

# City of Lone Tree, Iowa

## Cemetery Regulations and Perpetual Care Contract

### 1. Scope and Purpose of these Regulations

1. These regulations have been drafted by the City of Lone Tree to provide Cemetery Plot Owners with information concerning the rights and obligations of both The Cemetery (City of Lone Tree) and the Cemetery Plot Owner(s); to comply with Iowa Law; and to establish standards and regulations for the Lone Tree Cemetery.
2. In addition to establishing an independent code of regulations and standards for the Cemetery, these regulations are part of the purchase contract between the Cemetery Plot Owner(s) and the City.
3. Unless expressly stated otherwise in these regulations, all services are included in the purchase price of the Cemetery Plot which is reflected on the Cemetery Deed of Sale.
4. The day to day operation and maintenance of the Cemetery is the responsibility of the Mayor. The Council Cemetery Liaisons oversee the operations and advise the Mayor on operational matters. The City Council establishes Policy and Fees by Resolution. The City of Lone Tree reserves the right to amend or change rules and regulations to conform with newly developed Cemetery practice.

### 2. Purchase of Plots

1. The City Clerk, or a person duly appointed by the Mayor, is in charge of the sale of Cemetery Plots. The City Clerk will have available suitable plots showing size, location and price of plots, and other information as may be required. Cemetery Plots shall be purchased at the Office of the City Clerk, upon payment of the Plot a deed will be issued.
2. Each Block in the Cemetery will prior to its sale, be suitably marked by the City with a metal or concrete post, placed on each corner and set level with the adjacent ground. To maintain accuracy and uniformity of marking, substitute or additional corner posts may not be used.
3. The City reserves the right to set aside portions of the Cemetery for exclusive use of fraternal and religious groups upon written request of such groups.

### 3. Ownership Rights

1. The terms "Plot Owner" and "Ownership" shall be construed to mean the right to use a plot or part of a plot for burial purposes only and under these and subsequent Rules and Regulations as prescribed by the City for such use.
2. Upon full payment of the purchase price of a plot the City will issue under its seal a Cemetery deed that will be recorded with the City as evidence of Ownership of the Plot. Plots or fractions of Plots, for which Plot deeds have been issued by the City, may not thereafter be divided except by consent of the City Clerk. All Plots are exempt from taxation and cannot be seized for debt (except those debts owed to the Cemetery), nor can they be mortgaged.
3. The City shall have the right to assume at all times that the Plot Owner acquired the plot for his or her own internment and/or for internment of his or her family. Unless otherwise directed in writing, filed with the City Clerk by the Owner, or his or her devisees or heirs, the following persons shall have the right to internment, or the power to appoint the right of internment to another person, in the following order of priority:
  - a. The Plot Owner, if the Owner has not disposed of the Plot in his or her will.
  - b. Persons expressly designated by the Owner's properly probated last will and testament to have the right of internment or power of appointment for internment.
  - c. The surviving spouse of the Plot Owner.
  - d. When there is no surviving spouse, the devisees or heirs of the Owner may agree in writing who among them shall have the right of internment or the power to appoint the right for internment. This agreement must be filed with the City Clerk.

- e. In the event the Owner or his or her devisees or heirs have not arranged for future internments, then whoever is a lawful successor to the Owner's property interest shall have the right of interment in the order of need.
4. Under certain restrictions the City will issue a lease for a Cemetery Plot to those desiring to make partial payment at the time of the purchase and a final payment at a later date. Such lease reserves to the City the right to sell unused portions of such Plots or to remove interred bodies to other locations as selected by the City upon failure to make final payment for the Plot as specified in the lease.
5. All burial rights in Cemetery Plots purchased from the City occupy the same position as real estate at the death of the Owner. Only such persons as names appear on the Cemetery records of the City will be recognized as Owners or part Owners of Plots. In the case of the death of the Plot Owner, when the Cemetery Plot is disposed of by will, a certified copy of the will must be delivered to the City Clerk before the City will recognize the change in Ownership. If the deceased Plot Owner left no will, a certified copy of the proof of heirship made in the District Court must be presented. Plot owners in making their wills should include the Cemetery Plot(s) and should will it to one person.
6. The title to a Cemetery Plot vests in the Owner the right to use such plot(s) for burial purposes only, for any such person(s) they may choose. Provided it is free of charge and in accordance with the Cemetery Rules and Regulations.
7. Plot Owners desiring to dispose of a Plot or part of a Plot may, upon surrender of the original deed, list such Plot(s) or part of Plot(s) with the City Clerk for resale. The Owner must pay a \$20 handling fee to the City Clerk when he or she surrenders the original deed. The City, however, assumes no responsibility for satisfactory resale, but will assist in making such resale at the earliest possible time. Satisfactory resale by the City will constitute a cancellation of this contract. At the time of cancellation the person who surrendered the deed to the City shall be entitled to the proceeds of the resale which are in excess of the amount from the resale placed into the Perpetual Care Trust, together with the City's costs. The person who surrendered the deed for resale shall have no other rights to a refund. All profits above the original sale price on transfer or resale shall accrue to the benefits of the Lone Tree Cemetery.

#### 4. Care and Appearance of Plots

1. The Lone Tree Cemetery is a "Perpetual Care" Cemetery under Chapter 566A Code of Iowa, which means that the City maintains the Cemetery through the proceeds of a trust fund under the following terms.
  - a. Upon payment in full of the purchase price by the Owner, the City shall place in the trust fund 20% of the purchase price. The City may from time to time change this percentage amount consistent with the minimum amount allowed by law. If the purchaser is paying for the plot in installments, 20% of each installment shall be placed into the trust fund, which will not be refunded to the purchaser in the event of default of purchase. Proceeds from each Plot shall be commingled with the trust fund and the City may not be compelled separately to invest or to spend trust proceeds for any one particular Plot. The fund may also be increased by gifts, bequests, a portion of memorial charges, and other service revenue.
  - b. The trust fund is irrevocable and the funds can not be withdrawn even upon cancellation of the purchase contract. The deposits are governed under chapters 523A and 523B of the Code of Iowa. The trust corpus (principle amount) shall remain intact and only income from investment of the trust corpus shall be used to fund the perpetual care. The income may be reinvested if the Cemetery does not require maintenance. The City Clerk shall keep a record of the principle and investment amounts.
  - c. The care funded by the income from the trust shall include: maintaining a pleasing lawn, leaf disposal, filling sunken graves, caring for avenues, alleys, fences, buildings, and grounds in general. While expenditures shall in general be made at the direction and under the direction of the Mayor, The City Council may at its discretion issue contracts for some or part of the care such as mowing and trimming.
  - d. Nothing herein shall be construed as modifying any existing contract as to endowed care.
  - e. Questions regarding the Perpetual Care Trust Fund may be directed to the City Clerk, or to Securities Bureau, Room 214, Lucas State Office Building, Des Moines, Iowa 50319.
2. No mounds shall be raised upon any grave above the general level of the ground. The City reserves the right at any time to remove unsightly mounds and to reseed the grave at the general level of the ground. All landscaping, care of Plots, and other work in the Cemetery shall be done by the City.
3. The City reserves the right for its workers and those persons necessary to performance of normal Cemetery operation to enter upon or cross over any plot in the Cemetery in the performance of such duties.
4. The Cemetery or its employees assume no liability for loss by vandalism or other acts beyond its reasonable control.

5. The City reserves the right to alter, change or close alleys, roadways, water mains and other physical properties of the Cemetery.
6. No hedges, fences, or enclosures of any kind will be permitted on or around Plots.
7. Whereas wires used for support or placement of floral arrangements, decorations, or vases can damage lawn mowers, such wires will not be permitted on graves or Plots. Any decoration found with such wires will be removed. Thicker metal dowels are allowed for supporting decorations.
8. All decorations on graves must be removed during Spring Cleanup (March 15 - April 15) and Fall Cleanup (September 15 - 30). Decorations found on graves during these times will be removed. Decorations may be returned after April 15 or September 30. An exception to these dates is Easter Week (Palm Sunday to Easter Sunday), if this week falls within Spring Cleanup; then decorations may be placed for the week, and must be moved within 3 days after Easter Sunday.
9. There is no limit to the number of floral arrangements or other decorations, per grave, so long as the grave does not become unsightly (for instance because of the weathering or other deterioration of decorations or because grass needs trimming) and the Cleanup periods are honored (see 4.8). If this is not respected, decorations may be removed. Unsightly or inappropriate objects will not be permitted, in any event, and when used may be removed without notice.
10. By prior written arrangement with the Cemetery Sexton, those persons desiring to leave decorations at a grave may agree to keep the gravesite from becoming unsightly by themselves trimming the grass around the grave and decorations. Such prior written agreements must be signed and dated by the responsible parties and must include a method of quickly contacting them (phone or email). If the Sexton discovers the gravesite has become unsightly, there will be one and only one attempt to contact the responsible parties, if after 7 days the gravesite has not been maintained, the decorations will be removed. If the grave becomes unsightly a second time the decorations will be removed without further notice.

## 5. Rules for Visitors

1. The Director of Public Works shall serve as the Cemetery Sexton.
2. The Cemetery will be open to visitors at all times between the hours of 7:30 am and sunset. Permission to enter the Cemetery at any other time must be obtained from the Sexton, Mayor or the City's policing authority.
3. Children under Fourteen (14) years of age will be admitted only when accompanied by parents or guardians.
4. Persons or picnic parties with refreshments will not be admitted.
5. Pets will not be allowed in the Cemetery.
6. Firearms will be allowed in the Cemetery only when utilizing blank ammunition used in conjunction with a Funeral, Committal or Memorial Service, provided prior approval is obtained from the Cemetery Sexton (or designee).
7. Visitors are required to use walks and drives and are forbidden to trespass on cemetery plots.
8. The picking of any flowers, digging of flowers or plants, injuring any shrub, tree or plant is forbidden.
9. To mar or deface any stone, monument, Mausoleum or other structure in the Cemetery is prohibited.
10. Cemetery speed limit for all vehicles is ten miles per hour (10 mph).

## 6. Internments

1. All internments shall be made in a permanently sealing outer container.
2. All graves shall be dug by the City under the direction of the Sexton. Depth of graves shall conform to Iowa Laws.
3. The Plot Owner or Funeral Director shall designate the location of the grave(s) to the Sexton, or City Clerk. Any change of location made after the opening has begun shall be at the expense of the owner. When definite information for locating the grave is not available in ample time for grave preparation to meet the time requested for internment, the Sexton and City Clerk will exercise their best judgment in making location in order that the requested time for internment may be met. The City, City Clerk, and Cemetery Sexton assume no responsibility for any error in such location and an additional charge will be made for any change requested.
4. The Sexton shall be given Forty-Eight (48) hours prior notice for the opening and preparation of the grave site.
5. The Internment of two (2) bodies in one grave site (plot) will not be allowed, except in the case of

- a. A parent and an infant, age 12 months and under buried together.
  - b. Two (2) Children who are blood relatives, buried together, under the age of five (5).
  - c. Internment of two(2) cremains, in a plot divided in two (2) sections.
  - d. Internment of two (2) Infants, age 12 months and under, in a plot divided in two (2) sections.
  - e. Internment of one (1) cremain and one (1) Infant, age 12 months and under, in a plot divided in two (2) sections.
6. No Internment of any body other than that of a human being will be permitted.
  7. The Sexton, or his delegated representative shall attend every internment, and see that the rules and regulations of the Cemetery are observed.
  8. As soon as flowers, wreaths, emblems, etc. used at funerals or placed on graves at other times become unsightly and faded they will be removed, except as in 4:10, and no responsibility for their protection or maintenance is assumed by the City.

## 7. Reopenings and Removals

1. Removal of bodies from grave in the Cemetery will only be made by the City in accordance with the Laws of the State.
2. Plot Owners or their heirs desiring graves being opened shall secure the necessary disinternment permit from the State and deliver it to the Cemetery Sexton or City Clerk. All removals will be made by the City under the supervision of a Licensed embalmer. The cost of removal shall be paid by the Owner Prior to the opening.
3. Graves will not be reopened for inspection except for official investigation as authorized by the laws of Iowa.

## 8. Stone and Monument Work

1. A Monument Permit must be obtained from the office of the City Clerk, it must be completed, signed by the Plot Owner and the Monument company or contractor, Approved and signed by the Cemetery Sexton (or designee) and filed with the City Clerk along with payment of the filing fee. The City reserves the right to refuse permission to erect any monument, stone or memorial that is not in keeping with the good appearance of the Cemetery grounds.
2. All Memorial, Stone or Monument foundations shall be placed on solid ground not included in the actual grave space, and where placement will not interfere with future grave openings, subject to the discretion of the Sexton.
3. Each Monument, memorial or stone shall rest on a foundation specifically approved on the Monument Permit by the Cemetery Sexton (or designee) before construction begins. Foundation work will preferably be scheduled between April 15th and November 1st. Other dates are at the discretion of the Cemetery Sexton. The permit will show that the Monument is appropriate to the section of the Cemetery (Upright or Flush) and the form for the foundation must also be inspected and signed on the Monument Permit before work can begin.
4. The City requires the construction of a foundation of such material, size and design as will provide ample insurance against possible settling or rising or injury to the stone work. The foundation depth must extend below the frost line (4 feet below ground level) except a floating foundation will be allowed for flat or surface grade stones. The top of the concrete foundation will be constructed approximately 1 inch below the base of the stone work so the monument or stone will be set in a bed of cement mortar evenly covering the concrete base.
5. The setting of monuments, stones, and memorials, the transportation of all tools materials, etc. within the Cemetery grounds shall be subject to the supervision and control of the Sexton. Heavy trucks will not be permitted in the Cemetery when in the opinion of the Sexton such work might cause injury to the driveways. Except when special permission has been obtained, all work shall be completed and rubbish removed before 12:00 (noon) on Saturdays.
6. All Stones, Monuments, Memorials and other markers shall be of Bronze, or a single piece of Standard Granite. Stone work shall be set at the end of the Plot, nearest the front of the Plot. When this placement is not possible or deemed aesthetically inappropriate by the Sexton (or designee), Exception to this may be granted at the discretion of the Sexton (or designee).
7. Stone or Monumental work shall not be permitted on a Plot until it is fully paid for.
8. Stone or any Monumental work, once placed on its foundation, shall not be removed except by permission of the City Council after hearing the recommendation of the Sexton and Cemetery Liaisons.

9. The following restrictions regarding Monuments and Stones apply to specific sections of The Cemetery.
- a. Above Ground Stone Section, this is the older portion of the Cemetery, and northern addition to the Cemetery. Monuments can be of any selected size and design where Plot area is sufficient to not interfere with future grave openings, subject to the discretion of the Sexton. For individuals wishing to have a Family Monument and smaller individual markers for each Plot, a whole Lot is required (a group of 5 Plots in a single row, or 1/4 of a Block).
  - b. Flush Stone only Section, this is the Memorial Edition which is the southern addition to the Cemetery. In this section stones are required to remain flush with the surface of the Plot. Stones may be of any chosen length and width, but may not extend above the surface of the ground and must not interfere with future burials, subject to the discretion of the Sexton.

## 9. Vaults and Mausoleums

1. Vaults and Mausoleums may be placed only on such Lot(s) and Block(s) set aside or designated by the City for such structures. All applications for permits to erect such structures shall be made in writing to the City Council. Complete plans and specifications of the proposed construction, including details of materials workmanship, the person to perform the work, and method of construction shall accompany such applications and the approval of the City Council shall be obtained thereon before any construction work occurs. The right is reserved to prohibit the erection of any structure that is not considered safe, suitable and desirable.
2. Before any Vault or Mausoleum may be erected the Owner will be required to deposit in the Perpetual Care Trust Fund of the Lone Tree Cemetery such amounts as the City Council may deem necessary for the care and maintenance of the structure and ground. In no case shall such amount be less than 10% of the cost of the structure. Amounts deposited into the Perpetual Care Trust Fund as part of the original purchase price of the Lot(s) or Block(s) may, at the discretion of the City Council, be credited toward the minimum amount required to be deposited into the Trust under this paragraph.
3. Vaults or Mausoleums will not be permitted on an area of less than 400 square feet, and the portion of this area occupied by the building shall not exceed 25% as determined by the City.
4. A minimum setback of 5 feet shall be required between the Vault or Mausoleum and the Lot Line. If the structure exceeds 5 feet in height, the setback shall be 5 feet plus 1 foot for each additional foot or Fraction thereof over 5 feet in height.

## 10. Fees and Charges

1. Applicable fees and charges shall be charged to the Owner of the Plot. Payment is due in advance of the services performed and shall be made to the City Clerk at City Hall. Receipts will be issued for all amounts paid. A Schedule of fees and charges as established by the City Council shall be on file in the Office of the City Clerk. Such schedule may be changed by Resolution of the City Council without advance notice.
  - a. Current Fees and Charges, see attached Resolution 2004-OO.

These Rules and Regulations, as amended, adopted by the Lone Tree City Council the 6<sup>th</sup> day of November, 2006, by Resolution 2006-OO

**NOTES**

Lot No. \_\_\_\_\_

Block No. \_\_\_\_\_

Space(s) \_\_\_\_\_

Section \_\_\_\_\_

Date Purchased \_\_\_\_\_

**INTERNMENTS**

Space	Name	Date
1	_____	_____
2	_____	_____
3	_____	_____
4	_____	_____
5	_____	_____