

ORDINANCE NO. 12-5551

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 8-302, 8-331, 8-332, AND 8-334, OF SAID CODE; PROVIDING THAT FUNDING BE INCREASED TO 35% FOR PERPETUAL CARE FUND; AMENDING SOME REGULATIONS FOR GRAVES, MARKERS, AND BURIAL.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That section 8-302 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 8-302. Perpetual care fund.

(a) The city shall set aside ~~thirty-five~~ thirty (35) (30) percent of all money received from all graves or niches sold in the cemetery, which sum shall constitute the "perpetual care fund." The perpetual care fund shall remain forever intact and shall be invested in savings or time deposits in a state or nationally chartered bank insured by the FDIC or in municipal, state or federal government bonds. Only the income from such investments shall be used for the maintenance of the cemetery and the uniform care of all lots therein, and the city shall expend that income, or so much thereof as is necessary, for the uniform, perpetual care and maintenance of the cemetery. It shall be the duty of the city council to make such investments in accordance herewith as they may deem proper. No part of the principal of the fund may be expended in any manner and it shall be kept invested as required by this section.

(b) The city is authorized to accept funds to be held in trust for any purpose designated by the trust. If the donor of any such fund does not provide otherwise, such funds will become a part of the perpetual care fund. Should funds be donated for a special purpose or special care of any particular lot in the cemetery, then the funds will be kept as separate funds and the income therefrom expended in accordance with the terms on which funds were donated and received.

(c) The city may, in its discretion, apply towards the care of the cemetery any proceeds from cemetery lot sales that accrue and remain after the perpetual care fund has received thirty-five ~~thirty~~ (35) (30) percent as provided in subsection (a).”

Section 2. That section 8-331 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 8-331. Monument regulations.

(a) Only one (1) upright monument shall be erected at the head end of the graves so that the monument is centered on two (2) or more graves. The upright monument shall be not less twenty-eight (28) inches in height or exceed forty-two (42) inches in height. All other grave markers shall be placed flush with the ground surface.

(b) All upright monuments and flat grave markers shall be of natural granite except those specified by the federal government in the veteran sections. No bronze plaques or metal plates shall be attached to the natural granite.

(c) All upright monuments shall have a foundation of concrete that is thirty inches (30") deep and eight inches (8") wider on each side than the dimensions of the base of the monument. All flat grave markers shall have a foundation of concrete that is twenty-four inches (24") deep, and eight inches (8") wider than the dimensions of the stone. Where there is to be a flower container set in the foundation, the side of the stone that the flower container is to be set, the foundation collar shall extend thirteen inches (13") from the stone, and seven inches (7") deep. The base of the upright monument or the flat grave marker shall be wet set into the concrete foundation.

(d) In the Cremation Section only flat markers shall be used. In a single cremation grave the stone itself can only measure eight inches (8") by sixteen inches (16"). Double cremation graves may have a twelve inch (12") by twenty-four inch (24") stone centered on the graves. The foundations for the markers shall be twelve inches (12") deep and surround the stone so that the stone has an eight inch (8") border on three sides and a thirteen inch border on the side where the flower container is placed.

(e) In the Baby Sections only flat markers shall be used. Because all of the graves are single gravesites and the graves smaller than the traditional grave, the largest flat stone that can be used in the Baby Section is ten inches (10") by twenty inches (20") or smaller. At no time can the foundation of the stone run over the grave boundary to its neighboring gravesite.

(f) (e) Mausoleums and vaults above ground may be erected only with the consent of the city after all plans and materials have been approved by the city.

(g) (f) All work must be under the inspection of the city and completed as rapidly as possible. Materials not used must be removed as the work is completed.

(h) (g) No materials of any kind shall be received after noon on Saturdays.

(i) (h) Any person desiring to set a monument or marker or build a foundation for that purpose or modify an existing stone, must, before commencing such work, obtain from the cemetery office a permit authorizing such construction. The cemetery office shall not issue a permit required by this division until the applicant has obtained a business license and furnish to the city a surety bond in the amount of \$10,000.00 dollars, which shall be held by the city as a guarantee that the work will be done in a satisfactory manner. The bond shall provide that the applicant will in good faith perform all that the city requires. Continuation certificates to renew

the surety bond will not be accepted. Such bond shall be filed with the city clerk. The city shall determine whether or not a monument or foundation has been satisfactorily constructed and set.

(j) (~~h~~) Any person desiring to set a monument or marker or build a foundation for that purpose, shall have all the necessary tools and equipment that are recognized by the monument setting industry.

(k) (~~g~~) In setting a monument or marker or building a foundation, the contractor shall be liable for any damage to other people's property or to general appearance of the cemetery. The contractor shall be responsible for leaving the cemetery in the same general condition as it was before setting the stone.

(l) (~~f~~) Nothing herein shall be construed in any manner to limit the liability of any person engaged in the business of setting monuments or markers, or building foundations for them, for damages in excess of the amount required by the surety bond, nor shall the surety bond be construed to limit the right of any individual who has been damaged by any setting of a monument or marker of building a foundation from bringing an action without regard to the conditions of this provision.

(m) (~~e~~) Monuments and markers are personal property and therefore the responsibility of the grave owner. It is the responsibility of the grave owner to notify the cemetery of any change in mailing address or ownership of the grave so that the cemetery can contact them in the event of any change to their property. Notice sent to an owner at the last address on file in the cemetery office shall be considered sufficient and proper legal notification. The monument permit must have the name and address of the person ordering the stone.

(n) (~~d~~) In the event that the owners of a monument cannot be contacted, the city or their agents may modify monuments within the cemetery that present a public safety hazard or detract from the overall appearance of the cemetery.

(o) (~~c~~) The city or their agents shall not be held liable if a monument in danger of falling is damaged in the process of modifying the stone.”

Section 3. That section 8-332 of the Billings, Montana City Code be amended so that such section shall read as follows:

“Sec. 8-332. Grave regulations.

- (a) Single infant graves shall be sold only for immediate use.
- (b) No markers or flowers shall be allowed in the walks between the graves.
- (c) All graves shall be sold for cash before burial can occur.
- (d) The space between the graves shall remain the property of the city.

(e) If a body is disinterred from a grave in the single section, the ownership of that grave reverts back to the city.

(f) All markers for single graves shall be flush with the ground and not more than two (2) feet long and one (1) foot wide.

(g) No monument or other grave marker shall be placed or erected on a grave until that grave is paid for in full.

(h) No slab, coping, curbing, hedging or enclosure of any nature shall be permitted on any grave."

Section 4. That section 8-334 of the Billings, Montana City Code be amended so that such section shall read as follows:

"Sec. 8-334. Miscellaneous provisions.

(a) All caskets or other burial containers shall be placed in domes or vaults constructed of materials specified by the city.

(b) Installation of sectional liners shall be not allowed.

(c) Infants may be buried in the casket-vault combination.

(d) U. S. Government specified concrete domes are allowed.

(e) Outer burial containers sold by other cemeteries are not allowed in the city cemetery.

(f) All graves and niches sale price shall include a ~~thirty-five~~ ~~thirty~~ per cent (35%) (30%) perpetual care cost. Prices for all crypts and niches in the Landmarks Mausoleum shall be maintained and obtained at the cemetery office. All cemetery fees and prices for graves and niches in the cemetery proper shall be established by city council resolution.

(g) Opening, closing and setup for any burial ~~a full size traditional grave~~ shall include a lowering device for a full size casket or stand for a baby casket or urn, artificial turf, chairs and tent. A discount shall be issued, except in the mausoleum, when a tent is impractical to set up. ~~for a traditional full size burial. The opening, closing and setup for cremations and infant burials do not include a lowering device or a tent, but do include artificial turf and a stand for either the baby casket or urn. An additional fee will be charged when a tent is requested for a cremation or infant burial service.~~

(h) The normal cemetery business hours for burial are from 9:00 AM to 4:00 PM, Monday through Friday and from 9:00 AM to 2:00 PM on Saturday. For burial services that start after 4:00 PM on Monday through Friday or after ~~2:00 PM~~ 11:00 AM on Saturday, a late overtime fee will be charged. ~~The late overtime fee will be charged in ten (10) minute intervals at the rate of \$50.00 per ten-minute interval. The minimum late overtime charge is \$50.00 and the maximum late overtime~~

~~charge is \$300.00. A Saturday morning overtime fee will be charged for burials scheduled between 9:00 AM and 11:00 AM."~~

Section 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

Section 6. Repealer. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 7. Effective Date. This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this 12th day of March 2012.

ADOPTED and APPROVED on second reading this 26th day of March 2012.

CITY OF BILLINGS



By Thomas W. Hanel
Thomas W. Hanel, Mayor

ATTEST:

By Cari Martin
Cari Martin, City Clerk