

**APPLE VALLEY
ORDINANCE O-2023-16**

NOW THEREFORE, be it ordained by the Council of the Apple Valley, in the State of Utah, as follows:

SECTION 1: ADOPTION “14.13.010 Definitions” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.010 Definitions (Non-existent)

AFTER ADOPTION

14.13.010 Definitions(*Added*)

As used in this chapter, the following terms are defined as follows:

BURIAL: The interment of human remains, including cremated remains.

BURIAL LOT: The location, by section and block, identified in a town cemetery for the future exercise of a burial right, or the memorial to a deceased person, usually four feet (4') by eight feet, three inches (8'3"). An infant lot is usually four feet (4') by four feet (4').

BURIAL RIGHT: The nontransferable, limited right of a specific individual to be buried in a specific burial lot in any land designated by the town as a cemetery or a cremation garden.

BURIAL VAULT: A structure used to hold a casket or container of cremated remains.

CERTIFICATE OF BURIAL RIGHT: A document issued by the town identifying the individual who may be buried in a burial lot.

CREMATED REMAINS: The remains of a deceased human that have been reduced to ashes.

DISINTERMENT: The permanent removal of a casket or cremated remains from a burial lot.

EXHUMATION: The temporary removal of human remains from a burial lot.

GRAVE: A burial lot in which human remains, including cremated remains, have been buried or which has been excavated in anticipation of burial.

HEADSTONE: A marker or monument used to identify the person interred in a burial lot.

INFANT: A fetus or a child up to two (2) years of age.

MARKER: A headstone that is flat, flush to the natural grade of a grave identifying the person whose remains are buried in the grave.

MEMORIALS: Items placed on a burial lot as a remembrance.

MONUMENT: A headstone that is upright located on a grave identifying the person whose remains are buried interred in the grave.

NONRESIDENT: Any person who is not a legal Resident.

RESIDENT: Any person who was domiciled full-time within town boundaries at the time of death, or moved from the town for the purpose of receiving medical treatment or for the purpose of living in a residential care facility, regardless of the actual place of death. Two forms of proof of residency are required.

RULES AND REGULATIONS: The rules and regulations that are included in this chapter or that are otherwise adopted by the town council to govern the town cemetery.

SECTION 2: ADOPTION “14.13.020 Name And Location Of Cemeteries”
of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.020 Name And Location Of Cemeteries (Non-existent)

AFTER ADOPTION

14.13.020 Name And Location Of Cemeteries(*Added*)

The town may name and maintain one or more cemeteries in any location owned by the town and designated as a cemetery by the town council. Any designation by the town council of a cemetery shall be permanent.

The name of the cemetery located at 1860 N. Sunrise Circle shall be Apple Valley Cemetery.

SECTION 3: ADOPTION “14.13.030 Sexton Powers And Duties” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.030 Sexton Powers And Duties (Non-existent)

AFTER ADOPTION

14.13.030 Sexton Powers And Duties(*Added*)

There is hereby created the position of Sexton as designated by town council. The sexton, subject to the direction of the town administrator, has entire charge of the cemetery and is authorized to enforce the rules and regulations pertaining thereto. The sexton may take such action as may be necessary, though not expressly set forth herein, to protect the property of grave and lot owners, and the cemetery, from injury, and to preserve the peace, economy, and good order of the cemetery. The sexton shall keep the cemetery plat and related records up to date and cooperate with the town treasurer in maintaining records of charges and payments made pursuant to this chapter. The sexton or a competent deputy shall attend every interment in a cemetery and shall register the names and ages of all persons interred therein and the place of their interment. The sexton shall open and close graves, maintain the cemetery, and perform such other duties as may be required elsewhere in this chapter or directed by the town council.

SECTION 4: ADOPTION “14.13.040 Burial Rights” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.040 Burial Rights (Non-existent)

AFTER ADOPTION

14.13.040 Burial Rights(*Added*)

A. Sale of Burial Rights: The town is authorized to sell burial rights only to individuals. Upon a sale of a burial right, the town shall issue a certificate of burial right, which certificate shall grant to the individual named therein the nontransferable right to be buried in the burial lot identified therein. The certificate of burial grants only a license to be buried and is not a conveyance of any title, fee, or other ownership or possessory interest in a burial lot. An individual may purchase more than one (1) burial right so long as each issued certificate of burial right identifies the individual who is entitled to

be buried in the burial lot identified therein. Only one (1) individual may be named in a certificate, without any duplication. Any certificate of burial right that does not name the individual who may be buried in the burial lot identified therein is invalid. The cost of a burial right shall be established by the town council as part of the town's enacted fee schedule. If the individual named in the certificate is not a resident of the town, the cost of the burial right shall be the nonresident fee.

B. Limitation On Transferability of Burial Rights: Burial rights may not be transferred in any manner, except the individual named in the certificate of burial right may (1) subdivide a burial right as provided in subsection C of this section and (2) conditionally surrender the burial right covered in the certificate of burial rights as provided in subsection D of this section.

C. Subdivision of Burial Rights: A burial right includes the nontransferable right to allow the burial of additional human remains in a burial lot in the following combinations:

1. One (1) casket buried at normal depth, with up to two (2) containers of cremated remains buried above the casket – one (1) buried under the headstone for the casket and one (1) buried with a separate headstone halfway between the headstone for the casket and the end of the casket.
2. Two (2) caskets buried in the same burial lot; one (1) at nine (9) feet and one (1) at six (6) feet, with up to two (2) containers of cremated remains buried above the casket – one (1) buried under the headstone for the casket and one (1) buried with a separate headstone halfway between the headstone for the casket and the end of the casket.
3. Up to four (4) containers of cremated remains, with one (1) buried in each quadrant.

a. While alive, the individual named in the certificate of burial right must consent in writing to the burial of any other remains in the burial lot identified therein. Once the individual named in the certificate of burial right has passed away, the burial of any other remains in the burial lot identified therein may be allowed by (1) the surviving spouse of the individual named in the certificate of burial right or (2) if no spouse survives, a descendant of the individual named in the certificate of burial right. Before the town will allow a descendant to consent to the burial of any other remains in the burial lot, the descendant must either obtain the written consent of all the surviving descendants of the individual named in the certificate of burial right, by representation, or must notify in writing all descendants, by representation, of an intent to allow other remains in the burial lot, which writing must explicitly state that the town must receive any objection in writing within thirty (30) days. If the town does not receive any objection within thirty (30) days from the date the last notice was mailed, the descendant may consent to the burial of other remains in the burial lot. If the town receives an objection within thirty (30) days from the date the last notice was mailed, the descendant may not consent to the burial of other remains in the burial lot. Before notifying descendants of an intent to consent to the burial of other

remains in the burial lot, the descendant must notify the town of such intent, identify for the town the name and last known address of all known surviving descendants of the individual named in the certificate of burial right, and deliver a copy of the notices to the town, with proof of mailing. The legally recognized guardian of any minor or incapacitated descendant may act on behalf of the minor or incapacitated descendant.

- D. Voluntary Surrender of Burial Rights: At any time prior to sixty (60) years from the date of issuance of a certificate of burial right, the individual named in the certificate of burial right, or the legally recognized guardian of the individual named in the certificate of burial right, may surrender the burial right to the town by delivering to the town a signed and notarized document indicating an intent to surrender. Upon surrender, the town shall refund the original purchase price of the burial right to the surrendering individual. The surrendering individual may elect to condition the surrender of the burial right on the sale of the burial right to an individual identified by the surrendering individual by identifying the successor individual in the notarized surrender document. The identified individual shall have thirty (30) days from the date of surrender to pay the then current fee for a burial right. If the surrendering individual fails to identify a successor in the surrender document, or the individual identified to purchase the burial right fails to pay the fee within thirty (30) days from the date of surrender, the surrender shall be deemed unconditional, and the town may immediately thereafter sell the burial right as the town deems fit in the town's sole discretion.
- E. Abandonment Through Nonuse – Reclamation: If a burial right, including any subdivided burial right, remains unexercised for more than sixty (60) years from the date of issuance, the burial right shall be deemed abandoned and the town may reclaim the associated burial lot in any manner authorized by the laws of the state of Utah. The town may sell a burial right for any reclaimed burial lot.

SECTION 5: ADOPTION “14.13.050 Perpetual Care Fee” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.050 Perpetual Care Fee (Non-existent)

AFTER ADOPTION

14.13.050 Perpetual Care Fee(*Added*)

At the time a burial right is sold by the town, the town shall charge a reasonable fee, as established by the town council on the town's duly enacted fee schedule, to cover perpetual care of the burial lot, which is nonrefundable. The fee shall not exceed the amount anticipated by the town to cover the projected cost of maintenance necessitated by natural growth and ordinary wear and tear.

SECTION 6: **ADOPTION** “14.13.060 Burial Permit” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.060 Burial Permit (Non-existent)

AFTER ADOPTION

14.13.060 Burial Permit(*Added*)

No remains shall be interred, or remains received, unless a statistics report is received from a licensed mortician and signed by the funeral director, which shall be an acknowledgement of the mortuary's obligation to pay for the burial, or unless the burial charges have been paid in advance to the town treasurer and receipt therefor is presented to the sexton as a permit for the burial. The burial report or receipt shall reflect the full name of the deceased, the date and place of birth, the date and place of death, and the name and address of the person responsible for disposal.

SECTION 7: **ADOPTION** “14.13.070 Fees For Burial” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.070 Fees For Burial (Non-existent)

AFTER ADOPTION

14.13.070 Fees For Burial(*Added*)

- A. Burial Fee: Upon the exercise of a burial right, the town shall charge a reasonable fee, as established by the town council on the town's duly enacted fee schedule, to cover the cost of burial.
- B. Disinterment Fee: Upon a request for disinterment authorized by the laws of the state

of Utah, the town shall charge a reasonable fee, as established by the town council on the town's duly enacted fee schedule, to cover the cost of disinterment. If the request includes that a disinterment shall include the vault, the town shall charge an additional reasonable fee, as established by the town council on the town's duly enacted fee schedule. Notwithstanding such surcharge, the town does not guarantee in such event that the vault will be intact or undamaged.

C. Other Services: The town may charge reasonable fees, as established by the town council on the town's duly enacted fee schedule, for other services rendered by the sexton or the town related to a cemetery or a burial right.

SECTION 8: **ADOPTION** “14.13.080 Burial Hours - Sundays And Holidays” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.080 Burial Hours - Sundays And Holidays (Non-existent)

AFTER ADOPTION

14.13.080 Burial Hours - Sundays And Holidays(*Added*)

No graveside service or interment will be allowed in the cemetery on Sunday or on any of the holidays officially observed by the town. On all other days, graveside services or interments will be allowed between the hours of nine o'clock (9:00) A.M. and three o'clock (3:00) P.M. all graveside services and interments must be arranged through the sexton forty-eight (48) hours in advance of the time set, and, if there is an intervening holiday or Sunday, arrangements must be made seventy-two (72) hours in advance. The sexton may approve exceptions to the times designated herein and shall charge a reasonable fee, as established by the town council on the town's duly enacted fee schedule, to cover expenses related to off-hours graveside services or interments.

SECTION 9: **ADOPTION** “14.13.090 Restrictions On Burial” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.090 Restrictions On Burial (Non-existent)

AFTER ADOPTION

14.13.090 Restrictions On Burial(*Added*)

It shall be unlawful for any person to bury the body of a deceased person within the town limits, except in a cemetery as described in section 14-13-030 of this chapter. No grave in the cemetery shall be opened or filled, refilled, or sodded, except by employees of the town under the direction of the sexton. All parts of a burial or cremation vault shall be at least two feet (2') below the surface of the ground. One (1) interment only shall be allowed in a casket except for a parent with their infant child, two (2) children who are buried at the same time, or one (1) cremated remains placed in the casket at the time of burial. Double Depth burials are allowed.

SECTION 10: **ADOPTION** “14.13.100 Vaults” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.100 Vaults (Non-existent)

AFTER ADOPTION

14.13.100 Vaults(*Added*)

Before a casket is accepted for burial, it must be housed within a concrete vault having fixed top and side panel edge restraints incorporated into the construction and having a strength capable of uniformly withstanding a stress of seven and one-half (7 ½) pounds per square inch. If a particular type or construction of a vault is rejected by the sexton, the mortician or party utilizing the vault shall bear the burden of proving compliance with the strength requirements of this section. Cremated remains must be placed in a cremation vault made of fiberglass, concrete, or metal with a strength deemed adequate by the sexton.

SECTION 11: **ADOPTION** “14.13.110 Headstones” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.110 Headstones (Non-existent)

AFTER ADOPTION

14.13.110 Headstones(*Added*)

- A. All graves shall be identified by a headstone placed at the head of the grave. A burial lot containing multiple graves must have a headstone for each grave, which may be a joint combined marker or monument, if otherwise allowed, or small individual markers. No more than one headstone shall be permitted for each grave, except where a traditional military marker is appropriate in addition to another monument. All headstones must comply with the cemetery standards.
- B. Upright monuments are allowed but may not be more than three feet (3') high. A six-inch (6") mow strip is required. Cremation/Infant monuments are required to be flat.
- C. Single Raised Headstone or Marker: A single raised headstone shall have up to a maximum height of thirty-six inches (36") and a maximum foundation size up to forty-two inches (42") by twenty-eight inches (28"). A six-inch (6") concrete mow strip is required.
- D. Companion or Double Raised Headstone or Marker: A companion or double raised headstone shall have a maximum height of thirty-six (36") and a foundation size of up to seventy-two inches (72") by twenty-eight (28"). A six-inch (6") concrete mow strip is required.
- E. Single Flat Headstones or Marker other than Infant: A single flat headstone shall have up to a maximum foundation size of forty-two inches (42") by twenty-eight inches (28"). A six-inch (6") concrete mow strip is required.
- F. Companion or Double Flat Headstones or Marker other than Infant: A double flat headstone shall have up to a maximum foundation size of seventy-two inches (72") by thirty inches (30"). A six-inch (6") concrete mow strip is required.
- G. Infant Headstones or Marker: Only a flat headstone shall be allowed in the infant section. It shall have a minimum size of twelve inches (12") by twelve inches (12"). It shall not exceed twenty-four inches (24") by twenty four inches (24"). A six-inch (6") concrete mow strip is required.
- H. All headstones or markers must be made of real bronze, glazed granite or other permanent materials. Wood, sandstone, or any other material which is susceptible to decay is not authorized.
- I. Monument and grave markers will be installed by private firms. The sexton's office must receive a minimum of twenty-four (24) hours' notice before installation. Installers are responsible for the removal of all excess debris and must restore the lot to its original condition. Patrons are responsible for removal and re-installment of any marker or monument deemed oversized by town staff.
- J. In the event a headstone is not placed on the grave within ninety (90) days after interment, the sexton may, but is not required to, install a headstone in a form and size selected by the sexton at the sexton's sole discretion.
- K. The town shall not be held liable for damage to headstones, including any damage caused during maintenance or resulting from moving/transferring for interment purposes.

SECTION 12: **ADOPTION** “14.13.120 Regulations And Prohibited Uses”
of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.120 Regulations And Prohibited Uses (Non-existent)

AFTER ADOPTION

14.13.120 Regulations And Prohibited Uses(*Added*)

- A. Park Regulations Govern: Insofar as they may be applicable, those regulations adopted by the town to govern operation of its parks shall apply to the cemetery. However, it shall be unlawful for any person to be in a cemetery during hours of darkness. A person is considered to be “in a cemetery” if he or she is upon any portion of the property set aside as present or future cemetery property as designated in the appropriate records of the town and county.
- B. Policies Adopted – Conflicting Provisions: The town council may also adopt policies, rules and regulations to govern operation of a cemetery. If adopted, such policies, rules and regulations will control over a less specific or conflicting provision of the park rules and regulations.
- C. Patrons – Children: Cemetery patrons only are allowed in a cemetery. Children under sixteen (16) years of age must be always accompanied on cemetery property by a parent or some supervising adult eighteen (18) years of age or older.
- D. Recreational Activities – Animals: It shall be unlawful to engage in any active recreational activity such as, but not limited to soccer, baseball, and football, or to bring or allow any animal on cemetery property.
- E. Burial of Animals or Nonhuman Items: It shall be unlawful to bury animals or other nonhuman items in a cemetery unless the sexton is directed otherwise by the town council in a particular instance.
- F. Motor Vehicles: No motor vehicle shall travel off clearly designated roadways in a cemetery for any reason without consent of the sexton, and where such consent is given, the owner or operator of the vehicle shall either repair all damage, including tire marks, which the sexton determines to have been caused by such vehicle, or they shall reimburse the town for the cost of such repair. The speed limit within the cemetery is 5 m.p.h. Parking is permitted on the internal roads and curbside on external roads. No vehicles permitted after dark.
- G. Sod/Landscaping Rocks Disturbance: In no event shall the sod or landscaping rocks be disturbed without prior approval of the sexton.
- H. No soliciting, sales, or pan-handling.
- I. No signs or advertisements.
- J. Alcoholic beverages and smoking are prohibited.
- K. Penalty: Violation of this section shall constitute a class B misdemeanor and, upon conviction, subject to penalty as provided in section 1.08 of this code.

SECTION 13: **ADOPTION** “14.13.130 Disinterments - Disinurnments - Exhumations” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.130 Disinterments - Disinurnments - Exhumations (Non-existent)

AFTER ADOPTION

14.13.130 Disinterments - Disinurnments - Exhumations(*Added*)

The scheduling of disinterment, disinurnment, or exhumations shall be at the discretion of the sexton. The sexton may refuse to disinter any remains that would endanger the health and safety of town employees or the public. Disinterment may be postponed without notice if the sexton deems it necessary in order to maintain the regular operations of a cemetery.

SECTION 14: **ADOPTION** “14.13.140 Memorials” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.140 Memorials (Non-existent)

AFTER ADOPTION

14.13.140 Memorials(*Added*)

- A. Semi-permanent Memorials: No person shall have the right to place or plant semipermanent memorials, including but not limited to trees, shrubs, and flowers, on a burial lot without the approval of the sexton. In considering whether to approve semi-permanent memorials, the sexton may consider plant maintenance requirements, landscape value and hardiness, interference with other burial lots, plants and mowing operations, and consistency with landscape design.
- B. Temporary Memorials: Temporary memorials, including but not limited to potted plants, flags, floral wreaths, and flowers in vases, will be removed without notice by town employees when they become withered, discolored, torn, broken, or vandalized. Funeral flowers will be allowed to remain for three (3) business days, after which town employees may remove them based on the above criteria. Other temporary memorial items such as glass containers, wires, sticks, iron rods, pegs, ceramic pots, or

other containers that may pose safety hazards will be removed by town employees. All temporary memorials must be placed in a raised adjustable receptacle that is either in the monument or in the concrete border that surrounds the monument. A single shepherd hook may be placed adjacent to the concrete border. One shepherd hook per grave permitted. The adjustable receptacles must be of a type approved by the sexton.

C. Removal of Items: The town shall not be responsible or liable for memorials that are removed, discarded, damaged, or destroyed. Clearing of memorials may occur as often as monthly.

D. Theft or Loss of Personal Belongings: The town is not responsible for the theft or loss of personal belongings.

SECTION 15: **ADOPTION** “14.13.150 Maintenance” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.150 Maintenance (Non-existent)

AFTER ADOPTION

14.13.150 Maintenance(*Added*)

Town employees provide regular cleaning, turf care, raising and leveling of monuments or markers at the discretion of the sexton. Health and safety considerations will prevail in the determination of priorities.

SECTION 16: **ADOPTION** “14.13.160 Cemetery Board” of the Apple Valley Municipal Code is hereby *added* as follows:

BEFORE ADOPTION

14.13.160 Cemetery Board (Non-existent)

AFTER ADOPTION

14.13.160 Cemetery Board(*Added*)

A cemetery board shall be established to assist the town council in decisions regarding the cemetery and to ensure policies and procedures are being followed. The board shall serve as an advisory board.

APPOINTMENT; MEMBERSHIP:

- A. Appointment: The cemetery board shall consist of up to five (5) members with a minimum of three (3) members. All members shall be appointed by the Mayor with the advice and consent of the town council.
- B. The board shall serve under the direction of the town administrator.
- C. The board shall select a chairperson and secretary, and such other officers as the board may determine. The sexton shall serve as one of the board members.
- D. The meeting schedule shall be held, at a minimum, annually.
- E. Terms; Vacancies; Removals. The members shall serve staggering four (4) year terms. The mayor may appoint members, with the advice and consent of the town council, to fill any unexpired term of any member who vacates their position for any reason. Members may be removed from their position for cause by the town council. "Cause" includes, but is not limited to, moving out of the town, failing to attend meetings, or committing any act inimical to public service.

POWERS AND DUTIES: The board shall have the following responsibilities:

- A. Recommending the mission, goals, objectives, short-term plan, and long-term plan related to the cemetery.
- B. Assisting the town council in identification of areas of concern, educating residents, ensuring policies and procedures are being followed, and any other task similar as directed by the town administrator and/or sexton.

MEETINGS:

Meetings shall be held at the town meeting room or such other location within the town as determined from time to time by the board. Notice of the date, time, and location of the meeting, along with the agenda, shall be given to the Town Recorder sufficiently in advance of such meeting to allow for proper notice in accordance with state law.

QUORUM; VOTE REQUIRED: A quorum of the board shall be three (3) members; and a majority vote of a quorum shall be required for a decision of any matter before the board. If a quorum is not present, no meeting shall be held, and any items of business shall be continued to the next meeting of the board.

SECTION 17: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 18: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 19: **EFFECTIVE DATE** This Ordinance shall be in full force and effect from March 22, 2023.

PASSED AND ADOPTED BY THE APPLE VALLEY COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Mayor Frank Lindhardt	_____	_____	_____	_____
Council Member Andy McGinnis	_____	_____	_____	_____
Council Member Barratt Nielson	_____	_____	_____	_____
Council Member Kevin Sair	_____	_____	_____	_____
Council Member Robin Whitmore	_____	_____	_____	_____

Attest

Presiding Officer

Jenna Vizcardo, Town Clerk, Apple Valley

Frank Lindhardt, Mayor, Apple Valley