

**CITY OF GRAND JUNCTION, COLORADO  
ORDINANCE NO. 4607**

**AN ORDINANCE AMENDING CHAPTER 2.40 OF THE  
GRAND JUNCTION MUNICIPAL CODE REGARDING CEMETERIES**

**RECITALS:**

The City Council of the City of Grand Junction has reviewed and approved changes to various sections of Chapter 2.40 of the City of Grand Junction's Code of Ordinances to update the Code, eliminating the development fee requirement as it is no longer applicable, and clarifying additional authority to the City Manager and/or the City Manager's designee to require more of monument companies to do work or activity within the cemeteries.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:**

The sections of Chapter 2.40 of the City of Grand Junction's Code of Ordinance included herein are hereby amended as follows:

**2.40.110 Sale of lots – Certificates of ownership.**

(a) The City Manager shall keep accurate record of all burial spaces in the City cemeteries. The City shall sell burial spaces at such price or prices as may be directed by the City Council and contained in the rules and regulations for the City cemeteries. The City Manager shall issue a certificate of ownership to the purchaser of each burial space, which certificate shall contain a description of the burial space, purchase price, the name and address of the space owner and will include statement of perpetual care. The certificate shall state that it represents only a right to be buried and in no way conveys a title to the real estate and shall also state:

- (1) The ownership of that right is not transferable without the approval of the City Manager or the City Manager's designee and the reissuance of a new certificate to the new owner of the burial right, except that transfer of ownership may be effected by last will and testament or intestacy as provided for in GJMC 2.40.180. All transfers must be recorded by the City and a fee for such transfer as established by resolution of City Council will be charged.
- (2) Any transfer of ownership interest by last will and testament or applicable laws of intestacy shall be reported immediately to the City Manager's designee by the person receiving the ownership interest.
- (3) All changes in address of the owner shall be reported immediately to the City Manager's designee.
- (4) A portion of the purchase price, such portion to be specified, shall be deposited into a trust fund and held as a permanent fund with the income of the

fund to be devoted to the perpetual care and keeping of the burial space so endowed, except for spaces in areas designated for the burial of indigent persons. Indigence shall be demonstrated by affidavit or other documentary proof satisfactory to the City Manager's designee.

(5) Prior to the resale of any vacant burial space by the owner to any other individual or to the City, all monuments or markers must be removed at the owner's expense.

(b) The certificate of transfer shall be signed with a facsimile of the City Manager's signature and attested by the signature of the City Clerk under the seal of the City.

#### **2.40.120 Records.**

Records of the City, other than the certificate as provided for in GJMC 2.40.110, shall show the date of purchase, the name of the purchaser, the description designating the burial right(s) space purchased and the purchase price. Indexing maintained by the City shall permit determination of location of the burial space by location as well as by owner's name.

(a) Certificates of ownership are evidence of ownership of a right to be buried in spaces listed on the certificate.

(b) The owner of a certificate of ownership seeking to reconvey one or more spaces to another shall apply for and obtain a certificate of transfer from the City in the name of the other person. Upon submission of an application to convey the burial space rights, the original certificate of ownership shall be returned, canceled and reissued to the new owner by the City Manager's designee. If any spaces enumerated on the original certificate of ownership are to be retained by the owner, then certificates of ownership shall be reissued by the City Manager's designee for each space in the name of each owner.

(1) Upon application for reconveyance, the applicant shall provide the following information:

(i) The grave space right(s) owned;

(ii) The spaces then used, if any;

(iii) Which owners have been issued a certificate of transfer, if any, for the particular space;

(iv) A statement that the owner truthfully believes that the owner holds and fully controls burial rights to the spaces for which the owner is applying for certificates of transfer and that the owner does indemnify the City as to all

costs should any person(s) other than the transferee named subsequently present a certificate of transfer for the same space or spaces.

(2) Upon submission of a complete application, the City Manager's designee shall investigate and determine:

(i) If any spaces for which certificates of transfer are sought are filled.

(ii) If any spaces are held by persons or firms other than the current certificate of ownership holder.

(3) The City Manager's designee shall then issue the certificate(s) of ownership to the person(s) indicated by the then owner; however, any title impairment affecting the ownership of the burial right(s) shall be noted upon the respective certificate of ownership. If any space is unendowed (except in areas platted for burial of indigent persons), then the endowment then payable shall be paid prior to the reissuance of the new certificate of ownership. A record containing the application, the investigation results and a copy of the certificate(s) of transfer along with the chain of title notations, if any, shall be retained by the City.

(c) The City may purchase back any unused certificate of ownership or any unused portion thereof under the terms and conditions listed below. The City Manager's designee shall purchase only those spaces for which ownership is clear. The City Manager's designee shall require an application for all purchase back requests. Upon submission of a completed application to the City Manager's designee and upon completion of the City Manager's designee's investigation, the City may purchase the certificate of ownership for any number of spaces identified on the certificate, except that the City shall not purchase spaces already filled, nor spaces where an apparently valid certificate of ownership remains outstanding. The purchase back price shall be the original purchase price including development fee if paid, not to exceed the current prices and exclusive of the endowment fee less the following:

(1) Twenty-five percent of the total current purchase price, excluding the endowment fee, or \$50.00, whichever is greater, shall be retained as administrative cost.

(2) In no case will the City buy back any space for more than the price of the lot and development fee, if any, at the time of purchase. The endowment fee will not be refunded.

(3) If a current installment contract for payment exists, the City shall retain 25 percent of the amount paid excluding the pro rata share of the endowment fee, or \$50.00, whichever is greater.

(d) Certificate of ownership holders may consent to the burial of any deceased person. Such consent shall be in the form of an affidavit signed and notarized and shall bear the signature of at least one owner as shown on the certificate of ownership.

(e) **Lost Certificate of Ownership.** The owner may apply for a lost title upon payment of a fee established by resolution of the City Council.

#### **2.40.160 Repealed.**

#### **2.40.170 Rights of burial space owners.**

(a) **Interment Rights.** All lots, grave spaces and burial spaces conveyed shall be considered as a grant of a right by the City to the grantee for the purpose of burial, shall be presumed to be the sole and separate burial right of the person named as grantee; however, a grantee may inter the grantee's deceased immediate family member in the space, in accordance with the rules and regulations and fee schedule at the time of interment of spouse, child, mother, father or sibling. The burial of animals shall not be allowed.

(b) **Consent to Burial.** Upon the death of any other relative than listed above or nonrelative, the owner of a certificate of ownership may convey the right to burial in the space enumerated on the owner's certificate. The consent shall be evidenced by an approved certificate of transfer, which certificate shall be available only from the City Manager's designee. A certified death certificate shall be presented at the time of issuance of a certificate of transfer to a decedent by the City Manager's designee. Once burial occurs, the body may be disinterred only with an authorization pursuant to GJMC 2.40.310. Upon disinterment, burial rights for the space shall remain in the name of the certificate of transfer holder. The City shall maintain records of all burials.

(c) **Right of Descent.** Upon the death of the owner, any unused burial spaces shall pass as provided in the owner's last will and testament to the owner's beneficiaries. Any unused burial spaces not effectively disposed of by the owner's last will and testament or otherwise shall pass to the owner's heirs as prescribed by the Colorado Probate Code.

(d) **Official Records.** The official records of burial space owners shall be maintained by the City Clerk, and each burial space owner shall be registered by name and address. Such registration shall be the final governing record in determination of burial rights ownership.

(e) **No Transfer Without Consent.** No burial spaces shall be transferable except with compliance with the procedures of the City Manager or as provided by law.

(f) **Change of Address.** It shall be the duty of each and every burial rights owner to keep the City Manager's designee fully informed as to the owner's mailing address and

to notify said City Manager's designee as to any changes thereof. Notice sent to any burial space owner at the last registered address on file with the City Manager's designee shall be considered sufficient and proper legal notice.

(g) **Right to Ingress and Egress Reserved.** The City reserves to itself, and to those lawfully within the cemetery, a perpetual right to enter and to leave and conduct any lawful activity on or over any burial space and/or for passage to and from other spaces.

(h) **No Right Granted in Alleyways.** No easement or right of interment is granted to any burial space rights owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery grounds or buildings as long as the cemetery uses the accessways for that purpose.

#### **2.40.180 Transfer of ownership.**

(a) **Method of Transfer.** The transfer of right or any interest in any burial space shall be made only on forms provided by the City.

(b) **Consent and Approval.** No transfer of any burial space shall be valid without the consent, in writing, of the City Manager's designee and endorsed upon such a transfer and thereafter recorded on the books of the City.

(c) **Time of Recognition.** A certificate of transfer, in order to be valid, must be proper on its face and it must also be delivered to the grantee or some third person during the lifetime of the grantor, with the full intent to divest the grantor of grantor's interest. The transfer must also be presented to, approved by and transferred upon the record of the City during the lifetime of the grantor; provided, however, that a transfer may also be made by the grantor in a last will and testament, or by the applicable laws of intestacy. An affidavit stating the applicant for the transfer is the heir must be submitted along with a copy of the will and application for transfer.

(d) **Indebtedness.** The City may refuse to consent to a transfer of any burial space so long as there is any indebtedness due thereon by the registered owner thereof.

(e) **Care and Maintenance Must Be Provided.** Except for areas designated for the burial of indigent persons, no transfer of any burial space or interment right therein shall be approved and registered upon the books of the City nor shall interments therein be permitted until provision shall have been made for care and maintenance of such space by payment of the endowment amount specified in the rules and regulations for City cemeteries. This provision shall not apply to burial spaces conveyed by the City for which perpetual care endowment has been already provided.

(f) **Transfer Charges.** All conveyances or transfers of rights in any burial space shall be subject to a charge fixed, from time to time, by resolution of the City Council, which charge must be paid when the transfer request is received for filing by the City Manager's designee.

#### **2.40.190 Abandoned burial spaces.**

- (a) **Reversion.** The ownership or right in or to any unoccupied cemetery burial space shall upon disinterment and subsequent abandonment revert to the City.
- (b) **Presumption.** Failure to inter in any burial space(s) after 21 years plus a life (defined as 100 years) from purchase, transfer or interment in adjacent spaces commonly owned, whichever is later in time, shall create and establish a presumption that the same has been abandoned; except that this presumption shall not apply when a letter of intent is annually filed by the owner or heir in title with the City stating the intention to keep specified spaces vacant.
- (c) **Notice Required.** Abandonment or reversion by disinterment shall not be deemed complete unless the registered owner(s) or their heirs or assigns shall be notified in writing, mailed to the last known or registered address, by the City. In the event that the address of the owner or owner's heirs cannot be ascertained, then notice of such abandonment shall be published in a newspaper of general circulation in Mesa County at least once a week for four weeks.

The City may thereafter sell, transfer and convey the rights to use the space. The funds derived from any sale of an abandoned space shall be considered as a new grave space.

#### **2.40.210 Compliance with applicable laws.**

Besides being subject to these rules and regulations for the City cemeteries, all interments, disinterments and removals are subject to the orders, rules, regulations and laws of the properly constituted authorities of the City and State.

- (a) **Authorization for Interment.** The City reserves the right to refuse burial in any burial space if complete, correct and proper procedures are not followed or the death is suspicious and under criminal investigation.
- (b) **Facsimile, Electronic, and Telephone Authorization.** The City may but shall not be obligated to complete certificates of transfer, endowment contracts or any or all other applications, contracts or paperwork via facsimile, electronic means, or telephone. The City shall not be held responsible for any order given by telephone, facsimile, other electronic means, or for any mistake occurring from the want of precise and proper telephonic, electronic and/or facsimile transmissions. Any changes, adjustments or corrections necessitated by such mistakes shall be at the expense of the burial space owner or the owner's agent.
- (c) **Burial Permits Issued.** The Mesa County Bureau of Vital Statistics or other appropriate agencies shall issue a burial permit addressed to the City Clerk. No burial shall take place without a burial permit from the appropriate agency. In the case of cremated remains, such burial permit will accompany the body to the crematorium.

#### **2.40.220 Time and notice of interments.**

The right is reserved by the City to insist upon notice at least 24 hours prior to any cremation or interment, and at least 10 days' notice prior to any disinterment or removal. Any exceptions must be approved by the City Manager's designee.

All interments, disinterments and removals must be arranged for in advance, but no interments, disinterments, removals, cremation or interment service shall be permitted on the Saturday or Sunday before or on Memorial Day. Exceptions may be granted for extenuating circumstances by the City Manager's designee; however, the additional grave opening fee for Sundays and holidays will be charged.

#### **2.40.230 Conditions for interment.**

(a) **No Interment Unless Paid in Full.** No interment shall be permitted or memorial placed in or on any space not fully paid for. A promissory note or installment contract for purchase shall not be considered as payment and no rights shall be acquired by the burial space purchaser of said interment or interments until such is fully paid for in good funds. The City Manager's designee may accept from the legal representative of a deceased a bond or other surety or guaranty of payment.

(b) **More Than One Body.** Not more than one body, or the remains of more than one body, shall be interred in one grave, vault, crypt or niche; however, with the written consent of the City Manager's designee, with the consent attached to the certificate of ownership, the remains of an infant may be buried in the grave space with the parent or cremated remains may be placed in the same grave, crypt or niche with one adult or infant burial or other cremated remains; provided, proper identification is made of such interment or interments on one crypt, niche, memorial or marker; and provided, the appropriate fees have been paid. In no event shall more than five remains be allowed in one full size space (four feet by 10 feet approximately).

(c) No interments, including cremated remains, shall be buried in a grave space without a vault.

#### **2.40.290 Removal of bodies prior to interment.**

Once a casket containing a body is within the confines of the cemetery and has been accepted for interment by the City Manager's designee, no funeral director, embalmer, assistant, employee or agent, nor any cemetery employee shall remove or permit the removal of the casket or body contained therein without the written consent of a member of the immediate family, nearest of kin, legal representative of the deceased or without a court order. A casket containing a body cannot be accepted for interment by the City Manager's designee until the City receives a signed, properly completed burial order form and burial permit for the deceased.

#### **2.40.430 Responsibility for monument/memorial placement, foundation and bases.**

(a) Foundations for memorials must be built of concrete, solid masonry or granite to the satisfaction of the City Manager's designee. Foundations for above-grade memorials shall be the length and at least the width of the memorial to be placed. The foundation shall be at least four inches deep. The top of the foundation shall be flush with the ground and have a six-inch square apron around the memorial.

(b) Monument/memorial placement is the sole and absolute responsibility and liability of the company, person, employee or agent selling and placing the monument. Such liability and responsibility shall include safety of the public and cemetery personnel as well as liability for damage to other monuments, memorials, plantings, trees and cemetery equipment while in, on or installing a monument or memorial.

(c) Monument companies' installer(s) shall fully cover foundation holes, if left unattended, with a material strong enough to withstand 300 pounds of weight and must place orange safety cones around the hole.

(d) Where an existing foundation must be removed in order to add a new burial, the cost of replacing the foundation and memorial shall be the owner's responsibility.

(e) Bases for monuments, markers or other memorials must be squared. No wedging will be permitted. The base must be rock pitch (rough cut) at least four inches above the ground. If smooth cut, the corners must be rounded. The City accepts no responsibility for any damage incurred to such bases.

(f) Vases or urns made of metal or other nonbreakable material may be attached to the granite or marble base, or may be placed into the foundation.

#### **2.40.440 Installation.**

(a) Persons engaged in erecting monuments shall not attach ropes to other monuments or trees. They shall not scatter any material, to include soil or waste material, over adjacent lots or to leave the same on the ground longer than is absolutely necessary. They are required to set work as soon as possible after entering the cemetery. They shall be financially responsible for any damage done by them to other monuments, the grass, trees, or any other object whatsoever in the cemetery. Monument companies shall annually file with the City Manager's designee a certificate of liability insurance in an amount determined by the City Council, which in no event shall be less than \$500,000. The monument companies shall also annually file proof of Colorado employee's liability (or worker's compensation insurance). If there are no employees, a waiver of worker's compensation, in a form as required by the City Attorney, shall be permitted. If the certificate of liability insurance or proof of the worker's compensation coverage for a monument company is not on file with the City or



if the insurance policies are not in effect, then the monument company shall not do any work or activity in a City cemetery.

(b) Monument installers within the immediate vicinity of a funeral shall suspend their labors until the conclusion of the funeral service.

(c) Monument companies and others, including but not limited to stone masons, monument purveyors and employees or agents thereof, are prohibited from placing their names on any work, monument or memorial.

(d) No memorial work shall be done in the cemetery on Sundays or holidays. Advance approval shall be required from the City Manager's designee for memorial work to take place on the Saturday before Memorial Day. The placement of floral pieces, flowers, flags or other nonpermanent commemoration is permissible without advance authorization.

(e) City Manager's designee may deny a monument company to do any work or activity in a City cemetery if the designee determines that it is not in the best interest of the cemetery.

#### **2.40.510 Grave care.**

(a) **Perpetual Care.** Perpetual care as supported by the endowment fund shall be held to mean:

- (1) Cutting of the grass at reasonable intervals;
- (2) Raking, cleaning and watering at reasonable intervals;
- (3) Reseeding or resodding, if necessary;
- (4) Machine trimming as closely as possible around markers, monuments and memorials at reasonable intervals; and
- (5) Removal of seedlings, saplings and weeds from, on and around monuments and markers;
- (6) It shall also be held to mean the general preservation of the cemetery roads, walks, fences, plantings and the pruning of shrubs and trees to the end that the cemetery shall remain and be reasonably cared for as a cemetery;
- (7) Perpetual care shall not be construed as meaning the maintenance, repair or resetting of any grave marker or memorial placed upon any lot or grave space. Neither does the term "perpetual care" mean doing of any special or unusual work on any lot nor the reconstruction of any marble, granite, bronze, concrete or stone work or rebuilding or repair of any monument, memorial or marker damaged by the elements, an act of God, common enemy, thieves,

vandals, strikes, malicious mischief, unavoidable accidents, invasions, insurrections or riot whether the damage be direct or collateral, other than as herein provided.

(b) **Planting.** The City Manager's designee shall have charge of the planting of trees and shrubs in accordance with appropriate ornamentation of the grounds. No trees, spreading plants or shrubbery shall be planted or grown on the lots or spaces. Roses and certain evergreens, as determined by City Manager's designee, may be planted in blocks specifically authorizing them but only by cemetery personnel.

(c) **Grading of Lots.**

(1) In order to produce a pleasing effect and to ensure proper drainage, the grade of all lots and graves will be determined by the City Manager's designee and, if need be, may be changed as required.

(2) Grading and digging on the lots by persons other than City employees may be done only under the direction of the City Manager's designee.

(3) All graves will be sodded level. No mounding will be allowed on any grave.

(d) **Unauthorized Work by Cemetery Employees.** The employees of the cemetery are not permitted to perform any extra work for lot owners except at the direction of the City Manager's designee.

(e) **Ornamental Appurtenances.** No trellises, baskets, boxes, shells, toys, crockery, glassware or other objects are permitted on any lot or grave space, unless specifically authorized by the City Manager's designee. The City is not responsible for any such items and they may be removed by cemetery personnel for maintenance.

(f) **American Flags Allowed.** American flags of small or memorial size may be displayed in any part of the entire cemetery when flags are customarily displayed. The American flag is defined for this purpose as the flag of the United States of America.

(g) **Expense of Maintenance.**

(1) No expense for cleaning a monument necessitated by any cause whatsoever will be assumed by the cemeteries nor paid by the City.

(2) The City shall not be responsible for scratching or chipping of any type of monument or marker resulting from routine maintenance of the cemetery.

(h) **Fences, Enclosures.** No fences, railings, copings or other enclosures shall be permitted around graves.

(i) **Artificial Flowers.**

(1) No plastic flowers, arrangements or wreaths shall be placed in the City cemeteries between April 15th and November 1st each year with the exception of 10 days before and after Memorial Day. On April 15th of each year and 10 days after Memorial Day, City crews will remove all plastic flowers, arrangements and wreaths from grave sites in the City cemeteries.

(2) When placement is allowed, artificial flowers will be permitted in the City cemeteries only when placed in urns or other containers made of some durable material, excluding glass, pottery or other such material which are permanently attached to the foundation base or marker. Urns or containers shall be placed and located so that they will not interfere with or hinder the mowing operations or other care required.

(3) Artificial flowers, when placed in permanent containers and maintained as herein provided, will be allowed in the cemeteries at all times except during those periods as prescribed in this regulation.

(j) **Placement and Removal of Natural Flowers and Wreaths.** Natural flowers and floral arrangements may be placed or used throughout the year. These objects may be removed by the cemetery staff if the objects become injurious to the grass on the grave spaces, unsightly, dilapidated or if they hinder mowing operations or other care of the cemeteries.

(k) **Removal of Articles Considered Objectionable.** The City Manager's designee may prohibit or remove from lots any article that the City Manager's designee may consider objectionable.

**2.40.520 Visitor regulations.**

(a) Entrance into the cemeteries shall be through the designated entrance(s) only.

(b) All persons are welcome to visit the cemeteries during the posted visiting hours while gates are open. Visitors shall at all times be orderly and shall not walk on flower beds or borders. Children shall not run at will in the cemeteries.

(c) All persons are forbidden to pick or remove the flowers or plants without the City Manager's designee's permission, or to injure trees or shrubs on any lot or grave, or to injure or deface any monument, vault, structure or other property.

(d) Litter is prohibited; litter, including but not limited to cigarette butts, must be disposed of in trash cans.

(e) No persons with firearms shall enter the cemeteries except for military funerals or similar occasions, and any peace officer, sheriff or other law enforcement officer.

(f) Pets are strictly prohibited, except for seeing eye or other physical assistance dogs on the cemetery grounds; pets shall minimally be confined to vehicles but are generally discouraged from being taken to the cemeteries.

(g) No driving or riding of any vehicle, bicycle or other conveyance shall be allowed on lots or upon the lawns or walks. Physical assistance conveyances are exempt from this provision. All persons driving in the cemeteries shall be responsible for any damage done by them. The speed limit in cemeteries is 10 miles per hour.

(h) The cemeteries are devoted to the interment and repose of the dead. All persons shall show due respect and observe the ordinances, rules and regulations of the City for the use of the cemeteries.

(i) The City cemeteries are not public forums; demonstrations, protests, parades, speeches or other forms of public activities are expressly forbidden in the City cemeteries. Educational activities may be allowed by the City Manager or the City Manager's designee. Nothing shall be construed as prohibiting any funeral service or the uniformed services of the United States, the military forces of the State, or any Colorado law enforcement or fire organization, when the service is approved by the City and held for the purpose of interring remains or honoring the dead.

Any section not included herein from Chapter 2.40 shall remain in full force and effect.

**INTRODUCED** on first reading the 2nd day of October, 2013 and ordered published in pamphlet form.

**PASSED** and **ADOPTED** on second reading the 16th day of October, 2013 and ordered published in pamphlet form.



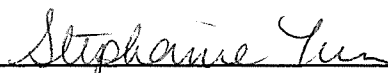
*Stephanie Yun*  
\_\_\_\_\_  
City Clerk

*[Handwritten Signature]*  
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President of City Council Pro Tem

I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4607 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 2<sup>nd</sup> day of October, 2013 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 16<sup>th</sup> day of October, 2013, at which Ordinance No. 4607 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 17<sup>th</sup> day of October 2013.

  
Stephanie Tuin, MMC  
City Clerk

Published: October 4, 2013  
Published: October 18, 2013  
Effective: November 17, 2013

