

**ORDINANCE 6-2016**

CITY OF AFTON, MINNESOTA  
WASHINGTON COUNTY, MINNESOTA

**AN ORDINANCE AMENDING CHAPTER 16, PARKS AND RECREATION, TO CHANGE THE CHAPTER TITLE TO PARKS AND OTHER PUBLIC PROPERTY AND TO ADD REGULATIONS FOR OPERATION AND MAINTENANCE OF CITY CEMETERIES**

THE CITY COUNCIL OF THE CITY OF AFTON, MINNESOTA HEREBY ORDAINS:

The following sections of the Afton Code of Ordinances shall be amended by deleting the strike-through language and replacing it with the underlined language and numbering sections as shown below, changing the chapter title, reserving sections, and adding Article IV.

Chapter 16

**PARKS AND RECREATION OTHER PUBLIC PROPERTY**

**Secs. 16-16—16-24. Reserved.**

**ARTICLE IV. CITY CEMETERY OPERATION AND MAINTENANCE**

**Section 16-25. Establishment.**

A cemetery has been established and is continued upon land owned by the City of Afton, Minnesota, and described as Mount Hope Cemetery, City of Afton. The plat of the cemetery filed with the county recorder in Washington County, Minnesota, is adopted as the official plat of the cemetery. In addition, a cemetery established in 1886 in the City of Afton known and platted as St. Paulus German Lutheran Cemetery was established and is currently being maintained by the City of Afton. No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of dead except in Mount Hope or St. Paulus German Lutheran Cemeteries, or some other tract of land duly designated and platted within the City as a cemetery.

**Section 16-26. Definitions.**

City. The City of Afton, Minnesota, owning and/or maintaining the cemetery.

Cemetery. A tract of land used for burials or above-ground interment.

Burial Permit. Legal written permission for burial to occur.

Burial Vault. A container that houses a casket for final interment in the cemetery.

Columbarium. Above-ground hexagonal repository composed of niches to hold cremation urns.

Interment. Disposition of human remains or cremains by burial or entombment.

Marker. A memorial of granite or other approved material that does not extend above the surface of the lawn.

Mausoleums. An external free-standing building enclosing the interment space or burial chamber of a deceased person or persons.

Memorial. A monument, marker bench, or large urns (marked or unmarked).

Monument. A memorial of granite or other approved material that extends above the surface of the lawn.

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### **Section 16-27. Sale of Lots.**

The principal purpose of the City's ownership and maintenance of the aforesaid cemeteries is that of historical preservation and the City does not expect either cemetery will be used on an ongoing basis for burial purposes. The City expressly reserves the right to deny any and all applications for the sale of any lot within either cemetery in its complete and sole discretion.

The prices of cemetery lots and services will be set by resolution of the City Council. Any person paying for a lot is entitled to a license agreement conveying the lot. A license agreement conveying a lot gives the purchaser only the right of burial therein and shall be considered as a license that restricts the use to burial purposes.

### **Section 16-28. Conditions of Lot Purchase.**

All lot agreements are subject to reasonable rules and regulations as the Council may adopt relative to the use of the cemetery. No lot shall be used for any purpose other than the burial of human remains and the placing of memorials as permitted by this ordinance or any additional regulation that the Council may provide.

### **Section 16-29. Handling of Funds.**

All money received from the sale of lots and other services must be paid to the City. No lot agreement to any cemetery lot shall be issued, nor any cemetery service performed until a receipt showing payment to the City of the cost thereof is exhibited to the person who issues the deed or performs the services. All money received from the sale of lots and performance of services shall be placed in the cemetery fund. The fund may be used only for payment of the purchase price of grounds, or maintenance and improvements to the cemetery. The treasurer shall keep an account of all receipts and disbursements of money belonging to the cemetery fund and shall pay money out of the fund as approved by the City Council.

### **Section 16-30. Burial Permits.**

Before any interment, a burial permit shall be obtained from the funeral home or State Registrar of Vital Statistics. No interment shall be made unless the City is notified and a copy of such burial permit is filed with the City. Within thirty-six (36) hours after the death of any person in the City and before the body is removed for burial within the City, the mortician, funeral director, or person having charge of the interment shall apply for the permit. This application shall be accompanied by a death certificate as prescribed by the Minnesota Department of Health. No burial permit shall be issued until the application and death certificate is completed and presented. The body of a deceased person shall not be brought into the City for burial unless accompanied by a death certificate and permit for removal issued by the registrar of the registration district wherein the death occurred.

### **Section 16-31. Interments.**

Permission in writing from a lot owner must accompany all requests for permission to bury bodies of persons that are not members of the immediate family of the lot owner. All excavations shall be made under the direction of the City. When graves are requested to be dug, at least twenty-four (24) hours' notice shall be given, and the outside dimensions of the case to be used and the location shall be specified. No interment may be made in the cemetery unless the City expressly agrees, through action by its City Council, to the interment, and all laws, ordinances, rules, and regulations regarding interments have been complied with and until purchase price of the lot and all burial fees are paid. The City is under no obligation to agree to any interment and may, in its full and complete discretion, refuse any request.

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### **Section 16-32. Burial Vaults.**

All caskets must be encased in a permanent type burial case or vault. Fiberglass vaults are prohibited.

### **Section 16-33. Funeral Supervision.**

All funerals, on reaching the cemetery, shall be under the supervision of the City or its designated agents or personnel.

### **Section 16-34. Disinterment and Removal.**

Before any grave may be opened, written permission of the lot owner and the next of kin shall be filed with the cemetery superintendent, a permit from the county health officer shall be secured and presented and the required fees paid. This provision does not apply when disinterment is ordered by a duly authorized public authority.

1. Removal of a body by the heirs so that the lot may be sold for profit to themselves, or removal contrary to the expressed or implied wish of the original lot owner is forbidden.
2. A body may be removed from its original lot to a larger or better lot in the cemetery when there has been an exchange or purchase for that purpose.
3. The City shall assume no liability for damage to any casket or burial case in making the disinterment and removal.

### **Section 16-35. Transfer of Lots.**

No cemetery lot or fractional lot may be resold or otherwise disposed of, except by will, without the approval of the City Council, in accordance with the procedures outlined in Minn. Statutes § 306.15.

### **Section 16-36. City Repurchase of Unused Cemetery Lot.**

A lot owner may sell his or her unused lot back to the City. The City will purchase the lot at any mutually agreeable price, but is under no obligation to repurchase any such lot and may do so at its complete discretion.

### **Section 16-37. Conduct of Persons in the Cemetery.**

- A. No person may discharge any firearm within the cemetery grounds without written permission of the City.
- B. No person may remove any object from any place in the cemetery or make any excavation without the written permission of the City.
- C. No person may obstruct any drive or path in the cemetery or in any way injure, deface, or destroy any structure, grave, flower, tree, or other thing in the cemetery.
- D. No person may drive any vehicle at a speed exceeding ten (10) miles per hour. All automobiles must be kept off the grass.
- E. No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.
- F. No person may enter or leave the cemetery except at the entrances provided.
- G. No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes relating to the cemetery.
- H. Children shall not be permitted to engage in playing within cemetery grounds, and children under ten (10) years of age shall not be admitted to the grounds unless accompanied by an

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adult, who shall be responsible for their conduct while therein.

- I. Animals must be on a leash and under control at all times.

### **Section 16-38. Monuments and Markers.**

All monuments and markers shall be placed in the space shown on the cemetery plat or as directed by the City. Monuments and markers must be constructed of granite, marble, or bronze material. The design and size of the monuments or markers are subject to the approval of the City, which may, in its sole discretion approve or disapprove any size or design.

### **Section 16-39. Foundations.**

All monuments and markers shall be placed on foundations of solid masonry at a depth and size to be determined by the City. The City reserves the right to excavate and build all foundations.

### **Section 16-40. Installation of Monuments and Markers.**

Upon placement of an order for a monument, the lot owner or monument salesperson shall furnish the dimensions of the proposed monument to the City, which in turn may authorize the construction of the foundation, and all charges must be paid before the monument is placed thereon.

1. Persons engaged in erecting monuments and other structures shall provide adequate planking to protect turf and shall remove all materials, equipment, and refuse immediately upon completion of the work.
2. Scattering of materials on adjoining lots, or leaving materials on the ground longer than absolutely necessary is prohibited. In all cases the work is subject to the control of the cemetery superintendent and work must be conducted within the regulations of the cemetery. Ropes and cables may be attached to trees or other objects only on approval of the superintendent.

### **Section 16-41. Mausoleums.**

Mausoleums may be placed only on cemetery lots designated by the City Council for such structures.

### **Section 16-42. Columbarium Niches.**

Each niche may contain two cremation urns of appropriate size. The cost of a niche will include burial opening and closing costs. Two four (4) inch by ten (10) inch bronze plaques will be included per niche. Each plaque must be engraved according to cemetery specifications. No other additional ornamentation will be allowed on or in front of the columbarium.

### **Section 16-43. Decoration of Lots.**

- A. Plants, shrubs, and flowers may be placed on cemetery lots in areas designated by the cemetery superintendent. No trees or vines may be planted, nor may fences be erected. The City reserves the right to remove any tree shrub, vine, plant, or flower that may become unsightly, dangerous, or not in keeping with the landscape design of the cemetery. The City shall not be responsible for damaged, lost, or misplaced flower containers.
- B. The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, glass, wood or iron cases, and similar articles upon lots shall not be permitted; if such items are placed; the City may remove them.
- C. All objects not described above, including balloons, banners, food and beverages, knick knacks, shepherd hooks, solar lights and lanterns, stuffed animals, wind chimes, windmills, windsocks, and statuary not incorporated into a monument, are prohibited and may be subject

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to immediate removal.

- D. The City reserves the right to remove all monuments, markers, flowers, plants, trees, decorations, or other similar things without liability to the owner whenever any of these objects become unsafe.

**Section 16-44. Hours.**

The cemetery will be open to visitors all days from dawn to dusk. Permission to enter at other times may be secured with express permission in writing from the City.

**Section 16-45. Penalty.**

Any person violating any provision of this ordinance is guilty of a misdemeanor and subject to fines of up to \$1000 and up to 90 days in jail.

**Section 16-46. Third Party Maintenance.**

The City may, by resolution, designate the Afiton Historical Society or, in its discretion, any other organization or third party, to manage and otherwise serve as the City agent acting on its behalf in maintaining and management any cemetery under the City's ownership or control.

**Section 16-47 – 16-55. Reserved.**

This ordinance shall take effect upon publication of this ordinance.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF AFTON THIS 17<sup>TH</sup> DAY OF MAY, 2016.**

**SIGNED:**

  
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 Richard Bend, Mayor

**ATTEST:**

  
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 Ronald J. Moorse, City Administrator

Motion by: Palmquist  
 Second by: Ross  
 Palmquist: Aye  
 Richter: Aye  
 Ross: Aye  
 Nelson: Aye  
 Bend: Aye