

## Chapter 14 - CEMETERIES

## c. 14-1. - Title.

This chapter shall be known and cited as the "City of New Baltimore Oakwood Cemetery Ordinance."

(Ord. No. 219, § 1, 4-23-2018)

## Sec. 14-2. - Purpose and intent.

The city council recognizes and concludes that the proper and reasonable maintenance, appearance, and use of the cemetery or cemeteries owned or controlled by the city is an important function of the government of the city. It is also important that burials, disinterment's, and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health, and general welfare of the community. The city council finds that the adoption and enforcement of this chapter is in the best interests of the property owners and residents of the city.

(Ord. No. 219, § 1, 4-23-2018)

## Sec. 14-3. - Definitions.

*Cemetery plot* shall consist of a designated area in the Oakwood City cemetery sufficient to accommodate one burial space for one deceased person. Exceptions may be made with the city's permission to accommodate infant burial or the burial of cremains.

*City* means the City of New Baltimore.

*City cemetery* or *cemetery* means any cemetery owned, operated, and/or controlled by the city.

*Infant* means someone who is two years old or younger when she/he passes away.

*Owner* means the person who purchased the right of burial to a specific cemetery plot from the city.

(Ord. No. 219, § 1, 4-23-2018)

## Sec. 14-4. - Sale of cemetery plots; nontransferable.

- (a) The city shall sell cemetery plots to city residents and taxpayers for the purpose of burial for the purchaser of a cemetery plot or his or her heirs at law. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales of cemetery plots shall be made on a form approved by the city clerk, which grants a right of burial only and does not convey any other title or right to the cemetery plot sold.

- Such forms shall be signed by the city clerk or the city clerk's designee, and shall constitute a permit when approved. All sales shall be made through the city clerk's office or designated site, the department of public service (DPS).
- (c) Cemetery plots may be sold by the city to any non-resident and/or non-taxpayer of the city where a purchaser discloses sufficient personal reasons for burial within the city through previous residency in the city or relationships to persons interred therein. The city clerk and department of public services ("DPS") superintendent are granted authority to determine whether the sale meets the standards herein.
  - (d) At the time of purchase from the city, each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must either be a resident or taxpayer of the city, or be an heir at law of a qualified purchaser. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person shall sell the cemetery plot back to the city and repurchase that space in the name of another eligible person, since cemetery plots are otherwise nontransferable.
  - (e) Cemetery plots are nontransferable, but may be sold back for the original purchase price to the city (for resale by the city).
  - (f) The city shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the city shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold and where such cemetery plot or plots will be located. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
  - (g) The city shall have the right to correct any errors that may be made concerning interments, disinterment's, or in the description, transfer, or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the city shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same city cemetery in accordance with law.
  - (h) The owner of every cemetery plot shall be responsible for notifying the city whenever that person's mailing address changes.

(Ord. No. 219, § 1, 4-23-2018)

- (a) The cost of a cemetery plot shall be determined by resolution of the city council. All charges shall be paid to the City of New Baltimore.
- (b) The city council may waive some or all fees for the burial of indigent persons.
- (c) The city council may by resolution periodically alter any fees applicable to the cemetery.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-6. - Perpetual care.

- (a) All cemetery plot owners of record shall be subject to assessment for perpetual care at the rate provided by resolution of city council.
- (b) The term "perpetual care" used in reference to cemetery plots shall be held to mean the cutting of grass upon said cemetery plot at reasonable intervals, the raking and cleaning of the cemetery plots at reasonable interval, the pruning of shrubs and trees, and maintaining roadways, walk, boundaries and maintenance buildings. However, the term "perpetual care" shall in no case be construed as meaning the maintenance, repair or replacement of any grave stones or monumental structures or memorials placed or erected on cemetery plots; nor the planting or cost of flowers or ornamental plants; nor sprinkling said cemetery plots with water; nor the maintenance or doing of any special or unusual work in the cemetery, such as filling depressions; nor does it mean the reconstruction of any marble, granite, bronze or concrete work on any cemetery plot in the cemetery, or other buildings or structures, made necessary by injuries caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, riots, insurrection, or by order of any military or civil authority, whether the damage be direct or collateral, other than provided for.
- (c) Any cemetery plot owner shall be required to pay all perpetual care on their cemetery plots before any grave shall be opened or any transfer of a permit shall be permitted; in addition at such time as it becomes necessary to open any grave, it shall be mandatory that perpetual care on the entire cemetery plot be paid in full.
- (d) Upon the failure of cemetery plot owners to pay perpetual care as provided herein, the termination and forfeiture of the right and interest of such owner shall be taken as provided by law.
- (e) That upon receipt of and in consideration of such sum paid to the City of New Baltimore for said perpetual care cemetery fund, the City of New Baltimore does hereby bind itself to perpetually care for and maintain said cemetery plot in the cemetery from the interest received from such fund.
- (f) The city clerk, shall upon receiving any sums from any person for the perpetual care cemetery fund, deliver to the person depositing same a receipt stating the amount received, the name of the person depositing same, with a full and accurate description of the cemetery

plot or cemetery plots for the benefit of which said sum is for the perpetual care and maintenance of said cemetery plot by the city.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-7. - Grave opening charges.

- (a) The city may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the city, payable to the city.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the city clerk's office.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-8. - Markers or memorials; no monuments.

- (a) All markers and memorials shall be comprised of stone or other equally durable composition and shall be placed at the head of the cemetery plot facing the same direction as the markers and memorials around them.
- (b) Except for monuments which existed in the city cemetery before the effective date of the ordinance from which this chapter is derived, no monument will be allowed or erected in a cemetery. For purposes of this chapter, a monument shall be defined as any marker, memorial, statue or similar item which exceeds 30 inches in width (or 48 inches in width for a double marker), including the foundation. Unless exception is made by the city clerk when an infant is buried with a parent, only one marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial. Markers shall be no more than 36 inches in width for a single grave and 72 inches in width for a double grave, including the foundation. No advertising shall be allowed on said markers or memorial.
- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the city, or such person(s) as may be designated by the department of public service. Fees for such work shall be set from time to time by resolution of the city council, payable to the city. Cemetery plots shall be verified by the monument company with the city clerk's office and/or the DPS prior to ordering placement of a foundation.
- (d) Should any monument or memorial become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the city shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The city shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (e) The maintenance, repair, and upkeep of a cemetery memorial, marker, urn, or similar item is the responsibility of the heirs or family of the person buried at that location. The city has no

responsibility or liability regarding the repair, maintenance, or upkeep regarding any such marker, memorial, urn, or similar item.

- (f) Veteran markers can be a stand-alone marker, secondary markers have to be mounted flush within 12 inches on the grave side of the marker or attached to the back side of the stand-alone marker. A foundation is required for a second marker.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-9. - Interment regulations.

- (a) Only one full burial shall be buried in a cemetery plot, except for a parent and infant child as approved by the city clerk. A single set of human cremains may be buried on a cemetery plot after a full burial on the same cemetery plot.
- (b) Up to two sets of cremains may be buried within one cemetery plot.
- (c) Only human remains and/or human cremains may be buried in the cemetery. No other remains and/or cremains shall be permitted.
- (d) The city shall be given not less than 48 hours prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the city or such person or persons as are designated by the city.
- (e) The appropriate permit or form issued by the city for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to the city clerk or his or her designee(s), prior to interment. Where such permit or form has been lost, or destroyed, the city clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- (f) The surface of all graves shall be kept in an orderly and neat appearing manner within the confines of the cemetery plot involved.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-10. - Disinterment's. \*

- (a) No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses, and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit, or official, and a copy of the same has been filed with the city.
- (b) The city council shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a city disinterment permit for the same) if the disinterment or digging up of an occupied grave is not done pursuant to a court order (issued

by a court of competent jurisdiction) or does not have a reasonable basis.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-11. - Winter burials.

The city may charge additional fees for winter burials of three hours of labor as deemed by the weather conditions, as set forth in a resolution adopted by the city council.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-12. - Cremains.

- (a) Cremains may be buried in a container approved by the city in a cemetery plot or in a columbarium which has been installed by the city within the city cemetery.
- (b) No cremains or human ashes shall be scattered or dispersed within the city cemetery.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-13. - Decorations and plantings.

- (a) Summer plot decorations of flower pots, urns may be placed and maintained at the head stones of graves from May 1 through September 30 of each year. Winter plot decorations and grave blankets may be placed and maintained from November 1 through March 31 of the following year.
- (b) No tree, shrub, landscaping, hedges, perennials, or similar plantings shall be permitted.
- (c) Receptacles for cut flowers will be permitted if installed flush with the surface of the lawn. The use of glass jars or bottles as receptacles for cut flowers is strictly prohibited. No glass containers or glass items are allowed. Plantings of annuals shall be permitted within 12 inches on the grave side of the marker. Plantings placed on a cemetery that do not meet this chapter will be removed without notice.
- (d) The city reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) The city and/or its designee will make reasonable efforts to not disturb plantings surrounding cemetery graves. However, the city and/or its designee shall not be liable for damage to such plantings resulting from routine cemetery maintenance and upkeep.
- (f) Mounds, bricks, blocks, and any borders which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (g) The city or its designee shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers, and other items which through decay,

deterioration, damage or otherwise, become or are unsightly, a source of litter or a maintenance problem, or any other item that interferes with routine cemetery maintenance and upkeep.

- (h) Surfaces other than earth or sod are prohibited.
- (i) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers, and plastic flower containers must be removed from the cemetery (or if available placed in a city provided disposal container) within 10 days after a burial.
- (j) Except for markers, memorials, flowers, first responder memorial flags and urns expressly allowed by this chapter, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials, or other structures) shall be installed or maintained within the city cemetery, nor shall any grading, digging, mounding, or similar alteration of the ground or earth occur except as authorized by this chapter or by the city.
- (k) Individuals are not allowed to remove snow from cemetery plots. Snow will only be removed by the DPS due to the opening or closing of a plot.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-14. - Disclaimer of city liability and responsibility.

Every person who enters, remains in, and travels within a city cemetery does so at their own risk. The city is not responsible for any injury, accident, or other calamity which might occur to any person present in a city cemetery. Furthermore, the city is not responsible for any damage or vandalism to, theft of, or deterioration of any burial monument, headstone, flower urn, or other item placed at or near a cemetery plot, burial site, or anywhere in a city cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies, and holds harmless the city for, from, and against any injury, damages, causes of action, claims, costs, and expenses associated with, relating to, and/or involving the cemetery plot or similar right, any headstone, monument, or similar items, and any matter related to the cemetery involved. Such waiver, release, and hold harmless provision shall apply not only to the city, but also as to any city employee, officer, official, or agent.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-15. - Forfeiture of vacant cemetery plots.

Cemetery plots sold after the effective date of the ordinance from which this chapter is derived and remaining vacant for 50 years or more from the date of their sale shall automatically revert to the city upon the occurrence of the following events:

- (1) Notice shall be sent by the city clerk by first-class mail to the last known address of the

last owner of record informing him/her of the expiration of the 50-year period and that that all rights with respect to said plots will be forfeited if he/she does not affirmatively indicate in writing to the city clerk within 60 days from the date of mailing of such notice of his/her desire to retain such burial rights; and

- (2) No written response to said notice indicating a desire to retain the cemetery plots in question is received by the city clerk from the last owner of record of said plots, or his/her heirs or legal representative, within 60 days from the date of mailing of said notice.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-16. - Repurchases of plots.

The city may repurchase any cemetery plot from the owner for the original price paid to the city (for resale by the city) upon the written request of said owner or his or her legal heirs or representatives.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-17. - Records.

The city clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits, and any other records of the city related to the city cemetery and the same shall be open to public inspection at all reasonable business hours.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-18. - Vaults.

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the city.
- (b) Cremains shall be in a container approved by the city.
- (c) Topside services will not be allowed.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-19. - Traffic regulations.

All traffic laws of the City of New Baltimore shall be applicable to operation of vehicles in cemeteries and shall be strictly observed. A person driving in a cemetery shall be responsible for any damage done by the vehicle.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-20. - Cemetery hours.

Unless otherwise specified by the city council by resolution, the cemetery shall be open as follows:

7:00 a.m. to 8:00 p.m.—April 1 through October 31.

7:00 a.m. to 6:00 p.m.—November 1 through March 31.

During those hours that the cemetery is closed, no person shall be present in the cemetery, except city officials, a person accompanied by a city official, or any law enforcement or firefighting official engaged in the lawful duties of any such office or position.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-21. - Prohibited uses and activities.

The following prohibitions shall apply within any city cemetery:

- (1) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within the city cemetery.
- (2) No person shall disturb the peace or unreasonably annoy, harass, or disturb any other person who is lawfully present on the grounds of the city cemetery.
- (3) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times, except those authorized in section 14-20.
- (4) There shall be no destruction of cemetery property.
- (5) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (6) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs, or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this chapter.
- (7) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (8) There shall be no digging, grading, or mounding unless expressly authorized by this chapter.
- (9) There shall be no driving of an automobile, truck, or any vehicle on any portion of a cemetery except the designated roads or drives.
- (10) There shall be no off road motorcycles, snowmobiles, four-wheelers, go-carts, or similar vehicles.
- (11) There shall be no gathering of persons in excess of ten people without prior city

- approval (except during or incidental to a funeral occurring concurrent with burial).
- (12) There shall be no disinterment or grave openings unless approved by the city.
  - (13) There shall be no possession or consumption of any alcoholic beverage.
  - (14) There shall be no picnicking or consumption of food.
  - (15) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
  - (16) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
  - (17) There shall be no littering or dumping.
  - (18) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
  - (19) There will be no private signage allowed on graves.
  - (20) There shall be no fires, candles, or open flames.
  - (21) No children under 12 years of age shall be allowed in the city cemetery unless accompanied by an adult and are properly supervised by an adult.
  - (22) There shall be no exceeding of the five mph speed limit in the cemetery.
  - (23) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to registered service animals.
  - (24) No firearms or weapons shall be discharged or shot except that U.S. Military or other veterans organizations may carry arms for the purpose of firing over the grave at the cemetery plot of a member.
  - (25) No person shall engage in any fight, quarrel, or disturbance.
  - (26) Cremains or ashes of a deceased person shall not be scattered or dispersed.
  - (27) There shall be no dumping, vandalizing, or tipping over of any lawful garbage container or receptacle.

(Ord. No. 219, § 1, 4-23-2018)

#### Sec. 14-22. - Fees.

The city council shall have the authority to set fees pursuant to this chapter from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-23. - Authority of city to remove unauthorized or unlawful items.

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veteran's flags and first responder memorial flags) or other item which has been placed, installed, left, or maintained in any city cemetery in violation of this chapter, or any county, state, or federal law, statute, or regulation may be removed by the city from the city cemetery at any time and destroyed or disposed of by the city without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained, or kept such item in the city cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained, or kept in a city cemetery unless expressly authorized by this chapter. Even if such an item is authorized to be installed, kept, maintained, or left in a city cemetery, the city shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from, or liability to the person or persons who installed, maintained, or left such item in a city cemetery.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-24. - City officials who can enforce this chapter.

Unless otherwise specified by the city council by resolution, the following officials or officers shall have the authority to enforce this chapter and to issue citations pursuant to this chapter:

- (1) City clerk;
- (2) City ordinance enforcement officer;
- (3) City police officer;
- (4) Department of public services superintendent; or
- (5) DPS employee(s) assigned to the cemetery.

(Ord. No. 219, § 1, 4-23-2018)

Sec. 14-25. - Penalty.

A violation of this chapter constitutes a misdemeanor punishable by up to 93 days in jail and/or a \$500.00 fine. Each day during which any violation continues shall be deemed a separate offense.

A violation of any permit or permit condition issued pursuant to this chapter shall also constitute a violation of this chapter.

(Ord. No. 219, § 1, 4-23-2018)