

ORDINANCE NO. 377

AN ORDINANCE OF THE CITY OF IDAHO CITY, IDAHO, REPEALING ORDINANCES 185, 263, 322, and 356, TO ADOPT CHANGES TO TITLE 7, CHAPTER 1 TO INCLUDE VARIOUS DEFINITIONS, REGULATIONS OF GRAVE LOTS AND SPACES, GRAVESTONES, BURIAL SCHEDULES, OWNERSHIP PROCESSES AND DISINTERMENT, PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, the City owns and controls the Pioneer Cemetery within City's limits; and

WHEREAS, cemeteries are meant to provide a beautiful, peaceful, restful, aesthetically pleasing, and well-run space where the remains of friends, loved ones, neighbors, community members, and others may be interred or preserved following their passing from this life; and

WHEREAS, in order to maintain the quiet dignity and peacefulness of such cemeteries, the City has created within the City Code a Chapter controlling cemeteries; and

WHEREAS, a review of this Chapter has opened up the opportunity to bring more consistency and predictability to cemetery uses and procedures; and

WHEREAS, the Council desires to adopt these changes in order to continue well-reasoned cemetery processes and practices (including ownership, maintenance, control, and revisions of burial lots and spaces); and

WHEREAS, the changes proposed accomplish the needs of the City and those persons interested in utilizing the City's cemetery services.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO CITY, IDAHO, THAT:

SECTION 1. Repeal. Chapter 1 of Title 7 of the City Code of Idaho City, as codified by the following ordinances, is repealed: Ordinance No. 356, enacted on July 24, 2019; Ordinance No. 322, enacted on August 28, 2008; Ordinance 263, as amended by Ordinance 356, enacted September 23, 1997; and Ordinance 185, as amended by Ordinance 263, enacted January 24, 1985.

SECTION 2. A new Chapter 1 of Title 7 of the City Code of the City of Idaho City, Idaho, shall be created as follows:

7-1-1. **SHORT TITLE.** This ordinance shall be referred to as the "Pioneer Cemetery Ordinance."

7-1-2 : **DEFINITIONS:**

Burial: the placement or interment of human remains in a burial space (e.g., full-body interment in a grave or crypt, urn of cremated remains in a niche, crypt, or in-ground grave).

Cenotaph: A monument or empty tomb honoring a person buried elsewhere.

Columbarium: A structure, similar to a mausoleum, but designed for the interment or remains.

Disinterment: The removal of the buried remains of a deceased person.

Grave: A below-ground burial space.

Gravestone: Any object (such as a stone, plaque, headstone, monument, or monolith) identifying or marking a grave, gravesite, or burial place.

Mausoleum: An aboveground structure designed for burial or entombment.

Niche: A shelf-like space in a columbarium structure used for burial.

Sexton: The City employee responsible for cemetery operations, including any designee.

Space: An individual space within a cemetery designated for burial.

Vault: A container designed to enclose a casket or urn for burial.

7-1-3 : CEMETERIES UNDER CONTROL OF CITY: The Pioneer Cemetery shall be under the direct supervision and control of the City.

7-1-4: FEES AND CHARGES: All charges and fees for issuance of certificates, interments, disinterment's, permits and all other cemetery services, such charges and fees having been approved by the City Council and listed on the City's fee schedule set by resolution, shall be paid in full prior to issuance of the license or permit, and prior to the services being provided. All fees and charges previously approved and adopted by the Council that are now in effect are hereby reaffirmed reapproved and shall remain in full force and effect until amended or repealed.

7-1-5 : TITLE TO CEMETERY LAND: The title to all land located within Pioneer Cemetery, not heretofore transferred, or conveyed by deed or certificate, shall vest in the City, and shall be issued by a certificate executed by the Mayor and Clerk under the City seal. Such certificate shall vest title to the particularly described space so conveyed or transferred to the purchaser, their heirs, and assigns, in fee simple, for burial purposes, subject to such conditions as may be imposed or prescribed by the City and as pursuant to title 27, chapter 3 of the Idaho Code.

7-1-6 : CERTIFICATE REQUIRED: No person shall bury remains in Pioneer Cemetery without first purchasing a certificate from the City. Upon receipt of a complete application and payment of the fee(s), the City shall execute and deliver to the applicant a certificate evidencing ownership. In the event a certificate is lost or destroyed, the City may, upon adequate proof of ownership and loss or destruction, re-issue a certificate upon payment of the fee listed on the fee schedule.

7-1-7 : TRANSFER OF SPACE BY OWNER; TRANSFER FEE: No person may transfer or assign any certificate without first submitting a complete application to the Clerk and paying the transfer fee listed on the fee schedule. A complete application must include the surrender of the original or certified copy of original certificate, where available, and an executed assignment to the transferee.. Upon approval of a transfer, the City shall re-issue the certificate bearing the

transferee's name. An owner of a certificate may assign burials for deceased other than themselves without the requirements of the certificate being re-issued.

7-1-8 : CEMETERY OWNERSHIP RECORD: The Clerk shall keep a record of the ownership of all spaces located within Pioneer Cemetery that includes the name and address of the owner, a specific description of the space, the fee paid for the space(s) and the date of sale or transfer. An owner shall notify the City in writing of any change to their mailing address within ninety (90) days of such change.

7-1-9: FEES; BURIAL RECORD: Any owner of a certificate desiring a burial in Pioneer Cemetery shall apply to the City. Upon payment of the proper fees, the City shall authorize burial and give the applicant the location of the burial space. The Clerk shall also enter in a book to be known as "The Burial Record" the name of the deceased, the date of burial, and age of the deceased, if known. The City shall not be responsible for obtaining any required license, permit, or authorization, or for confirming the identity of the person being buried.

7-1-10: DUTIES OF SEXTON: The Sexton shall, under the direction of the Mayor and Council, take general care of and make general improvements of all spaces in Pioneer Cemetery.

- A. The Sexton shall, whenever requested, furnish the true lines of a space according to the official survey and shall prevent and prohibit the marking of the same in any manner prohibited by this Chapter.
- B. The Sexton shall dig or allow or cause to be dug graves for burial; provided that, if the person making application for burial desires to dig a grave, the Sexton shall approve and supervise such excavation and the location thereof.
- C. The Sexton shall fill all graves following burial, trim any grass, trees, or shrubbery thereon and keep all spaces in a safe condition.
- D. The Sexton shall care for all grounds and foliage in the cemetery.
- E. The Sexton may enter upon any part of the cemetery, including any space, with equipment for the purpose of improving the appearance and condition of the space and the general appearance of the cemetery; to remove anything objectionable that may have been placed contrary to cemetery regulations; to remove any dead or dangerous tree, shrub, vine, or neglected fencing, railings, or enclosures; to remove any floral design or piece, which, in the discretion of the Sexton, has become unsightly or does not conform with this Chapter.
- F. Morticians, undertakers, monument companies, contractors, religious representatives, florists, and other individuals or corporations working within a cemetery shall comply with this Chapter and shall perform all work in cemeteries under the direction and with the approval of the Sexton.

7-1-11 : DECORATION OF GRAVE SPACES: All decorations, including artificial wreaths and sprays, shall be removed by November 15th of each calendar year. Space owners may improve, cultivate, and care for their spaces and existing trees, shrubs, and plants, as approved by the Sexton.

Space owners may set out plants and flowers in sound wood, concrete, or metal containers of such kind or size on their space(s) as do not interfere in any way with the general landscaping of the cemetery, as determined by the Sexton.

7-1-12: GRAVESTONES; GRAVE SPACES:

- A. Every grave space shall be six feet (6') in width, ten feet (10') in length, and at least six feet (6') in depth measured from the surface of the ground to the bottom surface of the grave space opening.
- B. The owner of any space in which a deceased person is buried may install a gravestone at the head of such space with the name of the deceased plainly inscribed thereon, as approved by the Sexton. Gravestones must meet the following requirements:
 - 1. Have a foundation.
 - 2. Be flush with the surface of the ground
 - 3. Be no more than forty inches in height or twenty-four inches in width (40"x24"), including foundation; and
 - 4. Approval by the Sexton of the location and placement of all gravestones and construction of foundations.
- C. Gravestones shall not be altered or moved without permission of the Sexton.

7-1-13 : IMPROVEMENT OF CEMETERY SPACES; GROUND MAINTENANCE: The Sexton has exclusive control and direction over the improvement and maintenance of the cemetery. No person may erect or install any kind of structure or boundary, or maintain, or improve any space or other property within the cemetery except as for provided in this section or as expressly allowed in this chapter. The Sexton may in his discretion grant permission to:

- A. Grade the ground or land above any grave space or build any tomb, mausoleum, or cenotaph upon the same, provided such activity is done under the supervision of the Sexton;
- B. Plant or remove trees, shrubs, or other foliage, and tree removal shall be at the space owner's expense; and
- C. Erection or installment of steps, structures, or landscapes. Any such approved installment must be at-grade concrete or similar durable material fencing located within the space boundaries. Concrete or similar durable material benches attached to an at-grade concrete or similar durable material foundation that extends at least four (4") inches beyond the bench in all directions and located within the space boundary.

7-1-14 : BURIALS: No burials shall occur without application to the City and notice to and the permission of the Sexton.

- A. The Sexton shall be given no less than four (4) business days advanced notice of any burial.
- B. All burial spaces shall be opened and closed under the direction and control of the Sexton, except removals and reinterments supervised directly by the local health department.

- C. Burials will not occur during the winter or at any other time where the ground is frozen.
- D. Burials may occur only Monday through Saturday, excluding City-recognized holidays, unless specifically authorized by the Sexton and the City is reimbursed for all expenses related to such special burial.
- E. No animal remains may be buried in the cemetery.
- F. The maximum following burials are allowed per burial space:
 - 1. Coffin burial with vault;
 - 2. Coffin burial and one (1) cremation burial with vault;
 - 3. Two (2) cremation burials with vaults;
- G. All burials shall be within a standard durable vault installed or constructed in each burial space before burial.
- H. All cremation burials shall be in a permanently sealed container approved by the Sexton.

7-1-15: DISINTERMENT: No disinterment of an occupied grave space shall occur without a disinterment permit by the City. An application for disinterment must be accompanied by proof of all necessary permits, licenses, or written authorization required by law for such disinterment. The City refuses to issue a permit for disinterment of an occupied grave without a court order issued by a court of competent jurisdiction.

7-1-16: PROHIBITED USES AND ACTIVITIES: The following uses and activities are prohibited:

- A. Snow mobiles, off-highway vehicles, and all-terrain vehicles are prohibited in Pioneer Cemetery, unless in use by or at the direction of the Sexton.
- B. There shall be no gathering of more than seventy-five (75) people in the cemetery without prior City approval, except during or incidental to a funeral occurring concurrent with a burial.

7-1-17: DAMAGE TO CEMETERY PROHIBITED: No person shall remove, relocate, break, deface, destroy or otherwise injure any gravestone, as that term is defined herein, or any tree, shrub, plant, vase, railing, gate or other object, property, structure, article or thing belonging to, placed or erected on or in a cemetery, columbarium, crypt, grave, lot, mausoleum, niche, space and vault, unless otherwise permitted in this chapter.

7-1-18: PENALTY: Any person or persons violating any provision of this chapter shall be guilty of a misdemeanor, and each such violation is punishable as provided in section 1-4-1 of this Code.

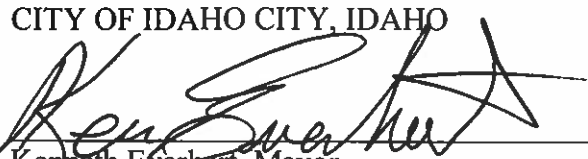
SECTION 3. Severability Clause. The provisions and parts of this Ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections..

SECTION 4. Saving Clause. Ordinance Nos. 263 and 322 repealed by this ordinance, shall remain in force to authorize fees and the arrest, prosecution, conviction, and punishment of a person who violates Ordinance No. 322 prior to the effective date of this ordinance,

SECTION 5. Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho City, Idaho, this 12th day of July 2023.

CITY OF IDAHO CITY, IDAHO

Kenneth Everhart, Mayor

ATTEST:

Nancy L. Ptak, City Clerk - Treasurer

STATE OF IDAHO)
) ss:
County of Boise)

I, NANCY PTAK, CITY CLERK OF THE CITY OF IDAHO CITY, IDAHO,
DO HEREBY CERTIFY:

That the above and foregoing is a full, true, and correct copy of the Ordinance entitled, "AN ORDINANCE OF THE CITY OF IDAHO CITY, IDAHO, TO ADOPT CHANGES TO TITLE 7, CHAPTER 1 TO INCLUDE VARIOUS DEFINITIONS, REGULATIONS OF GRAVE LOTS AND SPACES, GRAVESTONES, BURIAL SCHEDULES, OWNERSHIP PROCESSES AND DISINTERMENT; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE."


Nancy L. Ptak, City Clerk - Treasurer