

CITY OF RIFLE, COLORADO
ORDINANCE NO. 13
SERIES OF 2016

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING
ARTICLE VII, CHAPTER 11 OF THE RIFLE MUNICIPAL CODE REGARDING
CEMETERY REGULATIONS.

WHEREAS, Article VII, Chapter 11 of the Rifle Municipal Code (the "Code") sets forth provisions regarding transfer by the City of Rifle (the "City") of burial spaces located at Rose Hill Cemetery and other regulations for Rose Hill Cemetery and the management thereof; and

WHEREAS, 2006 amendments to state statute Section 31-25-701 *et seq.*, C.R.S., provide that municipalities in Colorado which have established cemeteries shall not transfer title to burial spaces located in a municipal cemetery, but that interment rights in and to such spaces may be granted; and

WHEREAS, recent amendments to state statute also provide that title to abandoned burial spaces located in municipal cemeteries in Colorado may be reclaimed by the municipality in which the cemetery is located and establish a method therefor; and

WHEREAS, to bring the Code into compliance with the statutory amendments and to improve the organization of Article VII, Chapter 11, the City Council wishes to amend Article VII, Chapter 11 of the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIFLE, COLORADO, THAT:

Section 1. The foregoing recitals are incorporated herein as if set forth in full.

Section 2. Article VII, Chapter 11 of the Rifle Municipal Code is hereby amended to read as follows, with additions shown in **bold, double underlined text**, and ~~strike-through language is deleted~~:

Sec. 11-7-10. Creation of cemetery.

There is hereby created a municipal cemetery under the name of Rose Hill Cemetery, consisting of land owned by the City or hereafter acquired to be used ~~and sold~~ for the burial of bodies. The City has caused the Rose Hill Cemetery to be surveyed and mapped by Tom Walker, a registered land surveyor, and the map is hereby accepted and declared to be the official map and plat of the Rose Hill Cemetery. The Mayor and the City Clerk have been authorized and directed to sign the map on behalf of the City and thereafter cause the same to be recorded in the County Clerk and Recorder's office. A copy of the map shall be filed in the office of the City Clerk.

Sec. 11-7-~~4030~~30. Fairyland area established.

*** No amendments to text, only amending section number

Sec. 11-7-3040. ~~Cemetery prices and charges~~ Purchase of burial space use rights.

(a) Other than burial in the charity area as provided in this Section 11-7-30, burial of bodies at Rose Hill Cemetery shall be conditioned on the purchase of exclusive rights to use a particular lot or burial space, mausoleum, or columbarium niche within the cemetery for this purpose. ~~The price for the purchase of a gravesite, mausoleum crypt or columbarium niche in the Rose Hill Cemetery shall be as set forth in Appendix A to this Code.~~ The City shall sell exclusive rights to use burial spaces and the rights to use a mausoleum or columbarium niche at such price or prices as directed by the City Council and as set forth in Appendix A to this Code.

(b) In addition to the purchase price of the ~~grave space~~ rights to use a lot or burial space, mausoleum, or columbarium niche within the cemetery, the City Treasurer shall assess and collect a perpetual care fund assessment in the at such amount directed by the City Council and set forth in Appendix A to this Code.

(c) Those persons who are unable to pay for the use rights to a grave lot or burial space, mausoleum, or columbarium niche may be placed in the charity area, which is designated as Block 4 of the Rose Hill Cemetery.

Sec. 11-7-50. Issuance of certificate.

(a) Upon the sale of rights to use a particular lot or burial space, mausoleum, or columbarium niche within the Rose Hill Cemetery, or the payment of perpetual care fund assessments by owners of burial spaces or lots pursuant to Section 11-7-130, the City shall issue a certificate subject to the conditions of this Article which sets forth:

(1) The name and address of the rights holder or owner;

(2) The amount of money paid for the lot or burial space rights and perpetual care assessments, or for perpetual care assessments only;

(3) The purpose for which such amounts were paid; and

(4) The location of the lot or burial space, part of lot, mausoleum, or columbarium niche to which use rights have been purchased and perpetual care assessments paid, or for which only a perpetual care assessment was paid.

(b) Each certificate issued by the City to a use rights purchaser shall further state that:

(1) “This certificate represents only a right to be buried or interred at Rose Hill Cemetery and in no way conveys title to real property.”

(2) “The burial or interment right represented by this certificate is not transferable without the prior approval of the City, other than transfer by operation of law. Any transfer of the rights represented herein by operation of law shall be reported to the City as soon as practicable by the recipient of the transferred rights.”

(c) Each certificate issued by the City shall be signed by the City Manager or his or her designee and attested by the City Clerk, with the corporate seal affixed thereto and the instrument delivered to the person purchasing the use rights or paying a perpetual care assessment only.

Sec. 11-7-5060. Rights, title and interest~~Conditions on rights and use.~~

The rights, ~~title and interest~~ acquired by any person in and to any grave lot or burial space in Rose Hill Cemetery shall be subject to the following conditions:

(2) No burial of the remains of other than the immediate family of blood relationship of the owner ~~of the lot~~ or person holding rights to the lot or burial space shall be permitted until a signed written release is filed by the owner or person holding such rights, his or her heirs or assignee of the owner’s or holder’s rights in the office of the City Clerk.

(5) No lot or ~~grave~~ burial space shall be decorated by its owner, use rights holder or others with any trees, shrubs or other plants.

(10) The City shall not be liable for any injury or damage to any monument, marker or other structure in the cemetery resulting from any cause beyond its reasonable control, and ~~such rights, title and interest of the purchasers of grave sections or lots~~ burial space owners or use rights holders shall be subject to any and all of the rules, regulations and conditions herein contained or hereafter adopted by the City for the regulation and operation of the cemetery.

(11) Burial space use rights to any lot or burial space shall not be transferred without the prior approval of the City, other than transfer by operation of law including, but not limited to, transfers pursuant to a last will and testament or the laws of intestate succession. Any transfer of ownership or use rights by operation of law shall be reported as soon as

~~practicable by the recipient of the transfer.~~ Owners of lots are not allowed to resell their lot as a whole or in part without the consent of the City Council, and ~~N~~o transfer or assignment shall be valid unless the consent of the City Council is endorsed on the applicable deed or certificate under the seal of the City. For any lot or burial space already transferred by the City by deed, ~~t~~The City reserves the right to purchase, at the option of the owner of the lot or burial space, any lot or ~~grave~~ burial space at and for the price paid for the lot or ~~grave~~ burial space at the time of the original purchase and sale of the same.

Sec. 11-7-~~60~~70. Duties of Sexton.

*** No amendments to text, only amending section number

Sec. 11-7-~~70~~80. Visitor regulations.

*** No amendments to text, only amending section number

Sec. 11-7-~~80~~90. Damaging property prohibited.

*** No amendments to text, only amending section number

Sec. 11-7-~~90~~100. Disturbing the quiet prohibited.

*** No amendments to text, only amending section number

Sec. 11-7-~~100~~110. Discharging firearms prohibited; ~~dogs~~ prohibited.

*** No amendments to text, only amending section number

Sec. 11-7-~~110~~120. Care of lawn and monuments.

The City shall provide perpetual care to grass and lawn upon all cemetery lots, ~~grave~~ burial spaces, parts of lots or parcels of land ~~sold by it and~~ where such care has been provided for by payment of the applicable perpetual care fund assessment in accordance with the terms and provisions of this Article. ~~All~~ owners of or holder of rights to lots, ~~graves or grave sections or~~ burial spaces shall be responsible for the care and maintenance of all monuments, mausoleums and markers erected on the lots or ~~grave~~ burial spaces owned by the owner or for which the rights holder holds use rights.

~~Sec. 11-7-120. Cost of perpetual care.~~

~~When any cemetery grave space is sold by the City, the regular purchase price shall include~~

~~perpetual care in accordance with the intent of this Article, and fifty percent (50%) of the money received from the sale of any perpetual care grave space in the cemetery shall be deposited and placed in a perpetual care fund so that the same may, from time to time, be invested by the trustees of the fund as herein provided and the income derived therefrom used for the perpetual care and maintenance of the grass and lawn located upon the grave space so purchased, all in accordance with the purpose and intent of this Article.~~

Sec. 11-7-130. Perpetual care of existing spaces.

The owners of lots, ~~grave or burial~~ spaces or part thereof ~~parts of lots or parcels of land in the Rose Hill Cemetery~~ purchased prior to the date of the enactment of the initial ordinance codified herein may purchase perpetual care by the City for the owner's lot or burial space upon the payment of the perpetual care fund assessment amount set forth in Appendix A to this Code, ~~said money to be deposited in the Rose Hill Cemetery Perpetual Care Fund.~~

Sec. 11-7-140. Perpetual care trust fund.

(a) There is hereby created and established for the purpose of perpetual care of lot or burial spaces in the cemetery a perpetual trust fund to be known under the name and style of "Rose Hill Cemetery Perpetual Care Fund." The general supervision, management and control of the fund shall be vested in the City Council. The City Treasurer shall be the custodian of the fund, and the moneys in the fund shall be invested as directed by the City Council.

(b) The money received pursuant to payment of a perpetual care fund assessment shall be deposited and placed into the Rose Hill Cemetery Perpetual Care Fund. All funds placed into the Rose Hill Cemetery Perpetual Care Fund shall be kept separate and apart from all other funds of the City, and shall constitute permanent trust funds for the purposes herein provided. The funds deposited into the Rose Hill Cemetery Perpetual Care Fund shall be invested and reinvested in such bonds or accounts as the City Council may determine. The City Treasurer shall annually transfer the income from such investments to the Rose Hill Cemetery Perpetual Care Fund. The City shall exercise good faith, reasonable diligence and prudence in the management of the funds paid into the Rose Hill Cemetery Perpetual Care Fund. The City shall not be required or obliged to make separate investments of any perpetual care assessments paid.

(c) The City shall make a pro rata apportionment of the annual income of the Rose Hill Cemetery Perpetual Care Fund for the care of each of the lots or burial spaces for which use rights or ownership has been transferred by the City and a perpetual care fund assessment has been paid. Such pro rata apportionment shall be based on the percentage of the total of perpetual care fund assessments paid into the Rose Hill Cemetery Perpetual Care Fund by an individual lot or burial space owner or use rights holder.

Sec. 11-7-140. Issuance of certificate.

~~Upon the sale of lots, grave spaces, parts of lots or parcels of land located within the Rose Hill Cemetery, or upon the purchase of perpetual care by owners of grave spaces or lots purchased prior to the enactment of the initial ordinance codified herein, the City Clerk shall issue a certificate or contract, subject to the conditions of this Article, and setting forth the amount of money so deposited and the purpose for which such deposit is made, together with the location of the lot, grave space, part of lot or parcel of land, which contract or certificate shall be signed by the Mayor and attested by the City Clerk, with the corporate seal affixed thereto and the instrument delivered to the person making the deposit.~~

Sec. 11-7-150. City Clerk to receive deposits and keep records.

*** No Amendments

~~Sec. 11-7-160. Perpetual Trust Fund created.~~

~~There is hereby created and established a perpetual trust fund to be known under the name and style of "Rose Hill Cemetery Perpetual Care Fund," for the purpose of perpetual care of grave spaces in the cemetery. The general supervision, management and control of the fund shall be vested in the City Council. The City Treasurer shall be the custodian of the fund, and the fund shall be invested as directed by the City Council.~~

~~Sec. 11-7-170. Management of fund.~~

~~The City shall not be required or obliged to make any separate investment of each of the sums so deposited or paid for perpetual care, but the annual income or interest derived from the Rose Hill Cemetery Perpetual Care Fund shall be divided pro rata as the amount of each deposit is to the total amount so deposited and shall be used proportionately in the care of each of the lots, grave spaces, parts of lots or parcels of land, and the City shall be responsible only to exercise good faith and reasonable diligence in the management of the funds so deposited with it under the terms of this Article.~~

~~Sec. 11-7-180. Investment of funds.~~

~~All payments made and received for perpetual care of grave spaces shall be kept separate and apart from all other funds of the City, and shall constitute permanent trust funds for the purposes herein provided, to be known as the "Rose Hill Cemetery Perpetual Care Fund." The same shall be invested and reinvested in such bonds or accounts as the City Council may determine by resolution; provided, however, that no investment thereof shall be made except in the interest-bearing bonds of the United States, or the State, the general obligation bonds issued by any city or town of the State, or in securities in which estate funds may now be or may hereafter be invested under the laws of the State. The City Treasurer shall annually transfer the income from such investments to the cemetery fund to be used for perpetual care of grave spaces and lots, as provided in this Article.~~

11-7-160. Abandoned lots or burial spaces - right to reclaim.

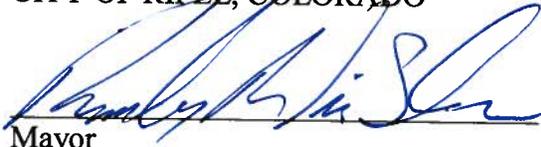
For any burial lot or space in the cemetery where ownership or use rights have been transferred by the City and in which no remains have been interred, no burial memorial has been placed, and no other improvement has been made for a continuous period of no less than seventy-five (75) years, the City may reclaim the burial space pursuant to the method therefor described in Section 31-25-708, C.R.S., as amended.

INTRODUCED on May 18, 2016, read by title, passed on first reading with amendments, and ordered published by title as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the City of Rifle, Colorado, held on June 1, 2016, passed without amendment, approved, and ordered published in full as required by the Charter.

Dated this 1st day of June, 2016.

CITY OF RIFLE, COLORADO

BY: 
Mayor

ATTEST:


City Clerk

