

ORDINANCE NO. 01-2023

AN ORDINANCE AMENDING CHAPTER 12 OF THE CARVER
CITY CODE REGARDING THE MOUNT HOPE CEMETERY

THE CITY COUNCIL OF THE CITY OF CARVER, CARVER COUNTY, MINNESOTA,
DOES ORDAIN:

SECTION 1. The city council of the city of Carver hereby amends section 12-25 of the Carver City Code by adding the underlined language and deleting the ~~stricken~~ language as follows:

Sec. 12-25. Sale or other transfer of sites.

No cemetery site may be sold or otherwise transferred or disposed of, except by will or operation of law, without the approval of the city and in accordance with. ~~The city retains a first option to repurchase a site, which option may only be exercised consistent with the rules and regulations adopted by the city pursuant to section 12-37 of this chapter.~~

SECTION 2. The city council of the city of Carver hereby amends the Carver City Code by adding a new section 12-26 as underlined below:

Sec. 12-26. Conduct within the cemetery.

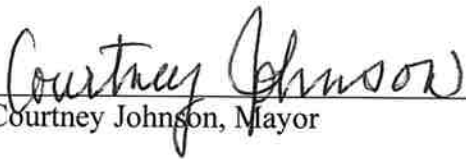
- (a) Persons within the cemetery may use only designated paths and walkways. It shall be unlawful to walk upon or across graves unless it is reasonably necessary to do so to gain access to another grave.
- (b) It shall be unlawful to write upon, deface, or damage any monument (flat or upright) and to break or otherwise damage any tree, shrub, vine, flower, plant, or other structure or material within the cemetery grounds.
- (c) All pets, including aid-assisting dogs, must at all times remain on a leash no longer than six feet in length while on the cemetery grounds.
- (d) The following additional acts are expressly prohibited within the cemetery:
 - (1) The driving of motor vehicles, unless attending a funeral, visiting a relative or friend's grave, or carrying on maintenance work authorized by the city;
 - (2) The driving or parking of any motor vehicle across or upon any grave;
 - (3) The driving of any motor vehicle in excess of ten miles-per-hour;
 - (4) Engaging in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment in others;
 - (5) Peddling or soliciting the sale of any commodity;
 - (6) The placing of signs, notices, or advertisements of any kind; or

(7) Entering or otherwise being present on cemetery grounds after the hours of operation established in the city's rules and regulations, except with the express permission from the city to do so.

SECTION 3. The city council of the city of Carver hereby amends the Carver City Code by deleting section 12-31 in its entirety. The language contained therein was moved to the city's formal rules and regulations related to Mount Hope Cemetery.

SECTION 4. This ordinance shall take effect and be in force after its passage and publication in accordance with state law.

Adopted by the Carver City Council this 17th day of January, 2023.


Courtney Johnson, Mayor

Attest:


Vicky Sons-Eiden, City Clerk



**CITY OF CARVER
CARVER COUNTY, MINNESOTA
RESOLUTION NO. 102-23**

**A RESOLUTION AMENDING RULES AND REGULATIONS
RELATING TO THE OPERATION OF MOUNT HOPE CEMETERY**

WHEREAS, the City of Carver (the “City”) is a Minnesota municipal corporation, duly organized and authorized to conduct its affairs under the laws of the State of Minnesota; and


WHEREAS, the City has, for some years, operated Mount Hope Cemetery for the betterment and use of the residents of the City and others; and

WHEREAS, on August 16, 2021, pursuant to Chapter 12 of the Carver City Code (“Chapter 12”) and Minn. Stat. § 306.025, subd. 7, the City Council adopted formal rules and regulations relating to the use and operation of Mount Hope Cemetery (herein, the “Rules and Regulations”); and

WHEREAS, it has been determined that said Rules and Regulations should be revised by adding the underlined language and deleting the ~~stricken~~ language as shown on the attached Exhibit A.

NOW, THEREFORE, BE IT RESOLVED, that the amendments to the Rules and Regulations as shown on the attached Exhibit A are hereby adopted by the Carver City Council.

Adopted and approved by the City Council of the City of Carver on a vote of 4 ayes and 0 nays effective on the 17th day of January, 2023.



Courtney Johnson, Mayor

Attest:



Vicky Sons-Eiden, City Clerk

EXHIBIT A



Mount Hope Cemetery Rules and Regulations

PREAMBLE

The City of Carver ("City") operates Mount Hope Cemetery (the "Cemetery") to provide an essential service for residents of the City and others in relation to providing a place for interment.

Pursuant to Minnesota Statute §306.025, Subdivision 7, the City is authorized to promulgate rules and regulations to conduct, manage, maintain, and operate the Cemetery.

After spending considerable time, research, and effort into how best to regulate the operation of the Cemetery, City staff has drafted these Rules and Regulations.

It is anticipated that these Rules and Regulations will be subject to strict enforcement. These Rules and Regulations were developed with the following considerations:

- 1) Maintenance of a community cemetery;
- 2) Fairness to users of the cemetery;
- 3) Long-term continuity of the cemetery;
- 4) Standardizing cemetery operations for all;
- 5) Providing for cost and maintenance;
- 6) Reasonable restrictions; and
- 7) Protection of the Mount Hope Cemetery grounds.

These Rules and Regulations are to be read together with Chapter 12 of the Carver City Code. To the extent there are any inconsistencies between these Rules and Regulations and the provisions of Chapter 12 of the Carver City Code, the provisions of Chapter 12 will prevail. Any statement in these Rules and Regulations indicating that the City shall not be liable in a particular situation is to be read to include the City and its employees and agents.

These Rules and Regulations may be amended from time to time by the City at any point when it is determined that it is in the best interest of Cemetery operations to do so. The City is not required to give advance notice of such intended action to any person. A current copy of these Rules and Regulations will be kept on file at all times at the City offices.

1. Interments

- 1.1 Cemetery site owners are only granted the right of interment in their grave(s) and have no other rights to the Cemetery site. The City reserves the right to refuse to permit interment of anyone who is not the owner of the Cemetery site. For Cemetery sites that are owned by a living person, written and notarized permission of said owner must accompany all requests for permits to bury persons therein (except that said owner shall have the right to be buried therein without such written and notarized permission). In cases where the owner of any Cemetery site is deceased, section 7.1 of these Rules and Regulations shall dictate the descent of such site and rights to be buried therein.

- 1.2 No casket will be interred within the Cemetery grounds unless first properly enclosed in a concrete vault that will be buried with the casket.
- 1.3 Cremated remains must be placed in a permanent urn prior to burial. The scattering of cremated remains in the Cemetery is not permitted.
- 1.4 All interments, including but not limited to the excavation of a grave, shall be done consistent with these Rules and Regulations and must be approved in advance by the City.
- 1.5 City staff will mark the corners of the grave. A minimum of a 48-hour notice is required, and notice must be given on a business day (as defined by the City). Any mistakes or errors made in the location of interment or size of grave occurring as a result of receiving oral information, or incomplete or incomprehensible written information, will not result in any liability on behalf of the City.
- 1.6 No interment of two or more bodies will be allowed in one grave except in the following cases:
 - (1) Two urns of cremated remains may be buried in one grave.
 - (2) One body in a casket and one urn of cremated remains may be buried in one grave.
- 1.7 No interments may be made in a Cemetery site unless (i) all applicable ordinances, rules, and regulations regarding interments have been complied with and (ii) the purchase price of said site and all burial fees have been paid.
- 1.8 The cost of interments, including the burial of cremated remains, will be determined by the City, and is subject to change pursuant to the City's fee schedule. A current fee schedule may be obtained at the City offices.
- 1.9 Above ground vaults and mausoleums are not permitted in the Cemetery.

2. Delay of Interment

- 2.1 The City will not be liable for any delay in the interment of a body when a protest to the interment has been made or where failure to comply with these Rules and Regulations results in delay of interment.

3. Disinterments

- 3.1 Before any grave may be opened for any purpose, written permission (in form and content reasonably acceptable to the City) of the person legally entitled to control the remains must be submitted to the City and a disinterment permit issued by the State or a licensed mortician for the body must be filed with the City. Written permission of the Cemetery site owner, unless said owner is predeceased, must also be submitted to the City before any grave may be opened. The disinterment will be scheduled by the City. This provision does not apply when disinterment is ordered by a duly authorized public authority, except that a disinterment permit must be provided and issued by the State or a licensed mortician.

- 3.2 All applicable provisions of Minnesota Statutes, section 149A.96 and any other applicable law must be followed.
- 3.3 All costs of disinterment will be borne by the requesting party.

4. Conditions of Cemetery Site Purchases

- 4.1 All Cemetery sites will be sold subject to these Rules and Regulations and any amendments which may be adopted from time to time. The purchaser of any Cemetery site will expressly agree in the deed or other appropriate documentation conveying rights to the Cemetery site that the purchaser's rights are subject to these Rules and Regulations and any amendments thereto, provided, however, that any failure to do so will not affect the applicability of these Rules and Regulations to all Cemetery sites.
- 4.2 No grave will be used for any purpose other than the burial of human remains and the placement of appropriate memorials, and in all cases must be in compliance with these Rules and Regulations and any applicable laws and regulations.
- 4.3 No easement or right of interment is granted to any Cemetery site owner in any road, drive, alley, or walkway within the Cemetery, but such a road, drive, alley, or walkway may be used as a means of access to the Cemetery site owner's grave or graves.
- 4.4 In the event any errors are made by the City or its agent in the description, transfer, or conveyance of any interment space, the City will have the right to correct such error by:
 - (1) Canceling such conveyance and substituting and conveying in lieu of another interment space of equal value in a location to be determined by the City, or
 - (2) Refunding the amount of money paid on account of said purchase. If the amount paid is not known, irrespective of the reason, then the refund shall be \$100.

5. Purchase of Cemetery Sites

- 5.1 All fees, costs, or charges will be set by the City and are payable to the City at City Hall, located at 316 Broadway, Carver, Minnesota. The City Council may establish a separate rate for persons that own property in the City.
- 5.2 Upon full payment of the purchase price of a Cemetery site, the City will issue a Cemetery site deed or other appropriate documentation evidencing purchase of the site, executed by the City, and the deed or other appropriate documentation will be recorded in the records of the City. A description of the site will be in accordance with the plat of the Cemetery. Descriptions of the sites will be kept at the City offices.

6. Transfer of Cemetery Sites

- 6.1 In order to transfer ownership of a Cemetery site, the owner must complete a transfer of ownership document provided by the City, and have the same signed by a witness and notarized by a Notary Public. The transfer of ownership document, along with any other documents required by the City to ensure compliance with these Rules and Regulations, must be reviewed

and approved by the City prior to the transfer of a Cemetery site by the owner. The owner of a site may transfer said site to:

- (1) a living spouse or descendant of the owner for their use and benefit; or
- (2) any person designated in a legally-enforceable will, for the use and benefit of the person designated in such will.

Notwithstanding the foregoing, any transfer or conveyance that is promulgated following the death of a Cemetery site owner shall be in accordance with section 7.1 of these Rules and Regulations.

- 6.2 No Cemetery site will be permitted to be re-sold, disposed of, or otherwise used, until the purchase price, and all other unpaid fees, costs, or charges relating to the site have been paid in full.
- 6.3 Cemetery site owners may not allow interments to be made in their sites for remuneration unless the process for transfer of said site has been completed and approved by the City.

7. Descent of Graves

- 7.1 On the death of a Cemetery site owner, and subject to the deceased owner's right to interment therein, such site may be granted and conveyed pursuant to the deceased owner's legally enforceable will, provided, however, that pursuant to Minnesota Statutes, section 306.29, said will specifically mentions the site and limits it to one particular person. If such site is not disposed of pursuant to the previous sentence and section 306.29, it may be granted and conveyed to any of the deceased owner's parents, descendants, or siblings pursuant to the order of descent contained in Minnesota Statutes, section 525.14. However, prior to any such conveyance, the City will require evidence as it may deem necessary to prove that the site in question is conveyed to a person who is entitled to receive it pursuant to the above requirements.

8. Monuments – Flat and Upright

- 8.1 Every grave monument (whether flat or upright) must be placed in the space reserved therefore as shown upon the plat of the Cemetery, or as directed by the City. It will be the responsibility of the Cemetery site owner to have all monuments (whether flat or upright) properly set by a contractor who must first contact the City to receive instructions related to proper placement. Prior to ordering and installing any monument, the contractor must submit to the City a monument request form that contains all required information so that City staff can verify compliance with these Rules and Regulations.
- 8.2 No monument (whether flat or upright), may be constructed of limestone, sandstone, or any artificial material.
- 8.3 Only monuments of sizes as specified by the City will be allowed. Monument size will be limited to 12" width x 24" length x 4" depth for a single, flat monument and 12" width x 40" length x 4" depth for a double, flat monument, unless otherwise approved by the City. Upright monument size will be limited to 36" length x 36" height x 12" width for a single, upright monument and

48" length x 36" height x 12" width for a double, upright monument, unless otherwise approved by the City.

- 8.4 A minimum of a 48-hour notice is required to mark the location for the placement of a monument (whether flat or upright). Notice must be given on a business day (as defined by the City). All related fees will be set out in the City's fee schedule.
- 8.5 All monuments (whether flat or upright) shall be placed on foundations of a depth and size not less than 4" in that reasonably prevents settling or movement of the monument. Said foundations must be set flush with the ground. A six inch wide grass mowing border is required for upright monuments.
- 8.6 This Section 8 is intended to supplement, and not to alter, the installation requirements set out in Chapter 12 of the Carver City Code.
- 8.7 The City expressly disclaims any liability or responsibility for any damages that occur to gravesites and monuments or any components thereof, unless the damage was caused by the City's gross negligence or willful misconduct.

9. Permanent Care

- 9.1 The general care of the Cemetery is assumed by the City and includes the following:
- (1) cutting of grass at reasonable intervals;
 - (2) cleaning the grounds;
 - (3) pruning of shrubs and trees;
 - (4) maintaining the general preservation of the grounds; and
 - (5) maintaining public roadways, boundaries, and other Cemetery-related City property.

Any work that is part of the general care of the Cemetery may be awarded by contract to private firms by the City, if desired.

- 9.2 General care of the Cemetery by the City will not be required to include the maintenance, repair, or replacement of any grave monument (flat or upright) or any memorial placed or erected upon a grave, nor will it include any special or unusual work in the Cemetery.

10. Flowers, Adornments, and Landscape Improvements

- 10.1 Plants and flowers at a Cemetery site must be placed in one or more pots on a single, durable, and erect stand. The City shall not be responsible for any damage or destruction to any flowerpot, vase, or other receptacle or object placed directly on the ground. Flowers placed directly on a grave will be removed and discarded prior to routine cutting of grass.
- 10.2 Pots and stands must be removed by November 1 of each year and can be replaced at a Cemetery site beginning May 20 of each year. If pots and stands are left year-round, the City is not responsible for the damage, destruction, or loss.

- 10.3 Any stand unutilized for more than 90 days or not otherwise maintained in good repair may be removed by the City.
- 10.4 Any manner of artificial flowers, plants, wreaths, or other adornments are subject to immediate removal beyond a single maintenance period, with the exception of 30 days following interment or if placed in a single, durable, and erect stand.
- 10.5 No trees, shrubs, vines, flowers, or other plants may be planted, nor may any fences be erected, by any private party on the Cemetery grounds. The City reserves the right to remove any tree, shrub, vine, flowers or plants which may become unsightly, dangerous, or diseased or which is not in keeping with the landscape design of the Cemetery.
- 10.7 All landscaping, grading, and seeding will be done by the City and its designated employees or contractors. All graves will be seeded and kept flush with the adjacent ground.

11. Cemetery Management

- 11.1 The responsibility for the management of the Cemetery and all matters related will be vested in the City.
- 11.2 The Public Services Department will be the main City department responsible for the care and maintenance of the Cemetery.

12. Hours

- 12.1 The Cemetery will be open daily to visitors during the hours of 6:00 a.m. to sunset. Permission to enter at all other times must be secured from the City. The City reserves the right to refuse admission and to refuse the use of any of the Cemetery's facilities, at any time, to any person or persons whom the City may deem objectionable in consideration of the best interest of the Cemetery.

13. General Provisions

- 13.1 Special cases may arise in which the literal enforcement or interpretation of a portion of these Rules and Regulations may impose an unnecessary hardship. In such cases, the City reserves the right to make exceptions or modifications to, or suspensions of, any of these Rules and Regulations should the City deem that such action appears to be necessary. Such a temporary exception, modification, or suspension shall in no way be construed as affecting the general application of any of these Rules and Regulations.
- 13.2 The City reserves the right to remove any object not specifically referenced elsewhere in these Rules and Regulations whenever such object becomes unsafe or unsightly without incurring any liability to any party.
- 13.3 Specific costs relating to things such as graves, interments, disinterments, burial of cremated remains, and setting of monuments are not included in these Rules and Regulations as these are

set by ordinance of the City Council. A current schedule of fees can be obtained at the City offices.

Adopted: August 16, 2021

Revised: January 17, 2023