

**Ordinance 3594**

**Chapter 12.44**

**MISSOULA CITY CEMETERY**

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**12.44.010 Established.** There is established the Missoula City Cemetery, to be operated as a cemetery for the interment of the human dead and for other purposes or acts intrinsic to the operation of a cemetery. Ownership and control thereof is assumed by the City of Missoula, and the same shall be governed, managed and controlled as provided by this chapter.

**12.44.020 Location.** The Missoula City Cemetery shall be composed of that certain tract of City of Missoula owned land located in the north portion of the city (Section 8, 9, 16, and 17 Township 13N, Range 19W, Principle Montana Meridian – GPS Coordinates: TN-13N/RG19W/SEC8/17-9/16), which is owned, controlled, and used by the City of Missoula for the interment of the human dead, together with such other tracts of land as the City of Missoula may hereafter acquire or designate for such purposes.

**12.44.025 Repealed.**

**12.44.030 Records.**

**A. Register.** It is the duty of the Missoula City Cemetery Director or designated representative to maintain a register of all interments, disinterments, or memorials conducted in the Missoula City Cemetery; including name, age, birthplace, date of death, date of interment, obituaries, and location. This register must be kept at the Missoula City Cemetery and is open to public inspection.

**B. Sales.** It is the duty of the Missoula City Cemetery Director or designated representative to maintain a listing of all sales and documents of title/right to inter certificates issued by the Missoula City Cemetery.

**C. Additional Information.** The following additional information relative to interments may be included in the Missoula City Cemetery register as is available:

**1. Personal Data.** Last known address, age, sex, date of birth, marital status, mortuary or crematory contact, next of kin or personal representative of the estate contact information, veteran status, and liner or vault usages.

**2. Pre-needs.** The Missoula City Cemetery Director or designated representative is to maintain a current plat map system depicting all interment locations, names of all individuals interred in such locations, and names and locations of all pre-paid graves, niches, mausoleums, or cremation locations pending their use.

**3. Fees.** Interment records are to contain an itemization of all related fees, payer, receipt number, type of

payment tendered, and date paid.

#### **12.44.040 Purchases.**

**A. Fees.** The Missoula City Cemetery shall have available in the cemetery office a listing of all fees regarding the sales of interment or memorial locations, required liners or vaults, required services, and additional accessories or services available for purchase. A second interment fee must be assessed for a second interment to go into a grave. All fees must be fully paid in advance of use, delivery of good, or initiation of services.

**B. Payment.** The Missoula City Cemetery shall follow procedures of receipting and handling of funds as prescribed by the Missoula City Finance Department.

**C. Pre-need.** The Missoula City Cemetery may accept payment for future use items and services as provided in this chapter and as authorized by the Missoula City Finance Department.

**D. Donations.** The Missoula City Cemetery may donate grave(s) including all interment fees for infants only. (See Section 12.44.200)

**E. Re-Sale / Re-Purchase.** Only the Missoula City Cemetery may re-purchase any unused grave, mausoleum, or cremation location that the original owner wishes to sell. Third party sales are prohibited. The Missoula City Cemetery shall repurchase the unused location for the original purchase price. No other re-sale or grave assignments are allowed unless specifically provided for in this chapter. For re-purchase, the Missoula City Cemetery shall require the following information be presented as evidence of ownership to the Missoula City Cemetery:

**1. Original Ownership / Assignment Documents.** The original document of ownership or title evidencing the ownership of the said location issued at the time of sale must accompany the written, notarized request for the following to use a Missoula City Cemetery grave:

- a. Written grave assignment(s) which are required to be on file at the Missoula City Cemetery office.
- b. Original "right to inter" document from the original purchaser of the grave(s) noting grave location.
- c. Heirs must have legal grave assignment documents showing that heirs have a legal right to the "right to inter" in the grave(s).

**2. Will / estate.** Heirs must be identified recipients called out in a will or estate by legal documents in writing that state the grave assignment(s) to heirs including the following legal documentation:

- a. Original "right to inter" document and/or a conveyance of assignment.
- b. Grave location.
- c. Legal document showing grave assignment(s) in the will or estate for heirs to use.
- d. If there are no legal documents showing grave assignments, the grave(s) must remain unused indefinitely.

**F. Reclamation.** Ownership of grave site lots purchased but not used automatically revert to the Missoula City Cemetery 80 years after the later of:

1. The last interment date that is part of a group purchase of lots; or
2. The last grave assignment of ownership of a grave site for which the Missoula City Cemetery has been notified in writing of the assignment.

**G. Veterans.** Veterans and their spouses are allowed to purchase up to two graves at a reduced fee for use only by the veteran and/or spouse purchasing the grave for grave sites in the following areas:

**1. Veterans Section.** Veteran and spouse only allowed in this section. Veteran and spouse are required to have matching military flush markers. Upright monuments are prohibited.

**2. Designated Open Section.** Gravesites are allowed in any designated, plotted, and opened area of the Missoula City Cemetery. Monuments must follow the requirements in Section 12.44.170 of this Municipal Code.

#### **12.44.050 Conveyance of Assignment.**

**A. Purchase.** Upon payment in full for a grave, niche, mausoleum, memorial or cremation location, the Missoula City Cemetery shall prepare a conveyance of title (a deed or right to inter certificate) in the name specified by the purchaser. The name on the document of title signifies the legal owner of the grave, niche, mausoleum, memorial or cremation location. This document of title must be attested to and signed by the Mayor and the Missoula City Clerk for the City of Missoula. The owner shall receive the original, attested, and signed document of title within 30 days of purchase. It is the sole responsibility of the purchaser to file the document of title with the Missoula County Clerk and Recorder. The original document of title and written authorization from the legal owner is required for assignment, re-sale, (See Section 12.44.040 E), or conveyance of a grave, niche, mausoleum, memorial or cremation location. Without written authorization from the legal owner or designated representative with original right to interment documents, grave assignment documents, or interment by the legal owner, the location remains unused.

#### **B. Ownership Conveyance Assignment Change.**

**1. Death of Legal Owner.** Upon the death of the legal owner of a Missoula City Cemetery grave, niche, mausoleum, memorial or cremation location the location, if not used by the legal owner, may be assigned only as provided in this chapter or to heirs at law.

**2. Conveyance of Assignment.** Any legal owner, personal representative, or authorized heir(s) of a Missoula City Cemetery grave, mausoleum, or cremation location may in writing assign the location to another person or persons for their use. The legal owner, personal representative, or authorized heir(s) must present a copy of the original conveyance of title and assignment to the Missoula City Cemetery. An assignment does not change the original conveyance of title. The written assignment is required to be on file at the Missoula City Cemetery office. The following legal documentation is required to use a Missoula City Cemetery interment location:

- a. Written assignment(s) which are required to be on file at the Missoula City Cemetery office.
- b. Original "right to inter" document from the original purchaser of the interment location noting the location.
- c. Heirs must have legal assignment documents showing that heirs have a legal right to the "right to inter" in the specific interment location.

**3. Will / estate:** Heirs must be identified recipient(s) in a written legal document that provides for the interment location assignments. If there are no written legal documents that provide for assignment(s), the interment location remains unused. Written legal documents acceptable to the Missoula City Cemetery include:

- a. Written assignment(s) which are required to be on file at the Missoula City Cemetery office.
- b. Original "right to inter" document and/or a conveyance of assignment.
- c. Interment location.
- d. Legal documents such as a will, a legal trust, or an order from a court of competent jurisdiction.

**4. Funeral Home Authorization.** Alternatively, a request to use a specific grave, mausoleum, or cremation location made pursuant to written instructions from the funeral home personnel who direct a specific interment must be honored if the funeral home personnel indicate that permission from the heir(s) or legal owner of the

location have authorized interment arrangements with the grave assignment documents and the funeral home personnel are satisfied the authorization is valid and documented.

**12.44.060 Cemetery Funding.** All moneys received from sales and services in the Missoula City Cemetery, and all moneys received from all other sources in any manner connected with such city cemetery or Missoula City Cemetery property, must be paid over to the Missoula City Finance Department to be placed in the Missoula City's General Fund. A portion of the moneys received as determined by Missoula City Council in accordance with Montana State Law, must be deposited in the appropriate funds for Missoula City Cemetery purposes. Such funds must be for the care, maintenance and improvement of the Missoula City Cemetery and cemetery property as required by this chapter and Montana Law.

**12.44.070 Reserve Funds.** It is in the best interest of the Missoula City Cemetery and the City of Missoula to initiate a long-range financial care plan for the Missoula City Cemetery. Therefore, the Missoula City Cemetery Board of Trustees, Missoula City Council, and Missoula City Administration have committed to the ongoing preservation of the Missoula City Cemetery by designating all revenues be placed into permanent funds designated for the long-term care of the Missoula City Cemetery unless otherwise determined by Missoula City Council. All revenue generated from sales and services at the Missoula City Cemetery must be deposited as follows:

**A. Cemetery Capital Fund Reserve.** Fifty percent of all revenue generated from sales and services at the Missoula City Cemetery with the exception of niche or memorial walls sales and services and memorial monetary donations, bequests, and grants must be deposited into the Missoula City Cemetery Cemetery Capital Fund Reserve with the remaining 50% to be deposited into City of Missoula General Fund.

The Cemetery Capital Fund Reserve is intended to be used for the funding of Missoula City Cemetery equipment following the City of Missoula equipment replacement schedule and for Missoula City Cemetery facilities and maintenance improvements. All revenues placed into cemetery reserve funds must be designated for the long-term care of the Missoula City Cemetery until further review between Missoula City Council and Missoula City Cemetery Board of Trustees.

**B. Niche Fund Reserve.** All revenue generated from niche sales and services must be deposited into the Missoula City Cemetery Niche Fund Reserve. The Missoula City Cemetery Niche Fund Reserve is intended to be used for the funding of inscription and nameplates, the purchase of future niche walls, and the development of future wall sites.

**C. Memorial Fund Reserve.** All donations, bequests, and grants designated as memorials must be deposited to the Missoula City Cemetery Memorial Fund Reserve. The Missoula City Cemetery Board of Trustees shall approve all non-designated expenditures from this fund.

**D.** Missoula City Administration has agreed to allow the Missoula City Cemetery to keep intact (not use for General Revenue) use of the existing Missoula City Cemetery Reserve funds: Cemetery Capital Fund Reserve, Niche Fund Reserve, and Memorial Fund Reserve. Such funds must be for the care, maintenance, equipment and improvement of the Missoula City Cemetery, facilities and cemetery property as required by this chapter and Montana Law.

**E.** It is in the best interest of the Missoula City Cemetery and the City of Missoula to continue this long-range financial care plan for the Missoula City Cemetery. This long term financial plan concept allows the Missoula City Cemetery to help reduce (but not eliminate) the total general revenue that the Missoula City Cemetery requires to operate. Therefore, the Missoula City Cemetery Board of Trustees, Missoula City Council, and Missoula City Administration have committed to the ongoing preservation of the cemetery by designating these revenues be placed into reserve funds designated for the long-term care of the Missoula City Cemetery.

**12.44.080 Repealed.**

**12.44.090 Repealed.**

**12.44.110 Grounds Regulations.** The following rules and regulations are established for the government of the grounds of the Missoula City Cemetery.

**A.** The Missoula City Cemetery has the responsibility for the general care, maintenance, and improvement of the cemetery grounds.

**B.** The grounds of the Missoula City Cemetery are sacredly devoted to the interment of the human dead. Strict observance of the decorum which should characterize such a place is required. All Missoula City Cemetery graves, veterans grave(s), niches, mausoleum, memorial, cremation locations, or other named Missoula City Cemetery sections are held as interment places for the human dead and for no other purpose. Reserved land may be used for other short-term uses by the permission of the Missoula City Cemetery Board of Trustees for as long as the Missoula City Cemetery Board of Trustees authorizes. The Missoula City Cemetery Director or designated representative is authorized to refuse admission onto the grounds of any person and to expel those who may violate any provision of this Municipal Code or the cemetery ground rules established by the Missoula City Cemetery Board of Trustees.

**C. General.**

1. All vehicles operated within the Missoula City Cemetery grounds must not be driven at a speed exceeding 15 miles per hour.
2. Persons accompanied by dogs shall obey the leash laws as outlined in Missoula Municipal Code, Title 6, Chapter 6.07.
3. No alcoholic beverages or illegal drugs of any kind are allowed within the Missoula City Cemetery grounds.
4. Persons with firearms, whether unconcealed or concealed, are not allowed to bring firearms onto Missoula City Cemetery public property or to attend any assembly of people gathered at the Missoula City Cemetery. Law enforcement public safety officials and military honor guards are exempt from this provision.
5. All persons are prohibited from touching any object not their own. Plucking any flowers, shrubs, plants, wild or cultivated, or causing damage to any part of the Missoula City Cemetery grounds is prohibited.
6. The Missoula City Cemetery Director or designated representative shall reserve the right to enter in or upon any Missoula City Cemetery grave, veterans grave, niche, mausoleum, memorial or cremation location or other named Missoula City Cemetery sections and make such improvements as deemed necessary for the continual care and maintenance of the cemetery grounds.
7. Legal owners of locations shall not change the grade of graves, niches, mausoleums, and memorial or cremation locations nor interfere in any way with the general plan of improvement directed by the Missoula City Cemetery.

**D. Trees, Shrubs, and Plantings.**

1. No tree, shrub, or other plantings are allowed to be planted within the boundaries of the Missoula City Cemetery except trees, shrubs, and plantings in designated areas and must only be planted by Missoula City Cemetery staff as detailed below.
2. The Missoula City Cemetery Director or designated representative shall reserve the right at any time to enter upon any grave, veterans grave, niche, mausoleum, memorial, cremation location, or other named Missoula City Cemetery sections and cut down or remove any such tree, shrub, or plantings encroaching upon adjacent graves, thereof, as the Missoula City Cemetery Director or designated representative may deem detrimental to the Missoula City Cemetery grounds, unsightly or inconvenient to the public or to the adjacent lots or avenues.
3. The Missoula City Cemetery is not responsible for replacing vandalized, damaged, or removed trees, shrubs, and plantings.

4. All future trees, shrubs, and plantings must comply with the overall design for the Missoula City Cemetery grounds in designated sections and designated plant types and then may be planted only by designated Missoula City Cemetery. Flower beds and flower boxes may be allowed according to the following regulations.

#### **E. Flower Beds.**

1. The Missoula City Cemetery offers any individual the opportunity to maintain flower beds on a location designated for flower beds by the Missoula City Cemetery.
2. An annual flower bed preparation fee is required for each flower request. Contact the Missoula City Cemetery for flower bed regulations, requirements, and fees.
3. Upon payment, Missoula City Cemetery staff shall prepare the grounds for planting by positioning the flower bed in an appropriate location in relationship to the placement of current monuments and flush markers already installed on the grave.
4. If a military marker or a flush marker exists in front of any existing monument, flower beds are not allowed.
5. Planting of flowers is the responsibility of the party paying the preparation fee.
6. The Missoula City Cemetery staff does not plant flower beds.
7. The Missoula City Cemetery staff does not weed flower beds.
8. Flower beds are watered only by Missoula City Cemetery turf irrigation sprinklers when generally watering the area.
9. Items are removed when unsightly or overgrown with weeds. As otherwise provided, unplanted or unpaid flower beds are removed and replaced with sod.
10. The Missoula City Cemetery shall not be responsible for replacing vandalized, stolen, or damaged flowers.

#### **F. Flower Boxes**

1. The Missoula City Cemetery offers any individual the opportunity to maintain flower boxes on a grave location.
2. An annual flower box maintenance fee is required for each flower box request. Contact the Missoula City Cemetery for flower box regulations, requirements, and fees.
3. Upon payment, Missoula City Cemetery staff shall position the flower box in an appropriate grave location in relationship to the placement of current monuments and flush markers already installed on the grave.
4. If a military marker or flush marker exists in front of any existing monument, flower boxes are not allowed.
5. Items are removed when unsightly or overgrown with weeds.
6. The Missoula City Cemetery shall not be responsible for replacing vandalized, stolen, or damaged flower boxes.

#### **G. The following schedule and rules are strictly enforced:**

##### **1. Year Round.**

- a. The Missoula City Cemetery grounds is cleaned on a regular basis.
- b. Items not allowed are disposed of by Missoula City Cemetery staff.

- c. Items and flowers interfering with interment preparations are disposed of by Missoula City Cemetery staff.
- d. Items and flowers becoming faded or unsightly are disposed of by Missoula City Cemetery staff.
- e. Items and flowers lying directly on or pushed into the Missoula City Cemetery ground are disposed of by Missoula City Cemetery staff.
- f. Flowers and decorations are allowed in grave vases as follows:
  - i. **Open Sections.** Permanently affixed onto hearths only.
  - ii. **Veterans Sections.** Installed in foundations only.
  - iii. **Closed Sections.** All new vases must be installed onto a hearth. Existing vases in foundations are acceptable but alterations require the vases to comply with current standards.
- g. The Missoula City Cemetery shall not be responsible for replacing any vandalized, stolen, or damaged vases, flowers, or plantings.
- h. **Not Allowed.** The following list of items are not allowed on Missoula City Cemetery grounds: shepherd hooks, birdhouses, wind chimes, glass, ceramic, plastic, rocks, pottery, metal, trinkets, knick-knacks, statues, solar lights, etc. The foregoing list is a sample of items not allowed. Additional exclusions may be incorporated within the internal rules and policies of the Missoula City Cemetery.

**2. Memorial Holiday.** Floral or decorative items may be placed on the Missoula City Cemetery grounds in any form nine days prior to Memorial Day through Sunday following Memorial Day.

**3. Summer.** All items on the Missoula City Cemetery grounds are removed except for flowers and decorations in approved beds, boxes, and vases beginning the Monday following Memorial Day through Labor Day.

**4. Fall.** All items in flower beds, all flower boxes, and any items remaining on the Missoula City Cemetery grounds are removed beginning the Tuesday after Labor Day through one day prior to Thanksgiving.

**5. Winter.** Floral or decorative items may be placed on the Missoula City Cemetery grounds in any form beginning on Thanksgiving Day through the last day of February.

**6. Spring.** All items on the Missoula City Cemetery grounds are removed except for flowers and decorations in approved vases beginning the first day of March through 10 days prior to Memorial Day.

#### **12.44.120 Interment Arrangements.**

##### **A. Information.**

**1.** The Missoula City Cemetery is not responsible for any mistake or error in any communication transmission, wireless, or reception of messages by telephone, email or fax received from funeral homes, families, or other businesses.

**2. Interment requirements.** The Missoula City Cemetery requires the following legal documents to be completed before any interment can be arranged and interment time scheduled:

- a. All related interment fees are required to be paid in full before any interment service is scheduled according to this Municipal Code.
- b. Written assignment(s) which are required to be on file at the Missoula City Cemetery office.
- c. Original "right to inter" document from the original purchaser of the interment location noting the location.



d. Heirs must have legal assignment documents showing that heir(s) have a legal right to the “right to inter” in the specific interment location.

**3. Will / estate.** Heirs must be identified recipient(s) in a written legal document that provides for the interment location assignment(s.) If there are no written legal documents that provide for assignment(s), the interment location must remain unused indefinitely. Written legal documents acceptable to the Missoula City Cemetery include:

- a. Written assignment(s) which are required to be on file at the Missoula City Cemetery office.
- b. Original “right to inter” document and/or a conveyance of assignment.
- c. Interment location.
- d. Legal documents such as a will, a legal trust, or an order from a court of competent jurisdiction.

4. All required decedent information, legal right to inter documents, and directions relative to interment services must be on record in the Missoula City Cemetery office prior to the Missoula City Cemetery preparing an interment. (See Section 12.44.030)

**B. Arrangements.** The Missoula City Cemetery must have the following advance notification to prepare grounds for interments. This notification time may vary dependent on grave location, ground conditions, and weather. It is the responsibility of the funeral director or other designated representative in charge of interment arrangements to contact and verify the correct time for the interment. These notification hours are adhered to year round, however, the Missoula City Cemetery Director or designated representative has the authority to make adjustments to better serve the public while abiding by this chapter.

**1. Summer.** An interment requires eight to 16 regular cemetery working hours advance notice for preparation from the time the Missoula City Cemetery receives the following information:

- a. Grave location.
- b. Interment type (Casket or Cremation).
- c. Date and time requested for interment.

**2. Winter.** An interment requires 16 to 24 regular cemetery working hours advance notice for preparation from the time the Missoula City Cemetery receives the following information:

- a. Grave location.
- b. Interment type (Casket or Cremation).
- c. Date and time requested for interment.

**Example:** During winter months, the above information must be received by the Missoula City Cemetery office by Wednesday for a Saturday or Monday interment.

3. Holidays and weekends are non-working hours and cannot be included in the above notification timelines.

**C. Sundays and Holidays.** No interments are permitted on any Sunday or on any legal holiday. Exceptions may be made only with regards to religious beliefs.

**D. Storage.** The Missoula City Cemetery shall at no time store an unburied casket on the Missoula City Cemetery premises. If a service must be conducted prior to grave preparation, the funeral director shall return the casket to the funeral home storage until the grave preparation is completed. When grave preparation is completed, the funeral director shall return the casket to the Missoula City Cemetery to complete the interment.

Any costs associated with this transportation and storage are the responsibility of the funeral home or the family.

**E. Ground Conditions.** Upon notification from the funeral director or family representative, the Missoula City Cemetery shall assess the ground conditions for the requested grave location and the requested date and time for the interment. The Missoula City Cemetery shall then ensure ground preparation or alert the funeral director to any issues regarding the grave that may prevent the grave preparation by the requested date and time. Issues that could affect the ground preparation may include but are not limited to: tree locations, over-sized monuments, soil conditions, and any unforeseen ground conditions.

**F. Times.** The Missoula City Cemetery schedules interment services between the hours of 8:30 a.m. to 3:30 p.m. with all services concluded by 4 p.m. The hour for the interment services must be so arranged that the grave or niche may be properly closed and all surplus ground removed before 4:30 p.m. An overtime fee is charged for all interments completed outside these regular hours. The overtime rate charged is set forth in the Missoula City Cemetery fee listing approved by Missoula City Council. The funeral home in charge of interment or person making arrangements must be charged an overtime fee as follows:

**1. Weekdays.** An overtime fee must be charged when the Missoula City Cemetery is required to complete the closing duties of the grave or niche after 4:30 p.m. This fee is equal to the OT Weekdays after 4:30 p.m. opening and closing fee as set forth in the fee listing approved by Missoula City Council.

**2. Saturdays.**

**a. Morning.** When the Missoula City Cemetery is able to complete the closing of the grave or niche prior to 12 p.m. on Saturday, the OT Weekend AM overtime fee must be charged as set forth in the fee listing approved by Missoula City Council.

**b. Afternoon.** When the Missoula City Cemetery is required to complete the closing of the grave or niche after 12 p.m. on Saturday, the OT Weekend PM overtime fee must be charged as set forth in the fee listing approved by Missoula City Council. All interment services must be completed by 3:30 p.m. on Saturday.

**G. Fees.** All fees associated with an interment must be paid to the Missoula City Cemetery office in advance of grave preparation or, with authorization from the Missoula City Cemetery office, fees may be paid on the day of service.

**H. Placement.**

**1.** All interments, disinterments, and re-interments must only be performed by Missoula City Cemetery.

**2.** Double casket interments are not allowed.

**3.** Two decedents may be placed in the same grave under the following conditions:

**a.** A parent and infant child together in one casket or vault.

**b.** Two persons, with the required grave assignment documents, when one body has been cremated. (Example: One casket and one cremation OR two cremations may be placed in one location.)

**c.** The Missoula City Cemetery reserves the right to limit, alter, designate sections for, or eliminate multiple interments in the same location.

**4.** Opening and closing, liner, vault, and possible disinterment and re-interment fees are required for each individual interment, disinterment, and re-interment. For graves: A casket must be placed first and deepest in a grave. If a cremation is interred first, the cremation must be disinterred then re-interred after the casket has been interred. All fees associated with disinterment, interment, and re-interment of both individuals must apply.

5. All cremations must be placed in a polyvault and buried not less than 2' deep in a grave or placed in an urn and interred into a niche, or cremation location unless otherwise required. Polyvaults must be purchased from the Missoula City Cemetery at fees set forth in the fee listing approved by the Missoula City Council.

6. All caskets must be placed in a liner and buried not less than 5' deep in a grave. Liners must be purchased from the Missoula City Cemetery at fees set forth in the fee listing approved by the Missoula City Council.

7. Cremations interred in monuments are not allowed at Missoula City Cemetery.

8. Caskets encased in a vault must not require an additional cement liner but must be assessed an access fee to the gravesite. Any organization that presents a vault for interment must be fully responsible for any damage to turf, monuments, foundations, irrigations, and vegetation as outlined in Section 12.44.190.

**I. Viewing.** It is not permissible for anyone to open a casket at the gravesite except the funeral director in charge of the interment arrangements.

**J. Design.** To more efficiently utilize Missoula City Cemetery areas and to implement beautification of cemetery grounds, the Missoula City Cemetery shall designate various areas or sections for specific types of interments, monuments, or other restrictions as deemed a benefit to the Missoula City Cemetery and public needs.

**12.44.130 Fees.** Fees for the Missoula City Cemetery must be approved by the Missoula City Council. Fee information must be available at the Missoula City Cemetery office.

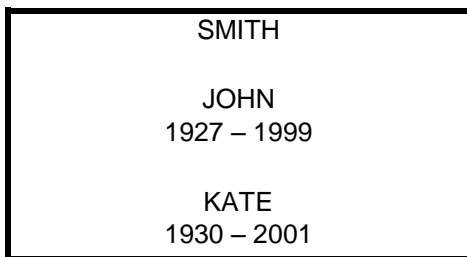
**12.44.140 Niches.**

**A. Name Plate or Inscription.** A nameplate or inscription is required for the purpose of identification of the location. Walls vary in requirements as follows:

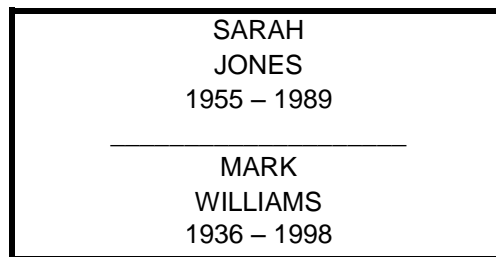
1. **Bronze Walls.** A standard nameplate is required, purchased, and installed by Missoula City Cemetery.

2. **Granite Walls.** An inscription is required to be inscribed directly onto the granite wall face. The Missoula City Cemetery requires a specific format for unification of inscriptions that must be followed according to the purchaser's name designation:

**Niche with Same Last Name**



**Niche with Different Last Names**



3. Standard format is used for all niche wall inscriptions. When a suffix is needed (Jr., Sr., IV, etc.) it must be placed after the first name. If the first name does not allow room on the niche, the suffix would be omitted. Niche inscriptions are permanent. Therefore, niches with inscriptions must not be repurchased or reassigned.

4. Upon a disinterment from a niche, the original inscription must forever remain as a memorial.

**12.44.150 Use of bud vases on niche wall(s).** Bud vases for all the niche wall(s) are not allowed. Flowers and decorations are allowed in vases as follows:

**A. Open Sections.** Permanently affixed onto hearths only.

**B. Veterans Sections.** Installed in foundations only.

**C. Closed Sections.** All new vases must be installed onto a hearth. Existing vases in foundations are acceptable but alterations require the vases to comply with Missoula City Cemetery current standards.

**D. Bronze or Granite Walls.** Vases or items taped, glued, or stuck to the niches or walls are not allowed.

**E.** The Missoula City Cemetery is not responsible for any vandalized, damaged, or stolen flowers or plantings.

#### **12.44.160 Repealed**

**12.44.170 Monument Placement.** The Missoula City Cemetery does not assume any responsibility or liability for monuments placed by anyone other than the Missoula City Cemetery on the Missoula City Cemetery grounds. The Missoula City Cemetery does not assume any responsibility or liability for damage to monuments after they are placed on the Missoula City Cemetery grounds that is not caused by Missoula City Cemetery staff negligence. The Missoula City Cemetery does not assume any responsibility or liability for damage to monuments due to weathering, weather events, acts of god, general aging or deterioration over time, or for vandalism. Monuments are the property of the legal owner or legal heir(s) of each interment location.

**A. Marker.** At time of interment, one temporary grave marker must be placed onto the grave for identification purposes. This temporary marker must not be replaced by Missoula City Cemetery and the grave must be unmarked. This temporary marker consists of the decedent's name, year of birth, and year of death. This temporary marker is not to be sold or given away but is designed for continued re-use and is the property of the Missoula City Cemetery.

**B. Pre-Verification.** Monument requests require a pre-verification process. Grave location is verified for stones, trees, or shrubs that might hinder placement of a new monument or replacement of an existing monument. Decedent information is verified with Missoula City Cemetery records, grave ownership, and interment assignments.

**C. Variances.** All variance requests must be submitted to the Missoula City Cemetery for approval. Variances must be in writing and include a drawing that shows the design of the monument, the monument layout on the foundation, and include all measurements for the monument and foundation.

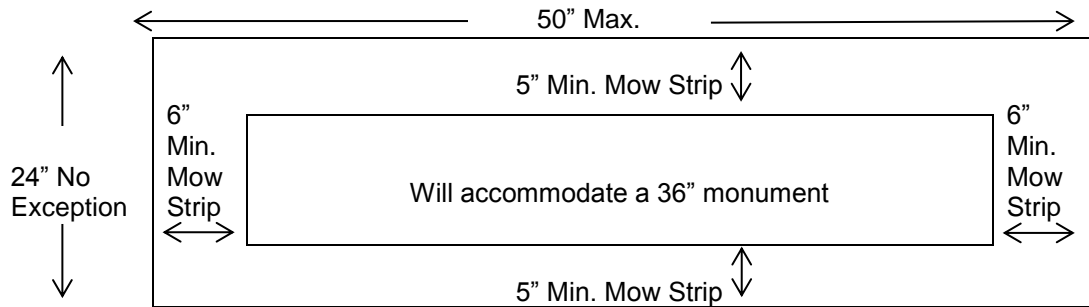
**D. Permit.** All monuments require completion of a monument permit, payment of all fees, and must meet requirements listed in this chapter and Cemetery Board of Trustees policies prior to the initiation of any work. Permit information must match pre-verification information and Missoula City Cemetery records.

**E. Installation.** Missoula City Cemetery shall provide all concrete foundations which are included in the fee schedule as set forth in the Missoula City Cemetery fee listing approved by Missoula City Council. Foundations and monuments must be installed by Missoula City Cemetery staff. It is the responsibility of the company providing the monument to meet all Missoula City Cemetery guidelines and restrictions as detailed in this municipal code. Monuments that do not meet Missoula City Cemetery regulations or do not match pre-verification and permit information must not be installed.

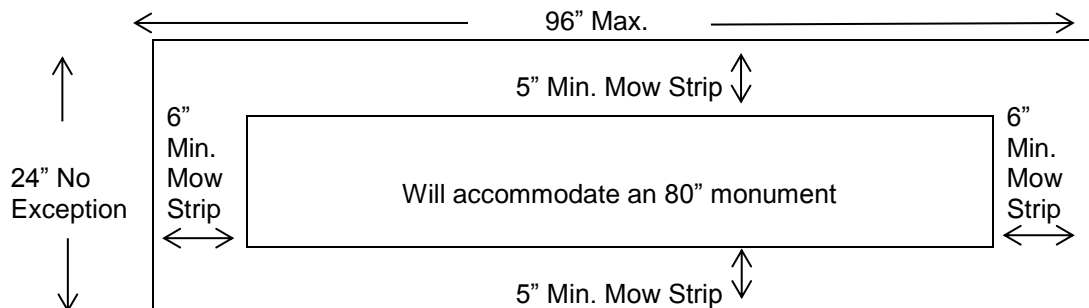
**F. Sketch.** Missoula City Cemetery maintains standard guidelines for the size and placement of monuments upon graves. A required sketch must show the design of the monument, the monument layout on the foundation, and include all measurements for the monument and foundation. Any irregular monuments must have a sketch presented and approved by the Missoula City Cemetery Director or designated representative and may be reviewed by the Missoula City Cemetery Board of Trustees prior to any installation.

**G. Benches.** A bench may be used as a grave monument, however, park benches are not allowed. All bench requests must comply with monument guidelines and require pre-approval by the Missoula City Cemetery. A drawing is required that shows the bench design, the bench layout on the foundation, and must include all measurements for the bench and foundation.

**24" by 50" foundation accommodates a 36" monument on a grave**



**24" by 96" foundation accommodates an 80" monument on a double grave**



**H. Restrictions.** Missoula City Cemetery and the Missoula City Cemetery Board of Trustees at their sole discretion shall have authorization to review, approve, or reject any monuments placed or presented for placement on the Missoula City Cemetery grounds that do not meet the integrity of the Missoula City Cemetery.

1. All monuments are required to have a foundation with a measured allowance of 6" and 5" from the furthest protrusion as shown in the detailed drawing. Foundation size may not exceed 50" in length on a single grave or 96" in length on a double grave. Foundations are required to measure 24" in width. (See diagrams for dimension examples.)
2. Monuments, other than flush, must be no less than 6" or exceed 36" in height as measured from foundation to top of monument. However, the Missoula City Cemetery Director or designated representative and the Missoula City Cemetery Board of Trustees shall have authorization to review all monument design, composition, and size in accordance with the grave location to determine acceptability.
3. Any monument, effigy, inscription or structure determined to be offensive, improper, or injurious to the surrounding grounds must be corrected or removed.
4. Full and half size graves must accommodate a 36" upright monument for two people.
5. Sections of the Missoula City Cemetery grounds may be designated and reserved by the Missoula City Cemetery for the designation of specific types of monuments.
6. Monuments must be placed centered on the grave(s). The monument must be located on the grave of the decedent as named on the monument with the exception of memorials.
7. Memorial monuments are allowed on the grave(s); however,
  - a. A memorial monument constitutes the usage of the grave(s) following interment limitations as reflected in Section 12.44.120.
  - b. A memorial monument or inscription must include the words 'In Memory Of'.

c. A memorial inscribed on an existing monument must be placed on the back of the monument and must include the words 'In Memory Of'.

d. All memorials must be registered with the Missoula City Cemetery office.

8. Up to two monuments are permitted on a grave location. One monument must be placed in the 2' headspace of the grave and centered upon the grave(s). A second monument is allowed as follows:

a. When two interments are in the same grave, a second monument may be permitted to be placed directly in front of the first monument. The second monument must be flush with the ground and centered on the grave(s) or directly aligned with the original monument.

b. When using infant pillow marker monuments, two markers may be placed in the same foundation providing the border restrictions are met. (See diagrams for dimension examples.)

c. Military plaques must be installed flush with the ground, in a foundation, and centered upon the grave or military plaques may be affixed to the back of an upright monument on the grave.

d. Large family lot monuments require additional grave purchases for the sole purpose of placement for the over-sized monument. The monument must be centered on the grave(s). Designated section restrictions must apply dependent on the size of the monument.

9. All monuments are required to be sealed with a monument setting compound. This includes a monument directly onto a foundation or a monument to a hearth to a foundation. Additional requirements may be incorporated through the internal policies of the Missoula City Cemetery.

10. All inscriptions are required to be documented on an inscription permit stating name(s), date(s), and grave location(s) and must be registered with the Missoula City Cemetery.

11. Only granite monuments/rocks or military bronze plaques are allowed in Missoula City Cemetery.

12. Foundations must be cement or granite. No aggregate or dye foundations allowed.

**I. Vases.** Vase restrictions are enforced according to the restrictions listed in Section 12.44.150. Vases must be installed by a company with a Missoula City Business License, worker's compensation insurance, and general liability insurance on file with Missoula City Development Services. (See Section 12.44.190) Vases are allowed as follows:

1. **Open Sections.** Permanently affixed onto hearths only.

2. **Veterans Sections.** Installed in foundations only.

3. **Closed Sections.** All new vases must be installed on a hearth. Existing vases in foundations are acceptable but alterations require the vases to comply with current standards.

**J.** No dig in monuments are allowed without a foundation. All monuments placed on a foundation must follow the restrictions above. The standard military issue for the Veteran's section is pre-mounted bronze plaques on a granite base foundation.

**K. Veteran's Section.** Only flush monuments allowed. Spouse's monument must match the Veteran's monument. Bronze plaques pre-mounted on a granite base foundation are allowed.

**12.44.180 Missoula City Cemetery permit for approved work.** A Missoula City Cemetery permit may be obtained for approved work and may be used to purchase Missoula City Cemetery labor and materials beyond the scope of normal, general maintenance practices of the Missoula City Cemetery. Any person requesting this service must state on the permit the location of proposed work, what is proposed to be done pursuant to the permit, the agreed fee to be paid to the Missoula City Cemetery and sign and date the permit.

**12.44.190 Liability.** Any person or business conducting pre-authorized work on the Missoula City Cemetery grounds is required to have a current Missoula City business license, workers compensation insurance, and general liability insurance in good standing and on file with Missoula City Development Services. Such person or business is liable for any damage to any Missoula City Cemetery gravesites, property, shrubs, irrigation, flowers and plantings, trees, monuments, and unnecessary damage to the lawn caused by them. All work must occur on weekdays between the hours of 8 a.m. to 4:30 p.m. All work must be under the close inspection of the Missoula City Cemetery Director or designated representative and must be completed promptly. All equipment and unused materials must be removed as the work is completed.

**12.44.200 Infants.**

**A. Defined.** Infants shall be defined as any child under the age of three years old or under 3' in length.

**B. Donate.** The Missoula City Cemetery may donate all Missoula City Cemetery fees associated with the interment of an infant. These donated fees may include:

1. Opening and Closing.
2. Polyvault for infant cremation or fetus interments.

**C. Location.** Infants may be interred in one of two sections: Infant Section (smaller 5' x 5' graves) or in any available regular size grave in the Missoula City Cemetery.

**D. Interments.** Only one interment allowed in donated graves except following these section restrictions:

1. **Infant Section.** One infant per donated grave, no exceptions.

2. **Open Sections.** Any full size grave available for sale may have two interments. When one interment is an infant, the following rules apply:

a. **Two Infants.** Upon review and approval of the Missoula City Cemetery Director or designated representative, two infants are allowed in the same donated full-size grave with all fees stated above waived according to the Missoula City Cemetery fee schedule.

b. **Infant and Adult.** Due to the donation of an infant grave, if a family member wishes to be interred with the infant, written authorization from the parents on record at Missoula City Cemetery is required and the following fees apply:

- i. Cost of grave at current Missoula City Cemetery fee schedule.
- ii. If infant was a casket interment, a second individual is required to be a cremation interment then open, close, and polyvault fees apply.
- iii. If infant was a cremation interment and a second individual is a casket interment then disinterment fees for the infant, opening, closing, and liner fees for the casket, and re-interment fees for the infant apply.

**E. Times.** Interments must occur during regular working hours or family forfeits Missoula City Cemetery donation and full fees and requirements must be assessed per this chapter and fee schedule.

**12.44.210 Repealed.**

**12.44.220 Repealed**

**12.44.230 Disinterments.**

**A.** Disinterments must be performed on weekdays at the convenience of the Missoula City Cemetery Director or designated representative. It is the responsibility of the involved mortuary or funeral home to contact all

persons that could contest the disinterment prior to applying for a disinterment permit at the Missoula City-County Health Department.

**B.** State Law requires that a casket disinterment permit be presented to the Missoula City Cemetery prior to work commencing. In addition, the presence of the following is required:

1. Director of the Missoula City Cemetery or designated representative.
2. Funeral Director.
3. Any other person as required under the disinterment permit.

**C.** A cremation disinterment does not require a permit or witnesses.

**12.44.240 Mausoleum section established.** Detailed building and site plans must be presented to the Missoula City Cemetery Board of Trustees for consideration. If it is deemed in the interest of the Missoula City Cemetery, a permit must be issued for construction after graves are purchased. The Missoula City Cemetery does not assume any responsibility of maintenance of the structures. Vaults used must be sealable airtight. Opening of the mausoleums must be done on a permit type basis. Mausoleums in other areas are prohibited.

**12.44.245 Sections.** The Missoula City Cemetery Board of Trustees and Missoula City Cemetery Director or designated representative are authorized to designate sections of the Missoula City Cemetery grounds for specific purposes. The Missoula City Cemetery has designated the following sections:

**A. Old Section.** This section consists of the oldest grounds in the Missoula City Cemetery and is permanently closed for all future sales. Upright or flush monuments allowed. Interments are allowed in the following circumstances:

1. Family grave reservation.
2. Cremation interred upon an existing grave.

**B. Open Section.** This section consists of all developed land ready for interments. Upright or flush monuments allowed.

**C. Veteran Section.** This section is restricted to a veteran and their spouse. Monuments flush with the ground are allowed. Veteran and spouse must have matching flush military monuments.

**D. Niche Walls.** This section allows cremation interments in granite or bronze walls. Niches for one or two interments are available. Inscriptions or name plaques are required on walls. (See Section 12.44.140)

**E. Infant Section.** Two infant sections are established. The original section in the oldest section of the Missoula City Cemetery is permanently closed to any interments. The second infant section in the older section of the cemetery remains open for use. Upright or flush monuments allowed. Only infants under the age of three years and under 3' in length allowed. One infant per grave allowed with no exceptions.

**F. Trade, Labor, Fraternal, Religious Sections.** Organizations can purchase sections available for sale in the Missoula City Cemetery and designate those graves for use of their members or affiliates. Upright or flush monuments are allowed according to section restrictions defined in this chapter. Organizations owning property must submit a notarized letter of grave(s) assignment(s) to the Missoula City Cemetery depicting the name and grave designated for an individual interment. All regulations regarding the Missoula City Cemetery apply to these sections.

**G. Mausoleum Section.** This section requires:

1. The owner must purchase a cemetery lot measuring 20' x 20'.
2. The maximum size for a mausoleum is 15' x 15'.



3. All mausoleums require a 5' border on all sides of the structure within the lot.
4. There are no height or level restrictions for the mausoleum.
5. Mausoleum designs must be presented to the Missoula City Cemetery Director or designated representative and to the Missoula City Cemetery Board of Trustees for review, approval, or rejection.
6. Vaults used must be sealable airtight.

**H. Family Cremation Section.**

1. This section allows up to four cremations.
2. Two cremations must be placed to the east of the monument and two cremations must be placed to the west of the monument.
3. A solid foundation strip is installed by Missoula City Cemetery.
4. A standard monument is required to be placed on the foundation strip. The standard monument must:
  - a. Be a "Tablet" style monument with height of 32" as measured from foundation to top of monument.
  - b. Sit upon a hearth measuring up to 50" long with a maximum width no wider than 15".
  - c. Inscriptions must be placed on the front and back of the monument and match the grave assignments.
5. Vases installed on the hearth are the only flower option available.

**I. Future Sections.** The Missoula City Cemetery Board of Trustees and Missoula City Cemetery Director or designated representative may authorize the addition of new sections as funding becomes available and public interest directs.

**12.44.250 Repealed**

**ARTICLE II. MISSOULA CITY CEMETERY BOARD OF TRUSTEES**

Sections:

- [12.44.260 Composition.](#)
- [12.44.270 Repealed](#)
- [12.44.280 Organization.](#)
- [12.44.290 Meetings.](#)
- [12.44.300 Conflict of interest.](#)
- [12.44.310 Powers and duties generally.](#)
- [12.44.320 Repealed.](#)
- [12.44.330 Public Record.](#)

**12.44.260 Composition**

- A. Creation.** There is created and established a Missoula City Cemetery Board of Trustees. The Missoula City Cemetery Board of Trustees shall require the same qualifications as required by the laws of the state for the office of Mayor.
- B. Composition.** The Missoula City Cemetery Board of Trustees shall be composed of five persons, appointed by the Mayor, and approved by the Missoula City Council.
- C. Term.** The Missoula City Cemetery Board of Trustees shall serve a three-year term of office commencing on the first day of May of the year in which they are appointed.

**D. Oath.** Each duly appointed member of the Missoula City Cemetery Board of Trustees shall take and subscribe the oath provided by the laws of the state for city officials prior to the commencement of their duties. This oath must be filed in the office of the Missoula City Clerk.

**E. Vacancy.** Vacancies must be filled by appointment of the Mayor with the approval of the Missoula City Council.

**F. Removal.** The Missoula City Council may, at any time, by a vote of not less than two-thirds of all members of the council remove from office any member of the Missoula City Cemetery Board of Trustees.

#### **12.44.270 Repealed.**

**12.44.280 Organization.** The Missoula City Cemetery Board of Trustees shall organize in May of each year by electing one of their members Chair and one Co-Chair. These officers shall hold office for one year and until their successors are elected and qualified. Three members of the Missoula City Cemetery Board of Trustees shall constitute a quorum for the transaction of business at any special or regularly called meeting.

#### **12.44.290 Meetings.**

**A. Regular.** The Missoula City Cemetery Board of Trustees shall hold regular meetings on the first Thursday of each month. The site must be specified by the Missoula City Cemetery Board of Trustees. Missoula City Cemetery Board of Trustees may adjourn any regular meeting at any specific time.

**B. Special Meetings.** Special meetings of the Missoula City Cemetery Board of Trustees may be called, from time to time, by the Chair or by three members of the Missoula City Cemetery Board of Trustees. Two days' notice must be given by the Chair to all members of the Missoula City Cemetery Board of Trustees. The notice must specify the subject of the special meeting and the meeting must be limited to that subject. The notice must also specify the time and place of the meeting.

**C. Notice.** All meetings of the Missoula City Cemetery Board of Trustees must be open to the public. Prior to the meeting each month, the Missoula City Cemetery Director or designated representative shall:

1. Publish in a newspaper of general circulation in the City of Missoula area a notice which sets forth the time, date and place of the meeting.
2. Post in the Missoula City Cemetery office notice of any regular meeting two weeks prior to such meeting.

**12.44.300 Conflict of interest.** No member of the Missoula City Cemetery Board of Trustees of the Missoula City Cemetery shall be involved in a decision or contractual obligation, either directly or indirectly, during the course of public duties with the knowledge there is an opportunity to further the member's private interest. A Missoula City Cemetery Board of Trustees member violating this section may be prosecuted in accordance with Montana State law. Any contract entered into by the Missoula City Cemetery Board of Trustees in violation of this section are null and void.

#### **12.44.310 Powers and duties generally.**

**A. Control.** The Missoula City Cemetery Board of Trustees, subject to the control of the Missoula City Council shall have the full charge, control, custody, management and supervision of:

1. The Missoula City Cemetery grounds and places of interment that are now or may be owned, held or controlled in any manner by the City of Missoula in the future.
2. All property, real, personal and mixed which is now or may be used, occupied or possessed in any manner in connection with any Missoula City Cemetery grounds or places of interment in the future.
3. All books, plats, records and other papers to any such property in any manner belonging, appertaining to, or used in connection with the Missoula City Cemetery.

4. The reserve funds established for Missoula City Cemetery care including the Capital Fund Reserve, Niche Fund Reserve, Memorial Fund Reserve, and all other funds as designated for Missoula City Cemetery purposes.

**B. Authority.** The Missoula City Cemetery Board of Trustees is authorized to make rules, policies, and regulations for the care, management, presentations and improvement of the Missoula City Cemetery and cemetery grounds, places of interment and property not included in this chapter as they deem necessary and proper and to enforce the same.

**C. Rights.** The Missoula City Cemetery Board of Trustees shall have the right to interview and participate in the selection process of a Missoula City Cemetery Director as per the qualifications set by the Missoula City Cemetery Board of Trustees and Missoula City Administration in a job description for this position.

**D. Staff.** The Missoula City Cemetery and Missoula City Cemetery Board of Trustees shall have the right to review the work performance and conduct of the Cemetery Director.

#### **12.44.320 Repealed**

**12.44.330 Public Record.** The books and papers of the Missoula City Cemetery Board of Trustees and all Missoula City Cemetery records are public record and open to the public.

### **ARTICLE III. MISSOULA CITY CEMETERY DIRECTOR**

Sections:

[12.44.340 Director – Duties.](#)

**12.44.340 Duties.** It is the duty of the Missoula City Cemetery Director, under general direction of the Missoula City Cemetery Board of Trustees to:

- A. Keep a record of all official action of the Missoula City Cemetery Board of Trustees.
- B. Advise the Missoula City Cemetery Board of Trustees of new rules and regulations and Federal and State mandates pertaining to local government and Missoula City Cemetery operation.
- C. Hire such staff as is necessary to operate the Missoula City Cemetery.
- D. Prepare a budget for the Missoula City Cemetery Board of Trustees, Missoula City Administration, and the Missoula City Council.
- E. Perform those duties necessary to ensure efficient and orderly operation of the Missoula City Cemetery.
- F. Keep accurate records of all financial transactions from and into all Missoula City Cemetery funds.

**Effective date:** This ordinance shall be effective 30 days after adoption and passage.

**Severability** If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the 10<sup>th</sup> day of July, 2017, by a vote of 10 ayes, Julie Armstrong, Emily Bentley, Michelle Cares, John DiBari, Annelise Hedahl, Jordan Hess, Gwen Jones, Marilyn Marler, Heidi West, Jon Wilkins; 0 nays; 0 abstentions; and 2 absent, Ruth Ann Swaney, Bryan von Lossberg.

Second and final reading and adoption on the 18<sup>th</sup> day of September, 2017, by a vote of 5 ayes, John DiBari, Jordan Hess, Gwen Jones, Bryan von Lossberg, Heidi West; 5 nays, Julie Armstrong, Michelle Cares, Marilyn Marler, Ruth Ann Swaney, Jon Wilkins; 0 abstentions; 2 absent, Emily Bentley, Annelise Hedahl; and 1 aye breaking the tie, Mayor Engen.

ATTEST:

/s/ Martha L. Rehbein

\_\_\_\_\_  
Martha L. Rehbein, CMC  
City Clerk

APPROVED:

/s/ John Engen

\_\_\_\_\_  
John Engen  
Mayor