

ORDINANCE NO. 14,178

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,077, passed April 22, 2002, by amending Sections 34-1, 34-61 and 34-69, of Chapter 34, Cemeteries, adding definitions and to set forth miscellaneous fees in a schedule of fees adopted by the city council by resolution.

Be It Ordained by the City Council of the
City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, and amended by Ordinance No. 14,077, passed April 22, 2002, is hereby amended by amending Sections 34-1, 34-61 and 34-69, of Chapter 34, Cemeteries, adding definitions and to set forth miscellaneous fees in a schedule of fees adopted by the city council by resolution as follows:

Sec. 34-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burial lot means the area designed for the interment of the remains of two people.

Burial plot means the area designed for the interment of the remains of three or more persons.

Burial space means the area designed for interment of the remains of one person.

Cemetery includes a burial park for earth interments, a community mausoleum for vault or crypt interments, and columbarium for cinerary interments or a combination of one or more thereof.

Disinterment means the removal of human remains from an interment space.

Extra work/special care means the maintenance work performed by cemetery staff at the request of and billed to, the owner or family, for work that is beyond perpetual care.

Family means the spouse of the owner of the right of interment in a plot, if any, and all lineal ancestors and descendants as designated in the right of interment document or if none such are designated, then any and all lineal descendants.

Family burial plot means a plot which shall be held as indivisible for family members of the owner thereof upon one family member's remains being interred therein for a period extending to 100 years after the last interment.

Foundation means the concrete or sand base created to place a monument or memorial marker on or in a designated burial space, lot, or plot.

Infant or *small child* means a child eight years old or less at death who requires an interment space no greater than five feet in length.

Infant burial plot means that area of the cemetery restricted to infant interments.

Infant interment means an interment in which the burial receptacle can be placed within a burial space five feet in length.

Interment means the permanent disposition of the remains of a deceased person by inurnment, entombment or burial.

Interment space means burial space.

Mausoleum means a large tomb or room for the interment of two or more people.

Memorial includes a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, surface burial vault, urn and crypt and niche plates.

Columbarium means a freestanding vault or other structure with recesses in the walls to receive the ashes of the dead.

Owner means the person who has been issued a right of interment document for himself or herself or others.

Ownership, as the term relates to burial spaces, lots or plots in the city cemeteries, is limited in meaning to the right of interment and includes no other elements of title ascribed to real estate by law.

Perpetual care, when used in reference to cemetery burial spaces, lots or plots, means the cutting and raking of the grass upon such interment spaces at reasonable intervals, the raking and cleaning of the plots, the pruning of the shrubs and trees, the general preservation of the plots and the grounds, walks, roadways and boundaries so that such grounds shall remain and be reasonably cared for as cemetery grounds forever. When used in reference to a mausoleum and columbarium, perpetual care means repair necessitated by ordinary wear, the cleaning and sweeping of the building at reasonable intervals and the revision of locks and doors to prevent the entrance of unauthorized persons. The term "perpetual care" shall not be construed as meaning:

(1) The maintenance, repair or replacement of any memorials placed or erected upon burial spaces, lots or plots.

(2) The planting of flowers or ornamental plants on burial spaces, lots or plots or the maintenance or doing of any special or unusual work in the cemetery or in a mausoleum or columbarium.

(3) The reconstruction of any marble, granite, bronze or concrete work on any section or plot or any portion thereof in the cemetery, mausoleum and columbarium or other buildings or structures, caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious

mischief makers,
explosions, unavoidable
accidents, invasions,
insurrections, riots or
by the order of any
military or civil
authority, whether the
damage shall be direct
or collateral, except as
specifically approved by
the city park and
recreation board.

Resident, for purpose of interment in the city cemeteries, means
any individual who:

(1) For the majority of
his or her life had his
or her primary residence
in the city and, at the
time of death, had not
lived outside the city
for a period of time
exceeding two years; or

(2) Owned property in
the city upon which
property taxes were
continued to be paid to
the time of death; or

(3) Moved from his or
her primary residence
directly to any type of
care facility as defined
in I.C. ch. 135C and
remains in such care
facility as his or her
primary place of
residence, whether or
not such facility is
within the city limits.

The survivor of an individual who is not classified as a
resident under this chapter may file an appeal with the park and
recreation board who may grant an exception as set forth in
subsection 34-32(5) of this chapter upon showing of extenuating

circumstances. If the park and recreation board grants the appeal, the survivor will receive refund of the difference between the nonresident's fee that was paid and the resident's fee.

Restricted burial plot means a plot restricted to interment of remains of members of an association, organization, brotherhood or sisterhood, religious group, denomination or other similar entity, but shall not mean a family plot or veteran's plot.

Right of interment refers to the document delivered by the city as grantor to a grantee of a designated burial space, lot or plot. Such document does not convey title in any form and shall not be construed as more than a right to inter human remains at a particular place as limited by city ordinances and regulations as such may from time to time be amended.

Single at need means a single grave space to be purchased and utilized at the time of death.

Special care includes only those specific services set forth in special care agreements with owners. It may include the erection, maintenance, removal, repairs or preservation of any memorial structure; the planting and cultivation of flowers, trees, shrubs or plants in and around the cemetery or any part thereof; and the filling and care of vases, special care of flower beds and the placing of flower beds, and the placing of floral decorations on specified religious or other days, national holidays or at any other date requested, including the special care of ornamenting of any burial space, lot, or plot, section or building or any portion thereof, in the cemetery; or any other purpose or use consistent with the purpose for which such cemetery was established or is being maintained.

Veteran, for purposes of interment in the veteran's plot of a cemetery, means a person who served in any armed service of the United States upon active duty, including persons who died, were injured or disabled while in active duty training, and who was discharged or released from service under conditions other than dishonorable.

Veteran's plot means that area of a city cemetery reserved for veterans and their spouses.

Sec. 34-61. Sale of burial spaces, lots and plots for right of interment.

The city park and recreation department on behalf of the city is authorized to sell to persons or entities desiring to purchase interment space for purposes of interment in the city-owned cemeteries the right of interment, subject to all restrictions of record and to all rules and regulations of the park and recreation department. The amount of fees for such right is to be recommended by the city park and recreation board for approval by the city council by resolution. Fees for the right of interment must be paid at the time of arrangement for interment regardless of any prior agreement as to method of payment. The park and recreation director or his or her designee is authorized to execute all right of interment documents.

Sec. 34-69. Fees.

Fees. Pursuant to section 34-32, the park and recreation department is authorized to charge fees for cemetery services, including, without limitation, fees for interment, disinterment, foundation charges, extra work/special care, records research, grave spaces and monument lots. Cemetery fees for residents and nonresidents shall be in the amounts set in the Schedule of Fees adopted by the City Council by resolution.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Ann DiDonato, Assistant City Attorney

Preston A. Daniels, Mayor

Attest:

I, Donna V. Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 02-2943), passed by the City Council of said City at a meeting held December 16, 2002 signed by the Mayor on December 16, 2002 and published as provided by law in the Polk County Press Citizen on December 27, 2002 Authorized by Publication Order No. 3504.

Donna V. Boetel-Baker, City Clerk