

ORDINANCE NO. 1147

AN ORDINANCE AMENDING SECTION 32.03 OF THE TOWN OF SILVER CITY MUNICIPAL CODE, RELATING TO RULES AND REGULATIONS PERTAINING TO THE USE AND MAINTENANCE OF THE TOWN OF SILVER CITY CEMETERY, THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO.

Sponsored by Councilor May and Councilor Wheaton-Smith.

WHEREAS, Chapter 32, §32.03 (E) (1) provides for the Town of Silver City Cemetery Board to recommend rules, regulations and policies pertaining to the efficient operation and management of the Town cemetery; and

WHEREAS, the Cemetery Board has reviewed the existing rules and regulations governing the use and maintenance of the Town-owned cemetery and concluded that significant modifications thereof should be made for the benefit of the Town and its inhabitants; and

WHEREAS, the Cemetery Board has presented a comprehensive set of rules and regulations governing the use and maintenance of the Cemetery for the Town Council's review and approval; and

WHEREAS, the Town Council has determined that adoption of the recommended rules and regulations suggested by the Cemetery Board will benefit the health, safety and welfare of the Town and its inhabitants;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF SILVER CITY, GRANT COUNTY, NEW MEXICO, that:

Chapter 32, §32.03 is amended by deleting Subsection 32.03 (F) in its entirety and replacing it with the following, which shall read:

§ 32.03 (F) Promulgation of rules and regulations governing the use and maintenance of the Town's cemetery. The Town Manager, in consultation with the Cemetery Board, shall have the

authority to promulgate rules and regulations governing the use and maintenance of the Town's cemetery. These rules and regulations, attached hereto as Appendix "A" and incorporated herein as if fully set forth, shall be posted at prominent places in City Hall, the Town's cemetery, the Town's Department of Public Works, and the Public Library.

Chapter 32, §32.03 is amended by adding a new Subsection 32.03 (G), which shall read as follows:

§32.03 (G) Penalties: A violation of any of the rules or regulations promulgated by the Town governing the use or maintenance of the Town's cemetery shall be a misdemeanor, punishable by a fine not to exceed \$500 per violation, and/or imprisonment for up to 90 days.

PASSED, ADOPTED AND APPROVED by vote of the Council of the Town of Silver City, Grant County, New Mexico, this 22nd day of July, 2008.

(Seal)

TOWN OF SILVER CITY

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk

Appendix "A"

MEMORY LANE CEMETERY

Town of Silver City, New Mexico

RULES AND REGULATIONS GOVERNING BURIALS

PART I – USE OF CEMETERY

Memory Lane Cemetery is a municipal cemetery available for use by the general public. All business matters relating to the cemetery shall be transacted at City Hall, 101 W. Broadway, Silver City, New Mexico. Hours of operation at City Hall are Monday through Friday, 8:00 a.m. to 5:00 p.m., except on designated holidays.

A. RULES

1. Persons within the Cemetery grounds, New Section only, shall use only the avenues, walks, and roads. Regardless of the Section, no one shall ride a motorcycle, motorbike, bicycle, skateboard or roller skates except on designated roadways or walkways.
2. The Cemetery is intended to be sacred; it is not a park intended for recreation.
3. The Town's leash law for animals shall be adhered to at all times and all animal waste shall be immediately removed and properly disposed of by the pet owner.
4. No use of alcoholic beverages, in accordance with the Town Ordinance.
5. No person shall pluck or remove any plant or flower, either wild or cultivated, from any part of the Cemetery. Plot owners may place or remove plants and flowers from their individually owned plots.
6. No unauthorized person(s) shall be permitted to bring or carry firearms within the Cemetery.
7. No hunting is allowed within the Cemetery boundaries.
8. All persons are strictly forbidden to break or injure any tree or shrub; mar any landmark, marker, or memorial; or in any way deface the grounds of the Cemetery.
9. No excavations, construction, planting of trees or shrubs are permitted without Town approval.
10. Motor vehicle parking in the New Section shall be limited to the designated parking areas.

B. BURIALS

1. All burials, including cremains, must be under the direct supervision of licensed funeral personnel.
2. All casketed gravesites in the Cemetery shall be five (5) feet in width by ten (10) feet in length, by six (6) feet in depth, with the lengths running east and west. (Also, refer to Part III - Opening and Closing, Item 6).

3. In the event that an error is made in the interment or disinterment of any remains in the Cemetery, the Town reserves the right to remove and transfer the remains to another space of the same value. Reasonable efforts will be made to contact and advise the next of kin prior to taking any action to remove or transfer any remains.
4. Neither interments nor disinterment will be allowed in any space where the ownership, in the opinion of the Town, remains undetermined. In such cases, an order from a Court of competent jurisdiction will be required.
5. The disinterment from a burial space within the Cemetery shall be permitted only after approval of the Town, and in compliance with the laws of the State of New Mexico, and then will be done at the earliest convenience of the Town. All requests for disinterment will be presented to the Town Manager in writing with reason for disinterment stated on the request.
6. If for some reason the gravesite is not ready, such as rock, acts of nature, or any other valid reason, the burial will be postponed until the grave site is ready, or alternative arrangements will be provided.

C. CREMAINS (Human Ashes)

1. Gravesites for cremated remains shall be covered by no less than 12" of soil. A second set of individual cremains may be placed in the same plot at different time intervals with Town approval.
2. Arrangements for placement of cremains in the Rose Garden may be made through any of the local funeral homes or by contacting the Town and Country Garden Club at P.O. Box 2164, Silver City, NM 88062.

D. SPECIAL AREAS

BABYLAND

1. In the Old Section, a half burial plot five (5) feet long by three (3) feet wide may be purchased in the area designated as the baby section or "Babyland", Section A, Lots 14 through 22, Lots 35 through 37, and Lots 42 and 43.
2. In the New Section, lots in Babyland are to be taken in order: starting with the designated Row #1, Space #1, then Row #1, Space #2, etc..
3. Only infants and small children under the age of two (2) shall be buried in Babyland.

ROSE GARDEN

1. Arrangements for placement of cremains in the Rose Garden may be made through any of the local funeral homes or by contacting the Town and Country Garden Club at P.O. Box 2164, Silver City, NM 88062.

PART II – PURCHASE OF BURIAL SPACES

1. Individual plots up to four (4) may be purchased from the Town at City Hall. The Town Manager, at his discretion, can authorize the purchase of additional gravesites.

2. Purchase arrangements can be made either at City Hall or through a funeral home of your choice at the time of need or in advance.
3. Selection of the burial space at the time of purchase will be made by the purchaser with assistance from the funeral home or the Town, as appropriate.
4. The purchaser will be required to sign that they understand and will adhere to the rules of the Cemetery (separate document), and they shall receive a copy of the “Memory Lane Cemetery Rules and Regulations Governing Burials”.
5. Indigent burials will be at the discretion of the Town.
6. In the New Section, lots are to be taken in order: starting with the designated Row #1, Space #1, then Row #1, Space #2, etc.

PART III – OPENING AND CLOSING

1. The Town performs all openings and closings. When necessary, the Town may need to place equipment on gravesites and has the right to move headstones or other items on adjacent cemetery plots to avoid damaging them.
2. The cost of the opening and closing is not included in the purchase price of the plot. Additionally, any extra cost for interment or disinterment that may be incurred by the Town will be charged to the purchaser of the plot, and be payable within ten (10) days of receiving the Town’s invoice. This may include: rockbreaker or excavator equipment; blasting materials, other materials, or special equipment.
3. Overtime Assessment Charge: the Town will be assessing an overtime charge of \$25.00 per hour for each individual for any time worked after the employee's regular scheduled time for the closing of graves. During the months of April through September the regular hours start at 6:00 a.m. and end at 2:30 p.m. Regular hours for October through March start at 7:00 a.m. and end at 3:30 p.m. (Sunday through Saturday).
4. Any damage that is done to the cemetery by any private contractor is the liability of the purchaser of the plot for whom the contractor was working.
5. During the months of April through September, internments can take place beginning at 8:00 a.m. with services and tear down concluded at 5:00 p.m. During the months of October through March, internments can take place beginning at 8:00 a.m. with services and tear down concluded at 3:00 p.m. (Monday through Saturday). Special arrangements can be made for Sundays or Holidays by contacting the Town Manager.
6. All graves shall be six (6) feet in depth. However, should hard rock be encountered, a lesser depth may be allowed provided the depth is not less than four (4) feet. Graves shall be filled level with ground surface.
7. A forty-eight (48) hour notice must be given to City Hall prior to interment. The notice will be provided to a representative of the funeral home and the Cemetery Supervisor.

PART IV – GRAVES AND MARKERS

Disinterments must be approved by the Town Manager and by the State Health Department in cases where death was caused by a contagious disease. The cost of disinterment will be

determined by actual audit cost; such cost will be at the expense of the party requesting the disinterment. Any disinterment requested by a non-family member shall require a Court order.

SECTION ONE (Old Section)

1. A permit must be obtained at City Hall prior to construction of monument foundations or copings.
2. Monument foundations and copings shall be of half inch rod reinforced concrete construction, sufficiently wide to span the grave, and shall have a minimum thickness of eight (8) inches.
3. The placement of the monument foundations and copings must be determined by the Town at the time permission is granted.
4. Prohibited items on graves or lots are: anything that would encroach on any surrounding plot or property, i.e. shrubs, trees, bushes, fence, chair, etc.
5. Family lots may have corner markers of granite, marble or bronze, but not larger than eight (8) inches square and the top must be flush with the ground surface.
6. The Town will have the authority to enter upon any lot and remove any objectionable or prohibited items, such as copings that may have been placed there contrary to the regulations.
7. The Town reserves the right to do the landscaping and planting in the Cemetery, excluding individually owned grave sites, and is responsible for filling sunken graves.

SECTION TWO (New Section)

1. A permit must be obtained at City Hall for each base/headstone.
2. All markers/headstones shall be made of granite, marble or bronze.
3. All single plot headstones shall be no taller than 42", no wider than 18" and no longer than 36".
4. All double plot headstones shall be no taller than 42", no wider than 18" and no longer than 48".
5. Prohibited items on graves or lots in the New Section are: gravel; decorative rocks; plants; trellises metal fixtures; frames or boxes; and chairs and settees.
6. No enclosure of any kind, such as a fence, coping, hedge or ditch shall be permitted around any grave or lot.
7. Monument base for a single plot shall be no more than four (4) feet long by twenty-four (24) inches wide by six (6) inches thick, made of concrete with at least four (4) inches above the finished grade or ground.
8. Monument base for a double plot (side by side graves) shall be placed at the head of the grave and shall be no more than eight (8) feet long by twenty-four (24) inches wide by six (6) inches thick; made of concrete with at least four (4) inches above the finished grade or ground.
9. The Town has the authority to enter upon any lot and remove any objectionable or prohibited items, including but not limited to, copings that may have been placed there contrary to the regulations.
10. The Town has the right to realign headstones in the New Section to maintain uniform placement of all markers.

11. The Town reserves the right and discretion to do all of the landscaping and planting in the Cemetery, and is responsible for filling sunken graves.
12. For Babyland see Part I, Section D. Special Areas.
13. Headstones shall be required. A deposit shall be taken at the time of purchase of a plot(s). The deposit will be refunded or applied toward the purchase of a headstone within one (1) year of the burial.

PART V – MAINTENANCE

1. The Cemetery is maintained by the Town.
2. Maintenance consists of: keeping the weeds and other vegetation in open areas under control; the upkeep of roads and drainage systems; and general maintenance as determined by the Town.
3. The Cemetery plot is maintained by the owner.
4. Installation and/or care of individual coping areas and other enclosures (vaults) are the responsibility of the family (Section One).
5. The Town reserves the right to trim or remove any growth that is not permitted or undesirable within such enclosures and to remove damaged copings or enclosures as necessary.
6. Any damage caused by Town crews in the opening, closing or maintenance work shall be repaired at the Town's expense, subject to negotiations with the Town Manager.

PART VI – PLANTS, VASES, ETC.

1. The planting of vines, borders of plants, roses, shrubs, trees or any type of permanent plant is strictly prohibited in the New Section.
2. Small removable vases and containers of flowers may be placed on graves for suitable occasions. The Town may remove them if necessary, and no responsibility will be assured for their safekeeping.
3. Persons desiring to retain floral arrangements or other material used at burials, including flags should remove them within 48 hours after burial.
4. All flags placed at gravesites for National holidays should be removed within 48 hours after observance of the holiday.
5. The Town reserves the right to remove all material not considered suitable or desirable in the Cemetery.

PART VII – ABOVE GROUND BURIAL VAULTS

No above ground burial vaults will be permitted in either section of the Cemetery.

Footnotes:

Per Chapter 32, § 32.03(F) and per the Cemetery Board's request, the Town Manager, Alex C. Brown, has made the following amendments:

- 1) On 12/07/09 amended Appendix A, Rules and Regulations, Section B. Burials (1) as follows: "... supervision of a licensed funeral director." was changed to "...supervision of licensed funeral personnel.";
- 2) On 02/01/10 amended Part IV, Section Two (New Section), Items 7 and 8, by replacing "and the top shall be flush with the ground surface" with "with at least four (4) inches above the finished grade or ground."
- 3) On 07/01/11 amended Part III Opening and Closing. Item 2 was amended to delete "overtime wages", and Item 3 was added to include the "Overtime Assessment Charge".
- 4) On 3/27/12 the Town Manager approved the Cemetery Board's recommended revisions to the Rules and Regulations, Part I, Sections C and D, Part II, Items 4 and 5, and Part IV, Sections One and Two.
- 5) On 7/22/15 the Town Manager approved the Cemetery Board's recommended revisions to the Rules and Regulations, Part II, Item 1.
- 6) On 8/16/16 the Town Manager approved the Cemetery Board's recommended revisions to the Rules and Regulations, Part III, Item 5.
- 7) On 8/23/17 the Town Manager approved the Cemetery Board's recommended addition to the Rules and Regulations, Part IV, Section Two, new Item 12.
- 8) On 5/29/18 the Town Manager approved the Cemetery Board's recommended revisions to the Rules and Regulations, Part III, Item 1 and Part IV, new Item 10 and renumbered Items 11 through 13.