

ARTICLE VI - Cemetery

Sec. 11-101. - Definitions

For purposes of this Article, the following definitions apply:

Burial space shall mean a grave space or a niche, as appropriate.

Burial memorial shall mean any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

Cemetery shall mean the Johnstown Cemetery.

Columbarium shall mean a vault with niches for urns containing the ashes of cremated bodies.

Grave space shall mean a single space within a platted lot designed for the interment of one body.

Lot shall mean a platted lot within the cemetery and may consist of more than one burial space.

Niche shall mean a location within the columbarium vault designed to hold an urn containing the ashes of one cremated body.

Owner shall mean the person with the right to interment in a burial space.

Purchaser shall mean the purchaser of a burial space.

Sec. 11-102. – Administration by Town Manager.

The Town Manager is hereby delegated the authority to administer the provisions of this Article. Among other duties and obligations, the Town Manager shall supervise the care and maintenance of the cemetery, keep a map of the cemetery and maintain the records of the cemetery. Subject to the limitations of this Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

Sec. 11-103. - Rules and regulations.

The Town Manager shall implement rules and regulations not inconsistent with the provisions of this Article governing the cemetery. Such rules and regulations shall be on file and available for public examination in the office of the Town Clerk. The failure to comply with any rule or regulation promulgated under this Article, as such rules and regulations may be amended from time to time, shall be deemed a violation of the Code.

Sec. 11-104. – Application for burial space.

The Town shall require an application for all burial spaces. The application shall contain a description of the burial space or niche, the purchase price and the method of payment. At the time of application, the Town Clerk shall provide the applicant with, or direct the applicant to the location of, the rules and regulations then in effect. When executed by the applicant and the Town, the application shall become a binding contract of purchase and sale.

Sec. 11-105. – Interment agreement; no title to real property.

- (a) Upon payment of the full purchase price to the Town, the Town shall issue an interment agreement, signed by the Town Manager or the Town Clerk, conveying the right of interment for the designated burial space, subject to this Article and the rules and regulations adopted by the Town Manager.
- (b) The interment agreement shall contain the contact information for the purchaser of the burial space and the contact information for the owner of the burial space with the right to interment.
- (c) For burial spaces, the interment agreement shall contain the block and lot number. For niches, the interment agreement shall contain the niche description and location.
- (d) Interment agreements issued prior to January 1, 2021, or other similar instruments issued by the Town for a burial space in the cemetery, shall remain valid and binding obligations of the Town.
- (e) The interment agreement, or any instrument issued by the Town for a burial space in the cemetery, of whatever form, grants interment rights only and does not convey title to real property.

Sec. 11-106. – Price of burial spaces.

The Town Manager shall establish the sale price of burial spaces. The sale price may differ for resident and non-resident use of burial spaces.

Sec. 11-107. – Cemetery funds.

- (a) Fifteen percent (15%) of the monies and proceeds derived from the sale of burial spaces shall be deposited and carried in the Cemetery Perpetual Care Fund. All other monies and proceeds derived from the sale of burial spaces, all other revenue derived from the operation of the cemetery from any source and the earnings received from investment of the Cemetery Perpetual Care Funds shall be deposited and carried in the Parks and Open Space Fund.
- (b) The Cemetery Perpetual Care Fund and the entire principal thereof shall be safely and perpetually kept and invested. It shall be invested in such securities as under state law are approved for investment of municipal funds. The interest and income therefrom may be used for cemetery maintenance. The principal shall only be used for major improvements or maintenance projects of the cemetery.
- (c) All disbursements made for or on account of the cemetery shall be paid out of the Parks and Open Space Fund.

Sec. 11-108. – Transfer of burial space; prohibited sale of burial space.

- (a) A burial space, or interest in the cemetery, may not be transferred, assigned or conveyed without the prior written consent of the Town. The Town shall not consent to the transfer, assignment or conveyance of any burial space or interest in the cemetery upon which there is any indebtedness due the Town.
- (b) Burial spaces may not be sold to a funeral director or to any other persons for purposes of resale or speculation.

Sec. 11-109. – Use of burial space.

- (a) For burial spaces purchased after January 1, 2021, the owner shall be entitled to use of the burial space, unless:
 - (1) The purchaser, prior to use by the owner, provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person. If such request is granted by the Town, the Town shall void the existing interment agreement and issue a new interment agreement; or
 - (2) The purchaser is deceased and the owner provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person.
- (b) For burial spaces purchased prior to January 1, 2021, the Town shall conclusively presume that the purchaser, the purchaser's spouse or the purchaser's children are entitled to use the burial space, unless, upon purchase, the purchaser designated the right of interment to a specific person or the purchaser, if not deceased, otherwise directs the Town by written, notarized notification.

Sec. 11-110. – Abandonment of burial space; right to reclaim.

A burial space shall be deemed abandoned, and the Town shall have a right to reclaim the burial space, as provided in § 6-24-112, C.R.S., as amended.

Sec. 11-111. – Indigent and welfare cases.

When a request is made to inter a person with insufficient funds to cover the expenses, the Town shall work within the expense allowance granted by the Colorado Department of Social Services. Burial spaces for such persons shall be restricted to the southeast corner of the cemetery in Block No. 4.

Sec. 11-112. – Burial memorials.

All burial memorials shall be governed by the rules and regulations of the cemetery.

Sec. 11-113. – Decorations.

All decorations, permissible and impermissible, shall be governed by the rules and regulations of the cemetery.

Sec. 11-114. – Perpetual care.

All burial spaces in the Town cemetery shall be perpetually cared for by the Town.

Sec. 11-115. – Cemetery fees.

Cemetery fees, of whatever nature, shall be set forth in the Town Fee Schedule.

Sec. 11-116. – Cemetery committee.

The Town Manager may designate a cemetery committee to act in an advisory capacity regarding the operations and maintenance of the cemetery. If a cemetery committee is established or convened, the cemetery committee shall provide recommendations and proposals to the Town Manager, as requested.

Sec. 11-117. – Acts prohibited within cemetery.

No person in the cemetery shall:

- (a) Loiter upon the grounds;
- (b) Be under the age of fifteen (15) unless accompanied by an adult or other proper caretaker;
- (c) Drive an automobile or other vehicle in excess of 10 miles per hour or in excess of such lesser speed as is prudent under the existing conditions and circumstances;
- (d) Except for authorized personnel, drive or ride any automobile, machine or animal on lots, grass or walks;
- (e) Discard trash, debris or other unsightly items in the cemetery, except in receptacles designated for such items;
- (f) Direct or cause Town employees to perform work without an order from the Town Manager or the Town Manager's designee;
- (g) Perform work on the grounds, except by permission of the Town Manager or the Town Manager's designee;
- (h) Take any animal or permit any animal to be taken into the cemetery except service animals;
- (i) Deface, damage, destroy or injure any burial memorials other property or thing in the cemetery;
- (j) Peddle flowers or plants or any other commodity;
- (k) Except for authorized persons, make a change to the inscription on the burial memorial.

Sec. 11-118. – Violation; penalty.

Any person violating any provision of this Article shall be deemed guilty of an offense and upon conviction thereof shall be penalized as provided in Article IV of Chapter 1 of the Code. All persons doing damage to property or burial spaces in and about the cemetery shall be liable to the Town and to the owner of the property damaged for such damage.