

Chapter 10

CEMETERIES*

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***State law references**—Cemeteries generally, G.S. Ch. 65; municipal cemeteries, G.S. 160A-341 et seq.

ARTICLE I. IN GENERAL**Sec. 10-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cemetery shall mean Hillcrest Cemetery.

New section shall mean that part or section of Hillcrest Cemetery which the town of Cary acquired in the year 1977, by deed recorded in Book 2509, at page 507, of the Wake County, North Carolina, Registry, on June 6, 1977.

Old section shall mean all those parts or sections of Hillcrest Cemetery, which the town of Cary owns in fee simple, other than the new section as defined above.
(Code 1982, § 7-2; Ord. No. 80-4, § 6.1-3(a)(1—5), 1-24-1980)

Sec. 10-2. Purpose.

This chapter is adopted for the purpose of operating, maintaining, regulating and controlling the Hillcrest Cemetery, which is owned by the town. The "new section," as defined in section 10-1, shall be regulated by this chapter, and the "old section," as defined in section 10-1, shall continue to be operated and maintained under its present policy, except as supplemented by this chapter.
(Code 1982, § 7-3; Ord. No. 80-4, § 6.1-2, 1-24-1980)

Sec. 10-3. Offensive substances.

No person shall deposit, or cause to be deposited, any filth or unclean or offensive substance in the cemetery.
(Code 1982, § 7-5; Ord. No. 80-4, § 6.1-27, 1-24-1980)

Sec. 10-4. Animals or vehicles generally.

No person shall take any animal into a town-owned cemetery or allow any animal to run at large therein, or ride, drive or lead any animal or vehicle on or over any plot or walkway therein.
(Code 1982, § 7-6; Ord. No. 80-4, § 6.1-25, 1-24-1980)

Sec. 10-5. Speed of vehicles.

No person shall drive a motor vehicle in any town-owned cemetery at a rate of speed in excess of 15 miles per hour.
(Code 1982, § 7-7; Ord. No. 80-4, § 6.1-24, 1-24-1980)

Sec. 10-6. Conduct in cemetery.

No person shall use the cemetery as a playground or parking place, make loud noises of any kind, discharge any firearms (provided that firearms may be discharged in case of military funerals

and Memorial Day exercises), use language reasonably calculated to provoke an immediate breach of the peace or no person shall remain within or enter the cemetery of the town after sundown without first having secured permission from the public works director or designee.

(Code 1982, § 7-8; Ord. No. 80-4, § 6.1-22, 1-24-1980)

Sec. 10-7. Plantings generally.

(a) No person shall plant or maintain any tree, shrub or ground cover in the town cemetery.

(b) The right is reserved by the town to trim, prune, exclude or remove from any lot any tree, planting, plant or shrubbery which is unsightly or detrimental by reason of roots, branches or otherwise to adjacent walks or roads, or which detract from the general appearance of the cemetery.

(Code 1982, § 7-9; Ord. No. 80-4, § 6.1-20, 1-24-1980)

Sec. 10-8. Removal of floral arrangements.

All cut flowers shall be removed when they become wilted, impaired, or unsightly. If flowers are not removed by the owners, then they shall be removed by the superintendent of cemeteries. Any containers left at the graveside after the flowers have served their usefulness will be removed by the public works director or designee.

(Code 1982, § 7-10; Ord. No. 80-4, § 6.1-23, 1-24-1980)

Sec. 10-9. Closing hours.

The town cemetery shall be closed from 8:00 p.m. until 8:00 a.m. from April 1 through August 31 and from 6:00 p.m. until 8:00 a.m. from September 1 through March 31. No person may enter the cemetery while it is closed without the permission of the public works director or designee.

(Code 1982, § 7-11; Ord. No. 80-4, § 6.1-21, 1-24-1980; Ord. No. 94-012, § 1, 5-12-1994)

Secs. 10-10—10-36. Reserved.

ARTICLE II. SALE OF LOTS

Sec. 10-37. Procedure for purchase of lots.

(a) *Intent.* The town intends to make cemetery lots available to all persons on an equal basis. In order to accomplish this, restrictions must be placed on the sale of lots to discourage the purchasing of lots with the primary intent of reselling them for a profit.

(b) *Number of lots.* No person or other legal entity including, but not limited to, companies, partnerships, corporations and other business associations, shall be allowed to purchase from the town more than six lots in the new section. Any person denied the right to purchase a lot or lots pursuant to this subsection may appeal the decision of the town clerk to the town council for a final decision on the matter.

(c) *Sale by town.* Upon payment by the purchaser of the full purchase price and registration fee, the town clerk shall deliver a deed of burial easement to the purchaser and maintain appropriate records of each transaction. The town clerk shall cause the deed to be executed by the town, registered in the office of the county register of deeds and subsequently delivered to the purchaser.

(d) *Reconveyance by purchaser.* In order to properly manage the new section of the cemetery, the town must know, at all times, the identity of the legal owner of each lot. The public records of the county registry shall be used for that purpose. If a lot is resold, after conveyance from the town, the purchaser must register the conveying instrument in the office of the county register of deeds within 15 days after its execution and provide the town clerk a photostatic copy of the registered instrument within 15 days after registration or the town may exercise the option to terminate the easement. (Code 1982, § 7-23; Ord. No. 80-4, § 6.1-7, 1-24-1980)

Sec. 10-38. Price of lots.

(a) The price of lots in the new section shall be determined by the town council and made a part of the fee schedule in the budget document. In addition to the purchase price, the town shall collect a fee for the registration of the deed with the county register of deeds. The registration fee collected shall be determined by reference to G.S. 161-10.

(b) Upon request of the lot owner, and approved by the town council, the town will repurchase lots sold in the new section for \$300.00 per lot. (Code 1982, § 7-24; Ord. No. 80-4, § 6.1-6, 1-24-1980; Ord. No. 82-14, § 1, 9-23-1982)

Sec. 10-39. Modification of layout of new section.

The plat of the new section may be modified or revised by the town council for good cause shown. (Code 1982, § 7-25; Ord. No. 80-4, § 6.1-9, 1-24-1980)

Secs. 10-40—10-66. Reserved.

ARTICLE III. INTERMENTS

Sec. 10-67. Restrictions.

(a) *Generally.* All interments in lots shall be restricted to members of the family or relatives of the owners, or such other persons as the owner may choose to admit. Prior to interment, the owner or his authorized representative shall authorize such burial by executing an authorization-for-burial form. The usage of each lot shall be limited to one of the following:

- (1) The interment of one human body;
- (2) The interment of one human body and one cremation urn;
- (3) The interment of one or two cremation urns.

(b) *Permit.*

- (1) No interment of a body shall be made without a permit from the county health officer when such body is brought in from out of state.
- (2) No grave, vault or tomb within the new section of the cemetery shall be disturbed, nor shall any body be removed from any grave, vault or tomb, without a permit from the county health officer, the consent of the lot owner or members of the family of the deceased and in compliance with G.S. Ch. 65.

(Code 1982, § 7-37; Ord. No. 80-4, § 6.1-10, 1-24-1980; Ord. No. 83-16, § 1, 10-13-1983; Ord. No. 2010-Code-02, 3-10-2010)

Sec. 10-68. Opening and closing of graves.

The town shall not be responsible for the opening or closing of graves for any purpose; nor shall the town assume any financial responsibility for the opening or closing of graves.

(Code 1982, § 7-38; Ord. No. 80-4, § 6.1-11, 1-24-1980)

Sec. 10-69. Hours of interment.

Burial services shall be scheduled generally between 8:00 a.m. and 5:00 p.m.

(Code 1982, § 7-39; Ord. No. 80-4, § 6.1-12, 1-24-1980)

Sec. 10-70. Grave specifications.

The width of graves in the cemetery shall be not less than three inches greater than the box width on each side. A minimum of 18 inches of soil shall be placed over the liner and all graves shall be made approximately level with the lot, and sodded.

(Code 1982, § 7-40; Ord. No. 80-4, § 6.1-13, 1-24-1980)

Sec. 10-71. Grave liners.

Concrete, steel or fiberglass grave liners shall be used for all burials in the new section of the cemetery. This requirement may not be waived in any situation.

(Code 1982, § 7-41; Ord. No. 80-4, § 6.1-14, 1-24-1980)

Sec. 10-72. Marking new grave sites.

(a) In the new section of the cemetery, a monument, footstone or other appropriate grave markings shall have mowing borders around the base of at least three inches.

(b) All monuments and footstones shall be erected under the supervision of the public works director or designee and all persons shall conform to these regulations and shall clean the site of their work of all unused materials or debris upon completion. Unused materials must be removed from the cemetery site.

(Code 1982, § 7-42; Ord. No. 80-4, § 6.1-15, 1-24-1980)

Sec. 10-73. Vaults, tombs or mausoleums above ground.

Vaults, tombs or mausoleums above the ground shall not be permitted in the new section of the cemetery.

(Code 1982, § 7-43; Ord. No. 80-4, § 6.1-16, 1-24-1980)

Sec. 10-74. Stones, plantings or obstacles.

(a) No person shall place or cause to be placed on any lot in the cemetery any stone, planting or obstacle, other than approved markers or monuments. Placing of a coping or other enclosure of whatsoever kind around a lot or lots, or around a grave, shall not be permitted. Mowing, sodding and maintenance shall be performed by the town.

(b) These requirements shall apply to the designated new section and the old section of the cemetery. The town shall not be responsible for maintenance of existing copings or other types of enclosures.

(Code 1982, § 7-44; Ord. No. 80-4, § 6.1-17, 1-24-1980; Ord. No. 89-31, § 1, 3-9-1989)

Sec. 10-75. Tents and other private property.

If used in the cemetery, tents will be erected by the funeral homes and shall not remain at the gravesite more than seven days. The town assumes no responsibility for any private equipment due to damage from wind, rain, snow, fire or other causes.

(Code 1982, § 7-45; Ord. No. 80-4, § 6.1-18, 1-24-1980)

Sec. 10-76. Record of interments and removals.

The town clerk shall keep a complete record of all interments and removals from the town cemetery. The record shall include the section of the cemetery, the lot number, size and location of graves on the lot, the name of the deceased and the date of such action.

(Code 1982, § 7-46; Ord. No. 80-4, § 6.1-19, 1-24-1980)

Secs. 10-77—10-95. Reserved.**ARTICLE IV. OLD SECTION****Sec. 10-96. Generally.**

The old section shall be subject to all the provisions of this chapter which are not in conflict with the regulations provided in section 10-97.

(Code 1982, § 7-58; Ord. No. 80-4, § 6.1-5, 1-24-1980)

Sec. 10-97. Regulations.

The following regulations shall apply only to the old section of Hillcrest Cemetery:

- (1) Upon the dissolution of Hillcrest Cemetery, a nonprofit corporation, the town accepted the old section for maintenance only, but with the specific understanding that the town shall not become involved in the development and sale of lots in the old section of cemetery property.
 - (2) The town shall make available to any interested citizen those maps and records delivered to the town by Hillcrest Cemetery association, but shall not in any way guarantee the accuracy of said maps and records.
 - (3) The town shall assume no responsibility for determining the location of family graves, lots or plots or the opening or closing of grave sites used by persons owning or claiming ownership of graves, lots or plots.
 - (4) The town shall make available in the town hall, during regular business hours, all materials and records delivered to the town by Hillcrest Cemetery association, but shall take no position in a determination of the accuracy of such records or possible conflicts between different individuals or families claiming ownership or rights.
- (Code 1982, § 7-59; Ord. No. 80-4, § 6.1-4, 1-24-1980)