

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

## Chapter 26 CEMETERIES [11](#)

### ARTICLE I. IN GENERAL

#### Sec 26-1. Definitions.

*Burial Permit* means a legal document that accompanies the deceased to the place of interment.

*Burial Right* means the right to be buried in a plot in the cemetery either through purchased ownership or granted written permission from the burial rights owner.

*Block* means a section of land in the cemetery containing Lots. Typically, one Block contains four (4) Lots.

*City* means the City of Montague.

*Cenotaph* means a memorial erected to honor a deceased person whose remains are elsewhere.

*Certificate of Cremation* means document issued by a funeral home or crematory that is presented to cemetery personnel at the time of inurnment.

*Columbarium* is an above-ground structure designed to receive cremated remains.

*Cremation Plot* means a plot within the cemetery designated for the burial of human cremains only. These plots are generally smaller than regular plots and do not accommodate full burials.

*Crypt* means a space in a mausoleum that acts as an above-ground “plot” for burial.

*Disinterment* means exhuming of a deceased person from a plot.

*Entombment* means placing a body into a mausoleum crypt.

*Foundation* means a flat-surfaced slab of durable material, such as concrete, placed at the head of a plot and used to support memorials or other approved graveside memorialization.

*Green Burial* means a form of natural burial that allows for decomposition of a dead body.

*Immediate family* means spouse, parents, grandparents, children and siblings.

*Inurnment* means placing of cremains in a plot, mausoleum crypt or columbarium.

*Interment* means the burial of a deceased person in a plot.

*Lot* means a section of land within a cemetery block containing plots. One Lot typically contains eight (8) plots.

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

*Mausoleum (public and private)* means an above-ground structure used to entomb a deceased person.

*Monument* means a large memorial used to indicate an area of several related plots.

*Memorial* means a headstone made of durable material and used to identify the occupant interred in a plot or plots.

*Nonresident* means a person who does not reside within the city.

*Owner* means the person who owns the burial rights to a plot, either through purchase or assignment.

*Plaque* means a metal plate secured to a foundation or memorial.

*Plot* means a piece of land in the cemetery within a Lot where the deceased is buried. Typically, there are eight (8) regular plots or twelve (12) Cremation Plots in one Lot.

*Reinterment* means interment of a deceased person who has been disinterred.

*Resident* means an individual person who resides within the city. Proof of residency must be presented at time of purchase and may include such items as a valid driver's license or voter registration card.

*Sexton* means the person charged by the city for the care of the cemetery.

*Vault* means a vessel made of concrete used to contain a coffin or cremation urn or box.

**Secs. 26-2—26-30. Reserved.**

### **ARTICLE II. CITY CEMETERIES**

**[Sec. 26-31. Applicability of article.](#)**

**[Sec. 26-33. Burial rights.](#)**

**[Sec. 26-34. Purchase of burial rights.](#)**

**[Sec. 26-35. Forfeiture of burial rights.](#)**

**[Sec. 26-36. Standards for foundations and vaults.](#)**

**[Sec. 26-37. Mausoleums.](#)**

**[Sec. 26-38. Burial permits; disinterments.](#)**

**[Sec. 26-39. Maintenance.](#)**

**[Sec. 26-40. Vandalism.](#)**

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

#### **Sec. 26-41. Interments and disinterments.**

#### **Sec. 26-42 Winter burials.**

#### **Sec. 26-43 Cremains.**

#### **Sec. 26-44 Memorials.**

#### **Sec. 26-45 Plaques.**

#### **Sec. 26-46 Veteran flags and flag holders.**

#### **Sec. 26-47 Graveside decorations.**

#### **Sec. 26-48. Cemetery records.**

#### **Sec. 26-49 Permitted activities.**

#### **Sec. 26-50 Enforcement and penalties.**

#### **Sec. 26-31. Applicability of article.**

The provisions of this article apply to all cemeteries owned or operated by the city.

#### **Sec. 26-32. Permitted and prohibited interments.**

No interment of any deceased person shall be made in any other place than within plots reserved for that purpose, nor shall the interment of anything other than human bodies be permitted therein.

#### **Sec. 26-33. Burial rights.**

Owners of the burial rights to any plot acquire only the privilege or license to make interments in the plot. A plot shall not be used for any other purpose than a place for burial of the dead.

#### **Sec. 26-34. Purchase of burial rights.**

Any person wishing to purchase and assign the burial rights to a plot may do so by paying to the city clerk such sum as the city council has established and upon such payment shall receive a deed to said plot designating the owner of the burial rights. Such money when paid to the city clerk shall be credited to the cemetery fund. No burial right shall be considered sold or reserved until the city has received payment. The burial rights owner shall notify the city of any change in residency and provide a current mailing address. The purchase of burial rights by any one person shall be limited to four (4) plots. The city does not buy back burial rights to plots previously purchased. Resale of plot burial rights between private parties must first be approved by the sexton and city clerk and are subject to burial right transfer fees.

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

#### **Sec. 26-35. Forfeiture of burial rights.**

Effective for all burial rights acquired on or after April 1, 2017, unused burial rights to a plot are effective for forty years from the date of acquisition by purchase or transfer. The owner may renew said burial rights without further charge by providing written notice to the city of their wishes to retain the burial rights to said vacant plot. If the owner does not initiate contact to renew said rights, the city shall notify the owner by certified mail, using the last address of record that the burial rights shall expire if no written notice from the owner is received 60 days after said notice. Upon forfeiture the burial rights to said plot revert back to the city.

#### **Sec. 26-36. Standards for foundations and vaults.**

(a) Foundations. All foundations must be built of concrete and of the depth and size approved by the sexton. All foundations shall be installed by cemetery personnel or by a contractor approved by the sexton as necessary. Materials shall be selected by the sexton and the price for installation shall be set by the city council. Orders for foundation will be approved only after the sexton reviews the plot location and size. Foundation orders received during winter months will not be approved or installed until snow and freezing conditions have subsided in the spring. All foundation costs must be paid in full prior to any foundation installation.

Foundations will be a minimum width of 18 inches and a length 18 inches greater than the memorial where possible. Upgrades to memorials may require the installation of a new foundation that meets size requirements and must be paid in full prior to installation. Failure to comply may result in removal of the upgraded memorial until foundation requirements are met.

(b) Vaults. Full body interments must be within vaults constructed of standard concrete material. No vaults are required for the burial of cremains. For green burials, an inverted vault constructed of standard concrete material is required.

#### **Sec. 26-37. Mausoleums.**

Private mausoleums are permitted only on plots that are approved by the sexton. Design and construction plans must also be submitted to the sexton for approval. All associated costs are the responsibility of the burial rights owner or their appointed agent.

Crypts in private and the public mausoleum are limited to a combination of one full entombment and one inurnment or two inurnments. Engraving of mausoleum covers and all costs are the responsibility of the burial rights owner or their designated agent.

#### **Sec. 26-38. Burial permits; disinterments.**

No interment, disinterment, entombment or inurnment will be permitted, or dead body be received, without a burial transit permit, disinterment permit, or certificate of cremation furnished prior to cemetery services. In cases of inurnments, a copy of the deceased's death certificate is allowed. All interments and removals of deceased persons from the city shall be made subject to such rules, bylaws, and regulations that may from time to time be adopted by the

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

city council. No person shall bury, or disinter cremains or a body, nor transfer or assign burial privileges without permission of the city clerk. Disinterments shall be performed in accordance with state law.

#### **Sec. 26-39. Maintenance**

The city is responsible for the general ground maintenance including (but not limited to) mowing, trimming, tree removal, tree planting, ground repair, leaf removal and driveway plowing. The city is not responsible for inadvertent damage to memorials, flowers, urns and graveside decorations caused during general maintenance work. No person shall cut, remove, damage or carry away any flowers, trees, shrubs, plants or vines in and upon any cemetery plot or ground unless given written permission by the sexton. Such permission shall be granted when the proposed actions will improve or preserve the appearance of the cemetery. If any trees or shrubbery situated on any plot, by means of their roots, branches or otherwise, become detrimental to the adjacent plots or avenues, or unsightly, or inconvenient to passers, it shall be the right of the sexton to remove such trees and shrubbery or any part thereof. No plot or part thereof shall be enclosed by a fence, railing, coping, hedge, embankment or ditch.

#### **Sec. 26-40. Vandalism**

No person shall deface, damage or write upon any marker, monument, headstone, fence or structure within the cemetery, nor shall any person damage or destroy, take or carry away any vases, flower pots, or other ornaments that may have been placed upon the graves by another person.

#### **Sec. 26-41. Grave openings: Interments and disinterments.**

(a) A minimum of 24 hours of advance notice is required for weekday grave openings and 48 hours of notice for weekend grave openings. All grave openings and memorial services will be done under the direct supervision of the sexton or city personnel designated by the sexton. The city will set and adjust the cost for all grave openings from time to time through resolution.

(b) The number of interments for a single plot is limited to a combination of one full burial and one cremated remains or two cremated remains. No more than two (2) inurnments of cremains are allowed in a single Cremation Plot. The sexton may delay interment/inurnment due to non-payment of fees, lack of proper permits, or weather conditions.

(c) No interment or disinterment shall be performed until all required permits and written authorization are completed and delivered to the city. All costs associated with interment, disinterment or disinterment with reinterment shall be paid in full prior to grave opening. This may not apply to grave openings in matters of a valid court order.

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

#### **Sec. 26-42 Winter burials.**

Winter burials are performed at the discretion of the sexton and are subject to winter burial charges. The sexton is authorized to delay interments due to severe winter conditions and will proceed with interments once conditions have subsided. Winter storage is available only for bodies to be interred in the city cemetery. Bodies held in storage shall be accompanied by an authorization for delayed interment signed by next of kin or authorized agent. The authorization shall state an approximate date for interment and the place of storage.

#### **Sec. 26-43 Cremains.**

The burial of cremains does not require a cremation vault but cremains should be in a rigid container. The scattering of cremains is strictly prohibited. The burial of cremains without the direct supervision of the sexton or an individual authorized by the city is strictly prohibited. The sexton is authorized to unearth cremains suspected of having been buried without authorization of the city.

#### **Sec. 26-44 Memorials.**

(a) Memorials must be made of solid stone material or other equally durable material approved by the sexton. Unless prior approval from the sexton is received for a larger memorial, a memorial on a single plot shall not be greater than 36 inches in length or 90 inches in length for two adjacent plots, and no greater than 18 inches in width. No more than 2 memorials per plot are allowed. Memorials shall remain in line with the head side of the plot.

(b) 24-hour notice is required prior to any memorial engraving or setting. Engraving of memorials and mausoleum covers is the responsibility of the owner or their designated agent, and shall be coordinated with the sexton if activities are occurring within the cemetery. The city shall not be held liable for any foundation damage that occurs during a memorial setting or engraving. Memorials shall not be moved or removed from a plot without prior notice and approval from the sexton.

(c) Memorials that are deemed to be a safety hazard are the responsibility of the owner or his/her heirs. When possible, notice will be given by the sexton to the owner or heirs to repair hazardous memorials. The owner or heirs will be required to repair hazardous memorials at their expense. If attempts to contact the owner or heirs fail or if the hazardous memorial is not repaired within 30 days of notice, then the memorial will be removed.

(d) Monuments are no longer permitted. Existing monuments may remain in place.

(e) Memorials replaced by upgrades or memorials on vacated grave sites must be removed from the cemetery by the owner or their designated agent.

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

(f) Cenotaphs are permitted upon approval by the sexton. Placement of a cenotaph is subject to a fee as set by the city council.

(g) The sexton is authorized to move or relocate memorials that interfere with graveside services or general ground maintenance.

(h) The unauthorized removal of any memorial, decorations, veteran markers or flags is prohibited.

#### **Sec. 26-45. Plaques.**

All plaques, including veterans' plaques, may be mounted on memorials or directly to a foundation. An outside contractor is required for mounting plaques directly to a memorial; all associated costs are the responsibility of the owner, the owner's family or the owner's agent. Plaques installed directly to foundations will be installed by cemetery personnel and must be aligned at the head side of the plot. Maintenance of said plaques is the responsibility of the owner, their family or agent. A fee for mounting plaques may be charged as set by the city council.

#### **Sec. 26-46. Veteran Flags and Flag Holders.**

The city shall furnish a suitable flag holder and the United States flag for the grave of each veteran who served in the armed forces of the United States and who is buried within the city limits. Volunteers from local veteran groups are permitted to assist the city in placing the flag holders and United States flags.

Veteran flags may be placed prior to Memorial Day and will be removed after October 15 each year. Missing or broken flag holders or United States flags that are damaged in any manner should be reported to the sexton or other city personnel so that they may be replaced. A suitable flag holder and a United States flag will be displayed prior to any interment of a deceased United States armed forces veteran.

#### **Sec. 26-47. Graveside decorations.**

(a) In addition to flowers, up to two decorations are allowed per gravesite. Flower arrangement that become unsightly may be disposed of by city personnel. All spring/summer graveside decorations must be removed by October 15 or they will be disposed of by city personnel. Winter decorations are allowed after November 15 and must be removed by April 1 or they will be disposed of by city personnel.

(b) The city is not responsible for damage to graveside decorations caused by weather conditions or wildlife. Graveside decorations deemed unsightly due to neglect or otherwise not in compliance with this ordinance, may be removed and disposed of by cemetery personnel.

## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

(c) Flower urns should be constructed of stone, concrete or other durable material and must be in line with memorials. Empty flower urns, not filled with soil, will be inverted by cemetery personnel after October 15 and will be up-righted in the spring after winter weather conditions have subsided. Flowers urns which are cracked or filled with soil will be left in an upright position. Flower urns that are left empty for three consecutive years will be deemed vacated and removed by cemetery personnel.

(d) Decorations, flower vases or pots constructed of glass or ceramic material are prohibited. Decorations that are deemed to be hazardous for any reason will be removed by cemetery personnel.

(e) Planting of trees, shrubs, ground cover or perennial plants by anyone other than cemetery personnel is prohibited. Flower beds are permitted, but must stay within 12 inches of a memorial and must be maintained or they will be removed by city personnel when deemed unsightly. Flower beds are not permitted in Cremation Plots. All graveside decorations on Cremation Plots shall remain on the memorial foundation.

#### **Sec. 26-48. Cemetery records.**

The cemetery sexton and city clerk shall be responsible for maintaining cemetery records.

#### **Sec. 26-49. Prohibited activities.**

All vehicles must remain on paved roadways unless authorized by cemetery personnel. Snowmobiles and other ORVs are not permitted. Loud music, boisterous or lewd behavior or harassment of other visitors in the cemetery is not permitted. Alcoholic beverages are prohibited. Unauthorized digging in the cemetery is prohibited. Pets are allowed, but they must be kept on a leash at all times and they must be cleaned up after. No soliciting or placement of advertisement signage or littering is allowed.

#### **Sec. 26-50. Enforcement and penalties.**

The city manager, city clerk, sexton or any other authorized city agent has the authority to enforce the cemetery ordinance. Violation of any section of this ordinance is a municipal civil infraction and carries a civil fine as established pursuant to Section 2-404.

If any part of the cemetery ordinance is deemed unconstitutional or invalid by any court then only that section, or part of a section, will be affected and shall not invalidate any other part of the cemetery ordinance.



## PART II - CODE OF ORDINANCES

### Chapter 26 CEMETERIES

#### **Sec. 26-51. Cremation Plots.**

Upon approval of the City Manager, the Sexton may designate Blocks within the cemetery to be used for Cremation Plots, for burying cremains only and no full burials. Cremation Plots shall be recorded as such on cemetery records and documented as such on burial rights deeds.