

CEMETERY ORDINANCE NO. 256

AN ORDINANCE OF THE CITY OF CLARK FORK, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, PROVIDING A PURPOSE AND DEFINITIONS, APPOINTMENT AND RESPONSIBILITIES OF A CEMETERY DIRECTOR, FOR THE ADMINISTRATION AND CARE OF THE CLARK FORK CEMETERY, ESTABLISHING REQUIREMENTS FOR THE SALE AND USE OF PLOTS THEREIN, AUTHORIZING ESTABLISHMENT OF REGULATIONS BY RESOLUTION, PROVIDING PENALTIES FOR VIOLATION, PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, be it ordained by the Mayor and City Council of the City of Clark Fork as follows:

SECTION 1. TITLE

This ordinance shall be known as the Clark Fork Cemetery Ordinance.

SECTION 2. PURPOSE

For the mutual protection of plot owners and the Clark Fork Cemetery as a whole, the following Ordinance is hereby established. All plot owners and persons visiting the Cemetery shall abide by such Ordinance as herein enacted and as hereafter amended, which ordinance is intended to assist in maintaining the Clark Fork Cemetery as a peaceful and beautiful area as well as a reverent symbol of respect for the dead. Unless specifically stipulated, this ordinance shall pertain to all sections of the Cemetery.

SECTION 3. DEFINITIONS

Unless the content specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Authorized Representative- Mayor or City Council or its authorized or designated officials, agents, or representatives.

City- The City of Clark Fork, Bonner County, Idaho.

Contractor- Any person, firm, corporation or anyone engaged in placing, erecting, or repairing any memorial or performing any work on the cemetery grounds other than a City employee.

Immediate Family- Immediate family is described as brother, sister, spouse, child, parent, of record owner.

Interment- The cremation with inurnment, entombment or burial of the remains of a deceased person.

Memorial- Any marker or structure upon or in any plot or niche, placed thereupon or therein or partially therein for the purpose of identification or in memory of the interred.

Perpetual Care- The obligation of the City of Clark Fork to maintain and care for the Clark Fork City Cemetery sites from the net annual income budgeted for cemetery use by the Clark Fork City Council. DOES NOT cover the cost of interment or memorial.

Person- Any individual, firm, company, association, society, corporation or group.

Plot- A parcel of ground of which may vary in size, due to location and used for cremated urn interment and non-cremated full casket interment. Minimum allowable Plot size is 5'x3'4".

Shall- "Shall" is mandatory; "May" is permissive.

SECTION 4. APPOINTMENT AND RESPONSIBILITIES OF THE CEMETERY DIRECTOR

A Cemetery Director shall be appointed as an officer of the City by the Mayor with consent of the City Council. The Cemetery Director shall serve at the pleasure of the Mayor, subject to the removal provisions set forth in Idaho Code section 50-206 or its successor. The Cemetery Director shall have the responsibility of managing and administration of all policies established by the City Council for the Clark Fork Cemetery. The Director shall establish a cemetery committee for the purpose of advising on matters pertaining to the cemetery.

SECTION 5. ADMINISTRATION AND CARE

- (1) The Clark Fork Cemetery, hereinafter referred to as the Cemetery, owned by the City of Clark Fork, shall be managed and administered by the Cemetery Director subject to budget and policy decisions made by the Mayor and City Council.
- (2) The City Cemetery Director;
 - (a) Is authorized to oversee and be responsible for enforcement of any rules or regulations adopted with respect to said cemetery.

- (b) Is hereby authorized to take such actions as may be necessary, including soliciting the cooperation of any individual(s) to maintain order upon the premises of said cemetery.
- (3) No plot marker shall maliciously be removed from its location in the cemetery. If accidentally removed, it shall be given to the Cemetery Director or a City employee as soon as possible.
- (4) Trees and other obstructions may be removed at the discretion of the City Council and/or the Cemetery Director with the consent of the City Council.
- (5) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The City of Clark Fork therefore reserves the right, without notice, to make exceptions, suspensions or modifications in any of the Rules and Regulations when, in its judgment, the same appear advisable. Temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such Rules and Regulations.

SECTION 6. SALE AND USE OF CEMETERY LOTS AND PLOTS

- (1) All burials, regardless of type, shall require authorization from the City prior to interment.
- (2) The purchase and use of all plots shall be in conformance with any rules or regulations adopted by resolution of the City Council and in compliance with applicable State and Federal law.
- (3) Plots which may have been reserved prior to September 8, 2003 and not paid at the time of reservation or carry a one hundred percent balance due at the passage of this ordinance shall be sold at the current rates as set by resolution.
- (4) All persons who hold claim to a reserved plot shall provide the City of Clark Fork with valid documentation of sale in its original format.
- (5) Unpaid reserved plots shall be paid in full prior to interment
- (6) No plot shall be used for any purpose other than the burial of human dead. With exception to subsection 7, after the passage of this ordinance, only the record owner or the person for whom the plot was designated at the time of purchase may be buried in a plot in the cemetery. A certificate of purchase shall be provided by the city for the purchase of plots.

- (7) The City will grant a one-time Immediate Family Transfer (IFT) for any plot in section 3, 4 or 5 (Pioneer Section) so long as the transfer is recorded with the City prior to interment. The rest of the cemetery plots are open to anyone.
- (8) The price of individual plots shall be as established by resolution of the Clark Fork City Council. A copy of such resolution shall be maintained in the office of the Clark Fork City Clerk. All sales of plots shall be by cash or equivalent negotiable instrument and payment must be made prior to any burial. (Refers to plots which may still carry a balance due) In the event of dishonor of any negotiable instrument, any sales transaction or certificate shall be void unless a burial has already occurred.
- (9) It shall be unlawful for any person purchasing a plot to sell the plot regardless of cost or remuneration
- (10) No conveyance of any plot shall be valid unless duly executed and recorded by the City Clerk.
- (11) Only persons designated by the City and/or Cemetery Director may dig graves in the cemetery. Opening and closing costs must be paid before the grave is dug. Opening and closing costs will be charged at the contractor's going rate.
- (12) For each grave site opening; an onsite inspection, with an authorized representative and the contractor, shall be performed. A form will be provided by the City stating the plot number and confirmed during the inspection of the site. The form must be filled out and signed prior to any opening.
- (13) Plots in Sections 3, 4 & 5 (Pioneer Section) will be sold on an "as needed as available" basis and only under the same terms and conditions applicable to all other Sections of the Clark Fork Cemetery. A plot may also be purchased for the surviving spouse where applicable and upon availability.
- (14) Only immediate family members of those interred or who have previously purchased a plot may purchase a plot in Section 3, 4 or 5 (Pioneer Section).
- (15) If a purchased plot is inadvertently found to be an old unmarked grave site or deemed unusable due to obstructions or topography, it will be exchanged for an unsold plot.
- (16) If a purchased plot is needed for burial but is inaccessible in the winter, it may be exchanged for another unsold plot that may be accessible.
- (17) A maximum of one (1) casket burial and two (2) urn burials [or] three (3) urn burials with no casket burial, will be allowed per 5'x10' plot.

- (18) A maximum of two (2) urn burials will be allowed for plots larger than 5' x 6'8" but smaller than 5'x10'.
- (19) A maximum of one (1) urn burial will be allowed for plots smaller than 5' x 6'8".
- (20) Plots purchased and no longer wanted shall be sold back to the City of Clark Fork at the same price paid by the original purchaser.
- (21) Flat headstones set flush with the ground will only be allowed in Section Six. Headstones shall be solid granite or bronze, or granite or bronze with a concrete border of at least 4", and must fit the following dimensions:
Single Headstone: 20" wide x 32" long
Double Headstone: 20" wide x 44" long

SECTION 7. ESTABLISHMENT OF REGULATIONS

The City Council, taking into account any recommendations, is hereby authorized to establish rules or regulations for operation of the cemetery, establishing, without limitation by enumeration: hours of operation, procedures concerning interment, disinterment, or removal; use of cemetery plots; charges for specific services; provision of grave liners; standards for grave marking and fencing; monument and marker restrictions; restrictions on planting flowers and shrubs; and such other regulations as may be necessary for orderly and efficient cemetery maintenance and improvement.

SECTION 8. PENALTY FOR VIOLATION

The requirements established by this ordinance and the regulations established by resolution authorized pursuant to this ordinance may be enforced by any authorized representative. Violation of the provisions of this ordinance or regulations adopted pursuant thereto shall be subject to misdemeanor criminal penalties including a fine of up to \$1000 per day and incarceration for up to six (6) months for each violation. Each day of noncompliance may be considered a separate violation. Additionally, violations which result in additional costs to the City shall be subject to reimbursement of all such costs, which costs may be pursued by civil legal action if not paid upon demand.

SECTION 9. REPEAL OF CONFLICTING PROVISIONS

This Ordinance repeals Ordinance #235 in its entirety. Any other ordinance(s) of the City of Clark Fork that conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

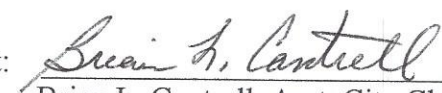
SECTION 10. EFFECTIVE DATE

This ordinance shall be in full force and effect upon its passage and publication as provided by law.

APPROVED as an ordinance of the City of Clark Fork, Idaho the 10th day of May, 2010.

CITY COUNCIL MEMBERS	YES	NO	ABSENT	ABSTAIN
Linda V. Reed	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Russell W. Schenck	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
Roger S. Anderson	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>
James J. Junget	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>


Jeffrey E. Jeffers, Mayor

Attest: 
Brian L. Cantrell, Asst. City Clerk

SUMMARY OF CLARK FORK CEMETERY ORDINANCE NO. 256

The City of Clark Fork, Idaho hereby gives notice of the adoption of Clark Fork Ordinance No. 256, an ordinance of the City of Clark Fork, Idaho, a municipal corporation of the State of Idaho, providing a purpose and definitions, appointment and responsibilities of a cemetery director, for the administration and care of the Clark Fork cemetery, establishing requirements for the sale and use of plots therein, authorizing establishment of regulations by resolution, providing that a violation is a misdemeanor punishable by one thousand dollars fine, or six months in jail, or both providing penalties for violation, providing for repeal of Ordinance 235 and any other conflicting ordinances; and providing that the ordinance shall be effective following its passage and publication according to law. The full text of Ordinance No. 256 may be obtained in the City Clerk's office located behind City Hall, 110 E. 3rd Ave., Clark Fork, Idaho between 8:00 a.m. and 12:00 noon weekdays.

Jonell Davisson
City Clerk

STATEMENT OF LEGAL ADVISER

I, Nancy Stricklin, am a legal adviser for the city of Clark Fork, Idaho. I have examined the attached summary of Clark Fork Ordinance No. 256, Cemetery Ordinance and find it to be a true and complete summary of said ordinance which provides adequate notice to the public of the contents thereof.

Nancy Stricklin, Lawyer

Date _____

AFFIDAVIT OF PUBLICATION

STATE OF IDAHO)

) ss.

County of Bonner)

states: Jennifer Albert, being first duly sworn on oath, deposes and

1. I am a citizen of the United States of America, over the age of 18 years, a resident of Bonner County, Idaho, and am not a party to the proceedings referred to in the attached ordinance.
My business address is P.O. Box 159, Sandpoint, Idaho.

2. I am the bookkeeper of the Bonner County Daily Bee, a newspaper of general publication in Bonner County, Idaho;

3. Said newspaper has been continuously and uninterruptedly published in Bonner County, Idaho during a period of 12 months prior to the first publication of said Notice, and thereafter.

4. The attached Notice was published in the regular and entire issue of the Bonner County Daily Bee for a period of 1x consecutive weeks, commencing on the 20th day of may, 2010, and ending on the 20th day of may, 2010.

Jennifer Albert

State of Idaho, county of Bonner ss.

On this 21 day of May, in the year of 2010, before me, Carolyn Inge, Notary Public, personally appeared Jennifer Albert, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

Carolyn L Inge
Notary Public
Residing at: Sandpoint
Comm. Exp.: 8-7-12

