceed two (2) crypts wide and three (3) crypts high. The concrete foundation shall be a minimum of six (6) inches.
- c. No portion of any mausoleum shall be constructed of any material other than cut stone or bronze.
- d. Complete, detailed scale drawings for all proposed mausoleums shall be submitted to the city manager for approval thirty (30) days prior to construction date.
- e. Approved designs for mausoleums shall not be altered in any way without the consent of the city manager.

f. Magnolia Garden, Lots 1—7 and 24—27 will be identified as Row One and to only allow single height crypts (two (2) wide, one (1) high). Maximum height five (5) feet.

Magnolia Garden, Lots 8—12 and 19—23 will be identified as Row Two and to only allow either two (2) or four (4) crypts, maximum crypts two (2) high. Maximum height ten (10) feet.

Magnolia Garden, Lots 13—14 and 15—18 will be identified as Row Three and to allow a maximum of six (6) crypts, two (2) wide, three (3) high. Maximum height fourteen (14) feet.

- g. The town will not be responsible for the entombment.
- h. No utility (electric/water) service will be allowed.
- i. The town will not be responsible for the maintenance of the structure and will not be liable for any damages due to vandalism or weather.

(4) Only one (1) flat marker even with the ground or tombstone shall be allowed on each grave site.

(Code 1974, § 8.04.160; Ord. of 8-13-96, § 1)

- **Sec. 7-16. - Notice of interments.**

The town must be notified twenty-four (24) hours in advance of the date and hour of interments if lots have previously been purchased. ~~notice may be given to the police department from 5:30 p.m. until 12:00 noon on Saturday for weekend burials.~~ All funerals, while within the grounds, shall be under the control of the town.

(Code 1974, § 8.04.170)

- **Sec. 7-17. - Grave preparation; fees.**

- (a) In all sections of Selma Memorial Gardens, graves prepared for casket burials shall be at least forty-five (45) inches deep and the casket shall be placed in a vault or cement liner approved by the town prior to any burial.

(b) All burials will be in a commercially procured graveliner or vault that has been approved by the superintendent. The minimum requirements for concrete liners *shall* be one and one-half-inch (1½) sidewall thickness, two-inch top thickness, two-inch bottom thickness, and three thousand (3,000) PSI. The minimum requirements for a steel vault *shall* be a twelve-gauge thickness top, sides, and bottom. Wooden or other shortterm liners are not allowed. No liners are required for cremations

(c) Graves prepared for burial of ashes shall be at least eighteen (18) inches deep, and only two (2) urns of ashes shall be entered in the same grave site.

(d) Only one (1) flat marker or tombstone shall be allowed on each grave site.

(e) The owner of the lot shall pay the town the cost of interment as set by the city council.

(Code 1974, § 8.04.180; Ord. of 3-11-14, § 1)

- **Sec. 7-18. - Floral arrangements and removal.**

(a) Within five (5) to seven (7) days after funeral services, all fresh floral arrangements except one (1) must be removed. Thereafter, one (1) floral arrangement per grave space will be permitted.

(b) Any florist or individual removing floral arrangements must notify the cemetery custodian before removal. Notice to the custodian must be from the family and must be in writing.

(c) All holiday flowers shall be removed no later than three (3) weeks after the date of the holiday.

(Code 1974, § 8.04.190)

- **Sec. 7-19. - Hours of Memorial Gardens.**

The Selma Memorial Gardens shall open at 8:00 a.m. and close at sunset. It shall be unlawful to be within the cemetery grounds at any other hours without written consent of the town, and trespassers will be prosecuted.

(Code 1974, § 8.04.200)

- **Sec. 7-20. - Visitor paths.**

All visitors shall keep to the walks and drives and must not cross over or otherwise trespass on any lot other than their own.

(Code 1974, § 8.04.210)

- **Sec. 7-21. - Visitor conduct.**

All persons while within the grounds of Selma Memorial Gardens shall conduct themselves in a proper manner and shall not pick flowers, break shrubs, trees or plants or in any way injure or damage any monument, marker or other structure.

(Code 1974, § 8.04.220)

- **Sec. 7-22. - Personal equipment, weed killer prohibited.**

No personal equipment such as lawnmowers or weed eaters shall be allowed in the cemeteries. No grass or weed killer may be used by anyone other than cemetery personnel.

(Code 1974, § 8.04.230)

- **Sec. 7-23. - Rules subject to change.**

The rules and regulations of this chapter may be changed at any time by the city council, and such changes shall be binding on all future purchases as well as all owners of lots in Selma Memorial Gardens.

(Code 1974, § 8.04.240)