

**Draft dated 10/26/2022**  
**Ordinance**

An ordinance amending Chapter 12.44 entitled "Cemeteries" by amending Section 12.44.020 entitled "Location" to include other uses, amending Section 12.44.110, entitled "Grounds regulations," subsection A and repealing subsections D-H to decriminalize city cemetery groundskeeping regulations, amending 12.44.290 entitled "Meetings" to allow the Cemetery Board of Trustees more flexibility in scheduling their regular meetings and establishing rules for cemetery trustee meeting attendance, and repealing Article III, entitled "Cemetery Superintendent", Section 12.44.340 entitled "Duties" in its entirety because the duties listed are addressed in the job description.

Be it ordained that sections 12.44.020, 12.44.110, 12.44.290 and 12.44.340 are amended as follows:

**Chapter 12.44**

**CEMETERIES**

Sections:

ARTICLE I. CEMETERY

- [12.44.010 Established.](#)
- [12.44.020 Location.](#)
- [12.44.025 Repealed.](#)
- [12.44.030 Records.](#)
- [12.44.040 Purchases.](#)
- [12.44.050 Conveyance of Assignment.](#)
- [12.44.060 Cemetery funding.](#)
- [12.44.070 Reserve Funds.](#)
- 12.44.080 Repealed
- 12.44.090 Repealed
- [12.44.100 Repealed.](#)
- [12.44.110 Grounds regulations.](#)
- [12.44.120 Interment arrangements.](#)
- [12.44.130 Fees.](#)
- [12.44.140 Niches.](#)
- [12.44.150 Use of bud vases on niche wall.](#)
- 12.44.160 Repealed
- [12.44.170 Monument placement.](#)
- [12.44.180 Missoula City Cemetery Permit for approved work.](#)
- [12.44.190 Liability.](#)
- [12.44.200 Infants.](#)
- 12.44.210 Repealed
- 12.44.220 Repealed
- [12.44.230 Disinterments.](#)
- [12.44.240 Mausoleum Section Established.](#)
- [12.44.245 Sections.](#)
- 12.44.250 Repealed

ARTICLE II. CEMETERY BOARD OF TRUSTEES

- [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- 12.44.270 Repealed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- 12.44.320 Repealed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.](#)

ARTICLE III. ~~CEMETERY SUPERINTENDENT~~ REPEALED

## Chapter 12.44

### CEMETERIES

**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 as well as any other uses authorized by the City of Missoula, together with such other tracts of land as the City of Missoula may hereafter acquire or designate for such purposes

(Ord. 3594, 2017; Ord. 3532, 2014; Ord. 3292, 2005; Ord. 3179, 2001; Ord. 2910 §2, 1994; Ord. 2866 §2, 1993).

**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 as specified in the City Cemetery Operations Manual.
- B.** 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 other purposes or acts intrinsic to the operation of a cemetery or as approved by Missoula City Council. Strict observance of the decorum which should characterize such a place is required. 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 Superintendent 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 Superintendent 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 Superintendent 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 Superintendent 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.~~

#### 12.44.290 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 on a date and time approved by the board. The date and time shall be reviewed and approved in January of each calendar year. The meetings shall be open for public attendance in-person in a City conference room and/or virtually via a digital platform approved by the Missoula City Council. The Missoula City Council shall adopt public meeting guidelines for the Missoula City Cemetery Board of Trustees meetings.~~

**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 Superintendent or designated representative shall public meeting admin will post~~sufficient and reasonable notice of the time and place of the meeting, as well ~~the agenda, will be published on the City's website for public notice.~~

~~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.~~

~~**D. Meeting Attendance.** Each member of the Missoula City Cemetery Board of Trustees shall notify the chair and the public meeting admin in advance of inability to attend a board meeting. Absence from three consecutive regular meetings without notice to the Board Chair or absences from 50% of regularly scheduled meetings with or without notification during a fiscal year may be grounds for removal from board membership. The board shall discuss this member's absence and discuss what action to take. The chair may notify the Council and request they review the member's ability to serve as a productive and functional member of the board and to determine whether the individual should be removed from the board or the board position be declared vacant.~~

**ARTICLE III. CEMETERY SUPERINTENDENT REPEALED**

~~**12.44.340 Repealed. Duties** It is the duty of the Missoula City Cemetery Superintendent, 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, as described in the current job description, 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.~~

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

First reading and preliminary adoption on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by a vote of \_\_\_ ayes, \_\_\_\_\_; \_\_\_ Nays, ; \_\_\_\_\_ Abstain, \_\_\_\_\_; and \_\_\_ Absent, \_\_\_\_\_

Second and final reading and on the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by a vote of \_\_\_ ayes, \_\_\_\_\_; \_\_\_ Nays, \_\_\_; \_\_\_\_\_ Abstain, \_\_\_\_\_; and \_\_\_ Absent, \_\_\_\_\_

ATTEST:

APPROVED:

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

\_\_\_\_\_  
Jordan Hess  
Mayor