

ORDINANCE NO. 2228

AN ORDINANCE REPEALING ARTICLE 2, CHAPTER 14 OF THE BELOIT CITY CODE IN ITS ENTIRETY, AND ADOPTING SUBSTITUTE PROVISIONS IN PLACE THEREOF, FOR THE OPERATION OF ELMWOOD CEMETERY.

WHEREAS, the City of Beloit, Kansas, owns and operates a municipal cemetery (the "Elmwood Cemetery" or "cemetery") within the corporate limits of the City;

WHEREAS, K.S.A. 12-402 provides that the City shall have full power to make and enforce all necessary rules and regulations pertaining to the custody, control, operation, and care of its municipal cemetery:

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BELOIT, KANSAS:

SECTION 1. Article 2, Cemetery, of Chapter 14, Public Property, of the Beloit City Code is hereby deleted in its entirety and replaced by the following sections:

14-201. Control of Cemetery.

The general supervision and control of the Elmwood Cemetery shall be vested in the City's Parks and Recreation Department, subject to the control and direction of the City Manager and the Governing Body. The Parks and Recreation Department, Cemetery Division, may, from time to time, adopt such administrative rules and regulations for the proper care and management of the cemetery as it may deem necessary or appropriate, subject to this Article and applicable state or federal law. Notwithstanding anything herein to the contrary, the general care assumed by the Department's Cemetery Division shall in no way be construed as requiring the City to maintain, repair, level, or replace any grave monument, marker, stone, concrete base, or decoration.

14-202. Cemetery Sexton.

The City Manager, with the assistance of the Parks and Recreation Director, shall hire a Cemetery Sexton who shall:

- (a) Superintend and direct all improvements in the cemetery such as grading, planting, trimming plants and trees, laying out avenues, and keeping the grounds, lots and avenues in proper order;
- (b) Have sole and exclusive charge in the cemetery of the excavation of all graves, the burying of the dead, and keep an exact record of the location of graves in the various lots in a book for that purpose, and not allow any burial without a permit;

- (c) Superintend the building of all foundations for vaults, tombs, and monuments and see that all rules regulating such structures are enforced, and set all landmarks and cornerstones of lots in their proper places;
- (d) Have sole and exclusive charge of all labor necessarily employed in the cemetery in the excavation of graves and in the making of avenues and walks and have charge of all implements and tools belonging to the cemetery.
- (e) The City Parks and Recreation Director shall supervise the Cemetery Sexton.

14-203. Interment notice; vault required; charges.

- (a) It shall be unlawful for any person or any agent of any person to bury or attempt to bury their dead in Elmwood Cemetery without first notifying the Cemetery Sexton. Whenever an interment is to be made in the city cemetery, time and notice thereof must be given to the Cemetery Sexton.
- (b) All interments will be subject to interment charges as provided by the annual fee resolution adopted by the governing body. These charges shall be paid to the city clerk, or his or her designee, upon the giving of notice.

14-204. Sale and Transfer of Lots.

The City Clerk, or his or her designee, shall manage the sale of lots within Elmwood Cemetery. For the purpose of preventing profiteering in dealing in cemetery burial lots, the City Manager may place certain restrictions upon the purchase and/or resale of an inordinate number of lots. Grave space fees and transfer fees shall be set by the Governing Body and included in the City's annual fee resolution.

14-205. Vaults; Graves.

- (a) Interments must be made in a concrete receptacle or a vault approved in advance by the Cemetery Sexton, or his or her designee.
- (b) Graves for adults shall be not less than five (5) feet in depth and for children not less than three (3) feet in depth. Graves for cremated remains shall be not less than two (2) feet in depth.
- (c) All graves shall be excavated by City cemetery staff, including graves for cremated remains.
- (d) No more than two bodies may be interred in any one (1) grave, or one (1) traditional burial with one (1) cremated, in which case the traditional burial must occur first.
- (e) No interment of any body other than a human being shall be permitted in Elmwood Cemetery, except that animals are permitted to be inside a casket with a human.
- (f) No cremated remains shall be spread on top of the ground within Elmwood Cemetery.
- (g) Effective May 15, 2018, mausoleums and surface vaults will be prohibited, with the exception of any mausoleum or surface vault spaces purchased prior to that date, or any mausoleum or surface vault spaces purchased after that date for immediate family members of those who are currently interred in a mausoleum or surface vault.

14-206. Foundations, Markers, and Monuments.

- (a) All monuments must be on a foundation of wet poured concrete, granite, or similar material, not less than 4 inches in depth. The foundation shall extend beyond the actual base of the monument to form a 4-inch collar at ground level on all sides.
- (b) Temporary markers will be removed by cemetery staff when such markers are in disrepair.
- (c) Standard single graves spaces are 36 inches in width and 96 inches in length with 24 inches between the top and bottom of each grave space and 12 inches between the sides of each grave space. Headstones shall fit within the designated grave space, so as to not encroach on an adjacent grave space, unless such headstone is designed to serve as a monument for two adjacent grave spaces.
- (d) The placement of all foundations and monuments shall be approved by the Cemetery Sexton prior to placement of the foundation or monument in Elmwood Cemetery.
- (e) If a monument is placed improperly without the approval of the Cemetery Sexton, or if an oversized monument encroaches upon an adjacent grave space and interferes with the City's ability to open an adjacent grave, it shall be the responsibility of the heirs of the deceased or the monument company to move the monument to allow the City to dig the adjacent grave.
- (f) Benches shall not be placed in Elmwood Cemetery without the prior approval of the Cemetery Sexton.

14-207. Visitors; Hours of Access; Dogs.

- (a) No person shall be permitted on Elmwood Cemetery grounds between the hours of ten o'clock (10:00) p.m. and five o'clock (5:00) a.m. Any section or part of the cemetery may be closed to the public by the City of Beloit during designated hours as may be necessary from time to time.
- (b) The regularly designated entrance gates shall be the sole and only means of entering and leaving the cemetery.
- (c) Vehicles are permitted on the avenues only. The speed limit within the cemetery is ten (10) miles per hour. Regularly enforced city traffic regulations shall be enforced in the cemetery.
- (d) No person shall dump, deposit or leave any, waste, garbage or refuse, or other trash or litter in Elmwood Cemetery.
- (e) Any person bringing a dog to the cemetery must have the dog under his/her command and control at all times, either by leash or voice command. Persons in charge of the dog shall be equipped to clean up after their dog and must clean up when the dog's actions so require.

14-208. Unlawful acts.

- (a) No person other than the Cemetery Sexton shall be permitted to excavate any grave or remove any body from any grave where it may have been interred.

- (b) It shall be unlawful for any person or persons to walk over or upon or to drive any vehicle over or upon any improved lot or lots in the cemetery unless authorized to do so by the Cemetery Sexton, or his or her designee.
- (c) It shall be unlawful for any person to hunt with a gun or to discharge a gun or other firearms in, upon, or about the cemetery grounds, except soldiers and sailors and members of their organizations at funerals or on Memorial Day, or any other appropriate occasion.
- (d) No person shall cut down, injure, destroy, pluck, or pull up any tree, shrub, flower, or plant placed, standing, or growing in the cemetery; nor shall any person destroy, deface, remove, or in any manner injure any monument, tombstone, fencing, railing, post, stake, head-board or foot-board of a grave, vase, urn, flowerpot, or anything whatever placed for use or ornament in the cemetery.

14-209. Rules and Regulations.

- (a) Grave Decorations – Summer Months – April 15 to November 15. Fresh flowers, plants, artificial wreaths, artificial flowers, and shepherd hooks may be used for decorating graves, but must be attached to the headstone or placed on the collars around the stone, except for Memorial Day. For a period of five (5) days preceding and ten (10) days following Memorial Day, the above-mentioned type of arrangements may be placed on graves provided they are in containers other than glass and set close to the monument or marker. City personnel will be permitted to remove all items after this period.
- (b) Grave Decorations – Winter Months – November 1 to March 15. Any appropriate winter decoration may be used such as wreaths. All items not in a permanent structure shall be removed by April 1. City personnel will be permitted to remove all items after this date.
- (c) The city shall remove, without notice, all artificial and cut flowers when their appearance becomes unsightly or not in harmony with the overall appearance of the cemetery.
- (d) Permanent trees, shrubs, flowers, structures such as benches, or other embellishments will need permission from the Cemetery Sexton before permitted in the cemetery. Decorations which are not in harmony with the overall development of the cemetery or are of a type that they may intensify maintenance problems are subject to removal.
- (e) No fence, hedge, curb or planting of any kind around any lot or piece of ground will be permitted.

14-210. Penalty.

Any person who violates any provision of this Article shall, upon conviction, be punished by fine of not less than \$25.00 and not more than \$500.00, or by imprisonment of not more than thirty (30) days, or, by both such fine and imprisonment, at the discretion of the court. Each day any violation of this Article continues shall constitute a separate offense.

14-211. Veterans Burial Site.

The City of Beloit hereby dedicates the following Lots and Block, to wit:

Lots One (1), Two (2), Three (3), Four (4), Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23), Twenty-four (24), Thirty-seven (37), Thirty-eight (38), Thirty-nine (39), and Forty (40), in Block One (1), Fourth Addition, Elmwood Cemetery,

for burial units of deceased eligible Veterans and members of the Armed Forces of the United States of America and spouses as defined by this article. Those seeking burial as an eligible Veteran, member of the Armed Forces, or spouse as defined by this article shall have the responsibility to provide the City with proper proof of eligibility.

14-212. Veterans Burial Site; costs waived.

In honor of persons eligible for burial, the governing body waives the cost of all burial lots within the dedicated portion of Elmwood Cemetery contained in Section 14-211 for eligible Veterans and members of the Armed Forces of the United States of America and eligible spouses.

14-213. Veterans Burial Site; eligibility defined.

Persons and spouses, as hereinafter defined, eligible for burial in the dedicated part of the Elmwood Cemetery set forth in Section 14-211 are:

- (a) Veterans and Members of the Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard).
 - 1) Any member of the Armed Forces of the United States who dies on active duty.
 - 2) Any citizen of the United States who, during any way in which the United States has been or may hereafter be engaged, whose last active service terminated honorably by death or otherwise, and who was a citizen of the United States at the time of entry into such service and at the time of death.
 - 3) Any veteran who was discharged under conditions other than dishonorable. With certain exceptions, service beginning after September 7, 1980, as an enlisted person, and service after October 16, 1981, as an officer, must be for a minimum of 24 months of the full period for which the person was called to active duty. Undesirable conduct and any other type of discharge other than honorable may or may not disqualify the individual.
- (b) Members of Reserve Components and Reserve Officers' Training Corps.
 - 1) Reservists and National Guard members with 20 years qualifying service, who are entitled to retired pay or would be entitled, if at least 60 years of age, under Chapter 67, Title 10, United States Code. Specific categories of individuals eligible for retired pay are delineated in Section 1332 of Chapter 67, Title 10, United States Code.

- 2) Members of reserve components who die under honorable conditions while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while performing active duty for training or inactive duty training, or undergoing such hospitalization or treatment.
- 3) Members of reserve components who, during a period of active duty for training, were disabled or died from a disease or injury incurred or aggravated in line of duty or, during a period of inactive duty training, were disabled or died from an injury incurred or aggravated in line of duty.
 - (c) The spouse or unmarried surviving spouse of an eligible person. In addition, the spouse of a member of the Armed Forces of the United States lost or buried at sea or officially determined to be permanently absent in a status of missing or missing in action or who remains have been donated to science or cremated and the ashes scattered.

14-214. Veterans Burial Site; Persons not eligible.

- (a) Remarried Surviving Spouses Married to a Nonveteran. A surviving spouse of an eligible decedent who marries an ineligible individual and predeceases that individual.
- (b) Former Spouses. A former spouse of an eligible individual whose marriage to that individual has been terminated by annulment or divorce, if not otherwise eligible.
- (c) Other Family Members. Other than eligible spouses defined herein, no other family member is eligible.
- (d) Disqualifying Characters of Discharge. A person whose only separation from the Armed Forces was under dishonorable conditions or whose character of service results in a bar to veteran's benefits.

14-215. Veterans Burial Site; Authority in Parks and Recreation Department.

The Parks and Recreation Department/Cemetery Division, shall manage, operate and maintain the dedicated burial sites of Elmwood Cemetery defined in Section 14-211 herein, subject to any limitations and restrictions set forth herein or contained in any applicable law.

14-216. Veterans Burial Site; Rules and regulations.

The Parks and Recreation Department/Cemetery Division shall establish rules and regulations for the use of the burial units set aside for eligible Veterans and members of the Armed Forces of the United States of America, including the following: (a) subdividing the cemetery into lots; (b) capacity of each lot; (c) location of graves; and (d) type of plantings, monuments and markers that will be permitted for the proper and most attractive of development of the Cemetery.

14-217. Cemetery Endowment Fund.

There shall be a fund known as the Cemetery Endowment Fund to be held in trust, and disbursed as provided in this article, and pursuant to K.S.A. 12-1408 et seq. One half of all grave space fees shall be placed in the endowment fund. All money securities accruing to the endowment fund shall be placed under the control of the city clerk. The tract of land for which the

endowment is paid shall also be designated, and be known as "Endowment Tract No. _____" to be numbered consecutively as the endowment is paid and recorded in a book kept by the city clerk, or his/her designee. The city clerk shall deliver to the party creating the endowment a deed certifying as such.

14-218. Cemetery Endowment Fund Committee.

The city cemetery endowment fund shall be under the charge of the cemetery endowment fund committee. The cemetery endowment fund committee shall be comprised of three representatives appointed by the Mayor with the consent of the governing body who shall be appointed for a term of one year and until their successors are appointed and qualified to be done at the same time as other officers are appointed pursuant to Article III, Section 1-301 of the City Code and shall:

- (a) Manage and maintain the Cemetery Endowment Fund and control the spending of the income generated by the Fund;
- (b) Meet one time during the spring months and one time during the winter months to discuss general cemetery concerns, identify cemetery needs and decide on items to spend the income generated by the Cemetery Endowment Fund. City staff shall ensure that these meetings are scheduled and city staff shall be present to record the minutes of committee meetings;
- (c) In consideration of the deposit of the proceeds from the interest arising from the fund in the cemetery endowment fund as a part of the same it shall be the duty of the cemetery endowment fund committee to see that all tracts of land in the said cemetery and additions known as endowment tracts shall be at all times and for all time cared for and kept in first class condition.

14-219. Cemetery Endowment Fund; Accounting.

- (a) An accounting will be kept for the fund tracking contributions to the fund and particularly noting funds donated by popular subscriptions or donated by grant, will or gift;
- (b) A separate accounting will be maintained showing the balance of the fund, the balance of specific funds donated by popular subscriptions or donated by grant, will or gift, the amount of interest or income accruing on the fund, and disbursements made by the fund.

14-220. Cemetery Endowment Fund; Permanent Trusts.

- (a) The provisions of this chapter create a permanent trust, separate from city funds, and are positive and certain for all time, and nothing shall ever be done by any person which shall destroy or impair the fund herein provided for or interfered with the work for which it was intended;
- (b) Under no circumstance shall any monies donated to the fund by way of popular subscriptions or donated by grant, will or gift be removed from the fund;
- (c) Upon a majority vote by the governing body, money may be removed from the corpus.

14-221. Cemetery Endowment Fund; Maintenance of fund.

All money in the Cemetery Endowment Fund shall be invested by the city treasurer from time to time under the supervision and direction of the cemetery committee in such interest bearing securities as in their judgment are safe and sufficiently remunerative. The proceeds in interest returns from such investment shall be turned into the cemetery fund and form a portion of the same. The cemetery committee shall direct how these funds shall be used to help maintain and improve the cemetery. The cemetery committee will review the balance of the fund at every meeting and if necessary at a special meeting called by the members of the committee or the governing body and decide if the fund needs to be reinvested. The committee will also advise the governing body and the Mayor on the status of the fund and its income.


14-222. Acceptance of Private Funds.

The City is authorized to accept funds from individuals for the upkeep of burial lots in the city cemetery and does hereby elect to come under the provisions of K.S.A. 12-1437 – 12-1439. All such funds shall be invested by the city in the manner in which the donor of the trust fund shall direct, or, if no direction is given by the donor, in such manner as other cemetery endowment funds are invested. The income from the trust funds shall be used in the manner directed by the donor, or, in the absence of such direction, then for the general upkeep of the city cemetery.

SECTION 2. This Ordinance shall take effect and be in full force from and after its passage and one publication in the official city newspaper.

PASSED and ADOPTED by the Governing Body and signed by the Mayor this 15th day May, 2018.

ATTEST:


Amanda J. Lomax, City Clerk


Tom Naasz, Mayor