Historic Preservation Commission

Regular Meeting

~ Agenda ~

,
http://www.townofboone.net/

Jane Shook
828-268-6960

Tuesday, August 11, 2020 **3:00 PM** **WebEx**

This meeting will be held using WebEx, a video conferencing software. Live streaming video of the meeting can be viewed at https://townofboone.viebit.com/?folder=ALL. Please contact the Town of Boone by phone at 828-268-6960 or by email at jane.shook@townofboone.net by 2 pm the day of the meeting if you wish to participate in the meeting using WebEx.

Individuals who require user assistance joining the WebEx event can call 828-268-6960 for support.

I. Call to Order

II. Board Training

Town of Boone Board & Committee General Training

III. Adoption of Agenda

IV. Approval of MInutes

July 14, 2020 Meeting Minutes

V. Public Comment

VI. District Designation Report

VII. Junaluska Historical Marker

VIII. Bryan, Hayes, Greene Cemetery

Chapel Hill, NC Code of Ordinances, Chapter 6: Cemeteries

Hillsborough, NC Code of Ordinances - Chapter 13: Cemeteries

IX. Turner House

X. Informal Discussion/Other Matters

XI. Adjournment

TOWN OF BOONE
Board/Committee General Training Memo

Allison Meade, Town Attorney
August 5, 2020

Note: The following is intended as a primer for legal and ethical considerations related to your service as a member of a Town of Boone board or committee. It is hoped that this rather brief outline will lead to more in-depth discussion of issues that actually arise for committee members in the course of their service. This outline does *not* attempt comprehensive coverage and analysis of any particular subject. If you have additional questions or concerns, or if a specific issue arises in the course of your service to the Town, please raise the question with Town staff or contact the Town Attorney at ameade@meade-law.com or (828) 773-2062.

Topics covered:

1. Open Meetings requirements
2. Public Records requirements
3. Meeting procedures/voting
4. Limitations on the powers & authority of committees and their members
5. Ethical considerations
6. Sources of substantive law relevant to municipalities

Attachments:

Town Code Chapter 35 – Town Boards and Committees
Town Code Chapter 30, section 52 – Code of Ethics
Gift policy changes – Code of Ethics

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1. Open Meetings requirements

a. "Official meetings" must be open, public, and properly noticed

i. "Official meeting" as defined in the Town Code (Chapter 35) as follows: "An Official Meeting occurs whenever a scheduled meeting of the town body or sub-committee occurs, whether or not a quorum is present, **or** when a majority of the town body or sub-committee meet, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action or otherwise transact public business. (See also N.C.G.S. § 143-318.10.)

ii. "Deliberate" is defined very broadly in the Town's code as follows: "DELIBERATE includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision."

iii. Single exception to the requirement for open meetings: properly called closed sessions for discussion of confidential matters such as attorney-client communications. Closed sessions are permitted only for certain specified reasons

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per N.C.G.S. § 143-318.11, and generally are not appropriate for any committee other than Town Council itself.

b. Open meetings must be properly noticed in advance and meeting minutes must be kept.

c. Reasons for open meeting requirements: transparency and accountability. See N.C.G.S. § 143-318.9: "Whereas the public bodies that administer the legislative, policy-making, quasi-judicial, administrative, and advisory functions of North Carolina and its political subdivisions exist solely to conduct the people's business, it is the public policy of North Carolina that the hearings, deliberations, and actions of these bodies be conducted openly."

d. Violations are subject to legal action by "any person," and a court may order injunctive relief, including the nullification of official action, and attorney's fees. Attorney's fees may be assessed against individual board members found to have "knowingly or intentionally" committed a violation, except no such assessment may be made where the individual relied on an attorney's advice that the conduct was lawful.

e. Particular issues:

   i. Receipt (passively) by board members of information

   ii. Attendance at events

   iii. Email

2. Meeting procedures

a. Town Code Chapter 35 provides direction as to voting and meeting procedures, including but not limited to:

   i. Quorum = 50% of members unless otherwise provided by Council

   ii. Action by majority vote

   iii. Agendas: for regular meetings, agendas may be amended (and items added) by majority vote.

   iv. "The business of the body or sub-committee shall be conducted in a manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the chair, and members of the committee, task force or advisory body shall be respectful to each other and shall avoid interrupting each other."

b. Where the Town Code does not provide expressly for meeting procedures, Robert's Rules should generally be followed.

3. Public records and record-keeping obligations

a. "Public records" mean "all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, *made or received pursuant to law or ordinance in connection with the transaction of public business* by any agency of North Carolina government or its subdivisions."

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b. There are limited exceptions for, among other things, certain communications by legal counsel, utility billing information, criminal investigation files, police body cam video, and personnel records.

c. Public records must be retained pursuant to retention schedules established by the State and produced upon the request of any person.

d. A public official who destroys public records contrary to law is guilty of a Class 3 misdemeanor and subject to a fine, and is also subject to civil litigation and the imposition of attorney's fees (with the same limitations as for open meetings violations).

e. Public (town) business versus private business: courts have construed "public records" (and specifically the qualifier that public records are those "*made or received pursuant to law or ordinance in connection with the transaction of public business")* in a very broad manner. Committee members should assume that all written communications (including electronic communications) relating to their service as Committee members are public records:

   i. Assume all communication associated with Committee member role = public business

      1. Communicating with town officers, staff, and Council members about matters relevant to the committee = public business

      2. Communicating with other Committee members about matters relevant to the committee = public business

   ii. Campaigning and individual (personal) affairs = private

4. Limitations on the powers and authority of committees and committee members

Town Code § 35.03 provides as follows:

(A) All boards, commissions, task forces, advisory bodies, committees or other entities shall have only those powers and duties which have been assigned to the body by the Council.

(B) No individual member of any body shall purport to speak or act on behalf of the body without action by the body explicitly authorizing the member to speak or act on its behalf.

(C) No individual member of any body, nor the body itself, shall purport to speak or act on behalf of the town without action by the Town Council explicitly authorizing the member or empowering or authorizing the body to speak or act on its behalf.

(D) Without an express grant of authority or explicit authorization by the Town Council, no individual member of any body, nor the body itself, may direct staff members of the town to take action or engage in actions requiring the expenditure of town funds.

(E) No body may create its own committee, sub-committee or working group, by whatever name denominated, without the explicit advance approval of the Town Council.

(F) Unless otherwise directed by Council, a body may select its own Chair and Vice-Chair.

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5. Ethical issues & the Town's Code of Ethics

Highlights from the Town's Code of Ethics: Chapter 30, section 52 of the Town Code:

a. Committee members must attest that they have read the Code of Ethics before beginning service to the Town

b. Conflicts of interest and apparent conflicts of interest:

   i. committee members must ask to be recused from voting on matters involving their own direct or indirect financial interests or official conduct and must not participate in the deliberations or votes regarding the matters. They must avoid attempting to influence others who are involved in approving, making or administering a contract with the town if they will derive a direct benefit from the contract.

   ii. committee members must avoid soliciting or receiving any gift or reward in exchange for recommending, influencing or attempting to influence the award of any contract by the town.

   iii. committee members shall avoid using knowledge of a contemplated action by the town, or information learned in their official capacities and not made public, to acquire a financial interest in any property, transaction or enterprise, or to otherwise gain a financial benefit that may be affected by the information or contemplated action, and they shall not help another person in doing so.

c. Committee members may not act on behalf of or speak for, or give the appearance of acting or speaking for, the Committee, the Council or the town except as specifically authorized by the committee or the Council.

d. Duty to decline gifts

e. Civil and respectful discourse

f. Diligent preparation

6. A primer on sources of substantive law

a. Federal law trumps state law; state law trumps local law

b. In NC, municipalities are subdivisions of the state **and can only exercise those powers specifically granted to them by the state**. Furthermore, in the current judicial environment, local powers are often strictly construed, while state power vis à vis local political subdivisions is broadly construed.

c. Local law: town ordinances

   i. Most official actions taken by the Town Council are by means of Resolutions and Ordinances (or ordinance amendments, such as zoning changes). Ordinances = local laws

   ii. Town Code – Mainly concerns the town's governance and the exercise of its **police powers.** See https://www.amlegal.com/code-library/

   iii. Unified Development Ordinance ("UDO") – the means by which the town exercises its **zoning powers.** See http://www.townofboone.net/departments/planning-inspections/7711-2/

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CHAPTER 35: BOARDS, COMMISSIONS, COMMITTEES AND OTHER SUCH ENTITIES

Section

35.01 Grant of authority
35.02 Procedure for creation
35.03 Powers
35.04 Meetings
35.05 Resignation
35.06 Duration

§ 35.01 GRANT OF AUTHORITY.

The Town Council is authorized to create the boards, commissions, task forces, advisory bodies, committees and other entities as it may find useful or necessary to the discharge of its duties or the effective operation of the town.

(Ord. passed 6-18-2009)

§ 35.02 PROCEDURE FOR CREATION.

(A) All boards, commissions, task forces, advisory bodies, committees or other entities shall be created by motion, second and majority vote of the Council.

(B) The Council shall appoint the members of each board, commission, task force, advisory body, committee and other entity (hereafter, “body”) in accordance with the town’s Unified Development Ordinance and § 30.51, supra, as appropriate.

(Ord. passed 6-18-2009; Ord. passed 6-21-2011; Ord. passed 6-16-2016)

§ 35.03 POWERS.

(A) All boards, commissions, task forces, advisory bodies, committees or other entities shall have only those powers and duties which have been assigned to the body by the Council.

(B) No individual member of any body shall purport to speak or act on behalf of the body without action by the body explicitly authorizing the member to speak or act on its behalf.

(C) No individual member of any body, nor the body itself, shall purport to speak or act on behalf of the town without action by the Town Council explicitly authorizing the member or empowering or authorizing the body to speak or act on its behalf.

(D) Without an express grant of authority or explicit authorization by the Town Council, no individual member of any body, nor the body itself, may direct staff members of the town to take action or engage in actions requiring the expenditure of town funds.

(E) No body may create its own committee, sub-committee or working group, by whatever name denominated, without the explicit advance approval of the Town Council.

(F) Unless otherwise directed by Council, a body may select its own Chair and Vice-Chair.

(Ord. passed 6-18-2009; Ord. passed 6-16-2016; Ord. passed 1-15-2019) Penalty, see § 10.99

§ 35.04 MEETINGS.

(A) Every board, commission, task force, advisory body, committee and other entity created by the Council, including any sub-committee or working group, by whatever name or designation, and whether created by the Council or other town body with Council approval, must operate in compliance with the State Open Meetings Law, codified as G.S. §§ 143-318.9 et seq. Meetings of all town bodies or sub-committees shall be conducted as follows:

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(1) Notice of any official meeting, other than an emergency meeting, shall be given by posting of the date, time and name of the town body or sub-committee at least 48 hours in advance, on the bulletin board for that purpose in Town Hall. If an agenda has been distributed to members of the town body or sub-committee prior to the meeting, it shall also be posted. When an agenda has not been distributed prior to the meeting, it shall be distributed at the beginning of the meeting before the meeting is called to order and additional copies shall be available for members of the media and public.

(a) An ***OFFICIAL MEETING*** occurs whenever a scheduled meeting of the town body or sub-committee occurs, whether or not a quorum is present, or when a majority of the town body or sub-committee meet, whether in person or by electronic means such as conference call or e-mail, to conduct a hearing, deliberate, take action or otherwise transact public business.

(b) ***DELIBERATE*** includes examining, weighing or reflecting upon the reasons for or against a possible decision and also includes the collective acquisition and exchange of facts preliminary to a decision.

(c) An ***EMERGENCY MEETING*** is one that concerns generally unexpected circumstances which require the immediate consideration of the town body or sub-committee. In the event of an emergency meeting, a local news medium must be notified prior to the meeting;

(2) All official meetings shall be open to the public, except as to a closed session conducted in accordance with law; and

(3) Full and accurate minutes of the meeting shall be kept, a copy of which shall be provided to the Town Clerk once approved by the body or sub-committee.

(B) Unless the Council adopts procedures specific to the body or sub-committee, it will conduct its meetings in compliance with the following procedures.

(1) A quorum shall be 50% of the persons initially appointed to the body or sub-committee.

(2) In the absence of the Chair, the Vice-Chair shall conduct any meeting of the body or sub-committee, and in the absence of both officers, the Mayor may designate a person to act as chair for the meeting in question.

(3) *Agendas.*

(a) The agenda of the body or sub-committee shall include only those matters within the responsibilities and powers of the body or sub-committee which have been conferred upon it by the Council.

(b) The Chair or his or her designee (e.g. the Board's Secretary) shall prepare the agenda for each meeting.

(c) At any regularly-scheduled meeting, the body or sub-committee may, by majority vote, add an item to or delete an item from its agenda.

(d) At any special or emergency meeting, the body or sub-committee may consider only those matters included in the notice of the meeting.

(4) The business of the body or sub-committee shall be conducted in a manner as to afford all members an opportunity to speak. However, no member shall generally address the body until first recognized by the chair, and members of the committee, task force or advisory body shall be respectful to each other and shall avoid interrupting each other.

(5) Town Council may appoint Council members and/or the Mayor to serve as liaisons on various town boards, commissions, committees and other town bodies so long as the number of such liaison members does not exceed two per body. Unless otherwise provided by Council, these liaisons shall be voting members of such bodies any may serve as the Chair or Vice-Chair of the body. Their role shall be:

(a) To provide direction to the body or sub-committee regarding the relationship between the Town Council and the body or sub-committee;

(b) To assist with procedural matters;

(c) To serve as a resource; and

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(d) To communicate concerns and initiatives of the body back to the full Town Council.

(6) Minutes of the body or sub-committee shall be subject to revision and adoption by the group as a whole.

(7) All actions or recommendations of the body or sub-committee shall require the presence of a quorum and are only effective or adopted upon majority vote, following a motion and second. When the action is to be reported to the Town Council, the committee, task force or advisory body shall not only report the action or recommendation adopted, but the vote by which it was adopted.

(8) Meetings of the body or sub-committee shall proceed in the following order: adoption of an agenda, approval of the minutes, unfinished business, new business, informal discussion and public comment, when public comment is to be accepted. By majority vote of the members of the body or sub-committee in attendance, the order of business may be altered.

(9) At any meeting, if public comment is permitted at the discretion of the body or sub-committee, any person wishing to address the body or sub-committee shall state his or her name and whether or not he or she is a resident of the town.

(a) If there is a sign up sheet provided for speakers, speakers shall be recognized in the order in which they have signed up.

(b) Unless by motion, second, and majority vote a different time limit is adopted by the committee, task force or advisory body, no person shall be allowed to speak for more than five minutes.

(c) Should more than one person wish to make substantially the same comments regarding the same subject, or where a group of persons supports or opposes the same positions, the Presiding Officer may require that all persons designate a spokesperson for their group to address the committee, task force or advisory body, and the Presiding Officer may allot a larger amount of time for the presentation of the group position by the spokesperson.

(d) All persons addressing the body shall be treated respectfully by other persons in attendance at the meeting, and all speakers shall conduct themselves with proper decorum. Should any person present during a public comment period substantially interfere with the ability of a person offering public comment or engage in behavior which violates norms of accepted decorum, or should a person offering public comment engage in behavior which violates norms of accepted decorum, after warning the person(s) and, except in a situation where there is a risk of harm to any person present, providing the person(s) the opportunity to alter their behavior to bring it into conformity with norms of accepted behavior, the Presiding Officer may direct that the person(s) be removed from the meeting.

(Ord. passed 6-18-2009; Ord. passed 9-21-2010; Ord. passed 6-21-2011; Ord. passed 4-21-2016; Ord. passed 6-16-2016; Ord. passed 1-15-2019)

§ 35.05 RESIGNATION.

A member of a board, commission, task force, advisory body, committee or other entity may resign by notifying the Mayor, Town Manager or relevant department head.

(Ord. passed 6-18-2009)

§ 35.06 DURATION.

Unless a different duration is specified by the Council at the time of creation of a board, commission, task force, advisory body, committee or other entity, including a sub-committee, the duration of the body shall be one year, but it may be extended by action of the Council.

(Ord. passed 6-18-2009)

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§ 30.52 CODE OF ETHICS.

(A) *General principles underlying the Code of Ethics*.

(1) *Purpose.* The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for members of the Town Council, including the Mayor and members of the town's various volunteer boards, committees and task forces (hereinafter, "committees") and to provide guidance in determining what conduct is appropriate in particular cases. This Code should not be considered a substitute for the law or for a Council member's best judgment, and the provisions herein should be considered minimum standards and examples. Town Council and committee members shall strive to bring the perception and actual honesty to all endeavors related to town matters or which may reflect on the public perception of the town.

(2) *Commitment to the Code of Ethics.* No person elected or appointed to the Town Council or appointed to a committee of the town shall begin official duties until that person has certified that he or she has read this Code of Ethics. Each person so elected or appointed shall be provided by the Town Clerk with a copy of this Code of Ethics.

(3) *Foundation of Code of Ethics.* The Code of Ethics is founded on the following ideas and they shall inform the interpretation of the Code of Ethics.

(a) The stability and proper operation of democratic representative government depends upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected officials and the other persons they appoint to transact the government's business.

(b) Governmental decisions and policy must be made and implemented through proper channels, and fair and open processes of the governmental structure to the extent possible.

(c) Elected local government officials must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent, without fear of reprisal or condemnation.

(d) Elected local government officials must always remain aware that at various times they play different roles:

1. As advocates, who strive to advance the legitimate needs of the citizens;
2. As legislators, who balance the public interest and private rights in considering and enacting ordinances, orders and resolutions; and
3. As fair and impartial decision-makers, when making quasi-judicial and administrative determinations.

(e) Elected local government officials must know how to distinguish among these roles, to determine when each role is appropriate, and to act accordingly.

(f) Elected local government officials must be aware of their obligation to conform their behavior to standards of ethical conduct that warrant the trust of their constituents. Each official must ultimately find within his or her own conscience the touchstone by which to determine what conduct is appropriate.

(g) People serving on the various boards, committees and task forces (hereinafter referred to as "committee members") that often inform the legislative, administrative and decision-making processes must exercise their roles in a manner as to justify the trust placed upon them by their elected officials, and they must not use their positions for improper purposes.

(B) *Code of Ethics*.

(1) (a) Principle 1-1. Town Council and committee members should obey all laws, including state and federal laws and regulations, and local ordinances which apply to their official actions.

(b) Principle 1-2. Town Council and committee members should be guided by the spirit as well as the letter of the law in whatever they do.

(c) Principle 1-3. Town Council and committee members shall endeavor to keep themselves up to date about new or ongoing legal or ethical issues they may face in their official positions. They should avail themselves of resources and training in these areas which may be reasonably available to them. Town Council and committee members should review the pertinent sections in the town's code, Unified Development Ordinance and other sources concerning the procedures by

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which they perform their duties so that they will be knowledgeable and informed as they do so.

(2) Mandates:

(a) Town Council and committee members must ask to be recused from voting on matters involving their own direct or indirect financial interests or official conduct and must not participate in the deliberations or votes regarding the matters. They must avoid attempting to influence others who are involved in approving, making or administering a contract with the town if they will derive a direct benefit from the contract.

(b) Town Council and committee members must avoid soliciting or receiving any gift or reward in exchange for recommending, influencing or attempting to influence the award of any contract by the town.

(c) Town Council and committee members shall avoid using knowledge of a contemplated action by the town, or information learned in their official capacities and not made public, to acquire a financial interest in any property, transaction or enterprise, or to otherwise gain a financial benefit that may be affected by the information or contemplated action, and they shall not help another person in doing so.

(d) Town Council members shall reject any gift or favor from a current, past or potential contractor of the town.

(e) Town Council and committee members shall not participate in or vote upon any quasi-judicial matter coming before them if prior to hearing the evidence of the case they have a fixed opinion that is not susceptible to change; they have had undisclosed ex parte communications regarding the substance of the matter involved; they have a close familial, business or other associational relationship with an affected person; or they have a financial interest in the outcome of the matter.

(f) Every Town Council member shall attend statutorily mandated ethics training.

(3) (a) Principle 2-1. Town Council and committee members should act with integrity and with independence from improper influence as they exercise the functions of their offices.

(b) Principle 2-2. Town Council and committee members should use their best independent judgment to pursue the common good as they see it, presenting their opinions to all in a reasonable, forthright and consistent manner.

(c) Principle 2-3. Town Council and committee members should not be subject to improper influence by family, friends, business associates or others who are motivated by self-interest rather than the common good, but they must be able to consider the opinions and ideas of others throughout the community as they formulate approaches to the issues with which they are presented.

(d) Principle 2-4. Town Council and committee members should strive to show respect toward other persons with whom they interact, including each other, recognizing that they may often be perceived as representing the town itself even when they are acting in a personal capacity.

(e) Principle 2-5. Town Council and committee members shall strive to not form a final opinion regarding an issue until all sides have been given a reasonable opportunity to present their viewpoints.

(f) Principle 2-6. In situations in which recusal from voting or participation is not allowed, but an objective observer may believe that a conflict of interest exists, Town Council members shall seek to explain their inability to seek recusal while striving to discharge their responsibilities to advance the common good.

(4) Mandates:

(a) Town Council and committee members must be free to assert policy positions and opinions without fear of reprisal from fellow Town Council or committee members or citizens. So, to assert that a Town Council or committee member is behaving unethically based simply upon a disagreement with that Town Council or committee member related to a question of policy, as opposed to the Town Council or committee member's actual unethical behavior, is unfair, dishonest, irresponsible and itself unethical.

(b) Town Council and committee members who are involved in quasi-judicial procedures shall actively avoid inappropriate contacts with interested persons regarding the issues involved in

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those procedures, and when despite their best efforts they engage in the contacts, they shall disclose them and withdraw from participation in the procedures.

(5) (a) Principle 3-1. Town Council and committee members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach.

(b) Principle 3-2. Town Council and committee members should recognize that they are part of a larger group and should act accordingly. They should respect their office and not behave in ways that reflect badly on it. They should treat other Town Council and committee members and the public with respect, and should honor the opinions of others even when they disagree.

(c) Principle 3-3. If a Town Council or committee member concludes that his or her actions which the Town Council or committee member believes are legal and ethical may be misunderstood, he or she should seek the advice of the Town Attorney as to whether the actions are legal and ethical. Alternatively, he or she may state on the record the facts of the situation and the steps taken to resolve it.

(6) Mandates:

(a) A Town Council or committee member should never make a request to a town employee, including the Town Manager, for an action, forbearance or other thing of value which would benefit himself or herself or any other person or entity, whether or not the Town Council and committee member has a familial, business or other relationship with that person or entity, unless as an ordinary citizen of the town it would be appropriate to make a request. Even in instances where a request would ordinarily be appropriate, a Town Council or committee member making a request must disclose to the employee that he or she is not entitled to preferential treatment, that the request should be rejected if it would not customarily be granted to an ordinary citizen of the town, and that the employee may refuse the request without fear of reprisal.

(b) Town Council and committee members shall not attempt to influence a decision by the Town Council or the committee on which they serve relative to any action from which they will derive a direct financial benefit, although they shall not be precluded from appearing in an individual capacity to testify in quasi-judicial zoning procedures which have a substantial impact upon their own property interests so long as those interests are disclosed.

(c) Town Council and committee members shall not solicit or accept any gift or other thing of value which might be perceived as affecting any vote or decision involving the donor, but the receipt of an honorarium for participating in a meeting, the receipt of an advertising item or souvenir of nominal value or a meal furnished at a banquet will not be considered a violation of this principle so long as it does not actually influence the Town Council or committee member in the discharge of his or her official duties. In the event a Town Council or committee member has inadvertently accepted a gift or other thing of value from a person seeking action by the town, the Town Council member or committee member may not attempt to influence the decision or participate in any vote relating to the decision.

(d) Town Council and committee members must recognize that unless specifically charged with representing the town, Council or committee, they are not authorized to act on behalf of the town, Council or committee, and they should not offer their opinions, positions or analysis as representing the views of the town, Council or committee unless the Council or committee has itself taken official action as a body in conformity with those opinions, positions or analysis.

(e) Town Council members and committee members shall not demand information from other Town Council members or committee members to which they are not legally entitled by threatening to take formal legal action or by making a public records request against the other if the recipient of the request refuses to provide the requested information.

(7) (a) Principle 4-1. Town Council and committee members should be faithful in the performance of the duties of their offices.

(b) Principle 4-2. Town Council and committee members should be diligent in their attendance at meetings and in their preparation for those meetings. They should carefully analyze all credible information that is provided to them and recognize the importance to the well being of the town and its citizens of many of their decisions.

(c) Principle 4-3. Town Council members shall seek full accountability from those over whom the Town Council has authority, particularly with regard to the expenditure of public funds.

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(d) Principle 4-4. Town Council members should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

(e) Principle 4-5. Town Council and committee members should be willing to bear their fair share of the workload, commensurate with their skills and other commitments.

(f) Principle 4-6. Town Council members in particular should strive to recognize that by accepting the public trust, they may have to subordinate their personal endeavors to discharge their official responsibilities. To the extent appropriate, they should be willing to put the town's interests ahead of their own.

(8) Mandates:

(a) Town Council and committee members should keep confidential information entrusted to them in legally called and held closed sessions, the disclosure of which has or may have a negative impact on the interests of the town itself, and they shall keep private confidentially obtained information about other members which would embarrass those members or expose them to public ridicule, but which has no bearing on the performance of any official duty.

(b) Unless such service has been authorized by action of a super majority of the Town Council, four-fifths of the members in attendance, upon a finding that individual service is in the interests of the town as a whole and that an exception should therefore be made, members of the Town Council shall not serve on the boards of directors of organizations that have contracts with the town, or that seek funding or similar support from the town.

(9) (a) Principle 5-1. Town Council and committee members shall conduct the affairs of their boards in an open and public manner.

(b) Principle 5-2. Town Council and committee members should remember when meeting that they are conducting the public's business.

(c) Principle 5-3. Town Council and committee members should remember that except for those records otherwise protected by law against public disclosure, the records of the town belong to the public and not to them or the town's employees. They should make clear that a climate of openness is to be maintained at all times in the town.

(d) Principle 5-4. In order to ensure strict compliance with the laws governing openness, Town Council members should prohibit unjustified delays in fulfilling public records requests should they become aware of the delays. They should assure themselves before they go into closed session that the closed session is called for a lawful purpose.

(10) Mandates: Town Council and committee members must comply with all applicable laws governing open meetings and public records.

(C) *Censure procedures*.

(1) If the Town Council has reason to believe that one of its members or a member of a town committee has violated a mandate of this Code of Ethics, by majority vote of the Town Council members present and voting, it may open an investigation into the matter, using the resources of the town to compile the necessary information to make a determination. If the proceeding involves a Town Council member's actions, that member shall not participate in the vote to authorize the investigation.

(2) Following investigation, all information compiled, including any grounds for the finding of probable cause that a mandate has been violated shall be summarized in writing by the Town Manager, Town Attorney or other person as may be designated by the Town Council, and the written summary shall be shared with the accused Town Council or committee member promptly when it is available. All information pertaining to the case shall be open to public inspection and copying as pursuant to G.S. §§ 132-1 et seq.

(3) Following the investigation and report, should the Town Council determine, by vote of a two-thirds majority of those present and voting, that it wishes to proceed further with a censure proceeding, it shall call for and schedule a quasi-judicial hearing at a regular meeting or special meeting convened for that purpose. If the proceeding involves a Town Council member's actions, that member shall not participate in the vote to proceed or schedule the hearing.

(4) The notice of the hearing stating its time, place, and purpose shall be published at least two times, once each in two separate calendar weeks in a newspaper of general circulation, or it shall be advertised daily for at least ten days on the town's official website. If placed in the

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newspaper, the initial notice shall be published at least ten days and not more than 25 days before the date set for the hearing and shall state that the summary regarding the allegations against the Town Council or committee member is available for public inspection and copying in the office of the Town Clerk.

(5) The hearing shall be convened at the time and place specified. Any and all votes during the hearing and any deliberations that follow shall be taken by a vote of the full Town Council in attendance and participating, and each vote shall be recorded in the minutes. The hearing and any deliberations shall be conducted in open session in accordance with the requirements of the state's open meetings statutes, G.S. §§ 143-318.9 and 143-318.10.

(6) The accused Town Council or committee member shall have the right to challenge the participation in the case of any other Town Council member or the Presiding Officer, based on bias or self-interest. If a challenge is made, the Town Council shall immediately hear evidence and vote on the challenge in a separate hearing conducted for that purpose. It shall not be a basis for removal of a Town Council member that he or she was the person who offered the motion to investigate the behavior in question or to conduct the hearing. Neither the accused Town Council member, if any, nor the Town Council member whose participation is challenged, may vote on the challenge although both may offer evidence. The challenge shall be decided by a majority vote of those present and voting, a quorum being present not including the person accused and the person challenged. If more than one person's participation is challenged, however, a separate hearing shall be conducted as to each challenged member's participation and all members, except the accused member and challenged member shall participate in the vote as to the right of the challenged member to participate.

(7) The rules governing any hearing as to bias and the hearing on the underlying ethical charges shall be those that apply to a standard quasi-judicial hearing, and an audio or video recording of the proceedings shall be made. All hearings on this policy shall be conducted by the Town Attorney. During the hearing, the accused Town Council or committee member shall have the right:

(a) To have counsel present;

(b) To present and cross-examine expert and other witnesses; and

(c) To offer evidence.

(8) Any person in attendance at the hearing with knowledge of the alleged incident(s) giving rise to or materially related to the allegation shall be given an opportunity to testify, and all testimony shall be taken under oath.

(9) Once the hearing is concluded, it shall be closed by majority vote. The Presiding Officer shall then entertain a motion to adopt a non-binding resolution censuring the Town Council or committee member based on specified violations of the mandates of the Code of Ethics. Any motion made must be an affirmative one in favor of adopting a non-binding resolution of censure. If the motion or resolution does not state particular grounds for censure under the Code of Ethics, the Presiding Officer shall rule it out of order. If a motion to adopt a non-binding resolution of censure stating particular grounds under the Code of Ethics has been made, the Board shall debate the motion. The accused Town Council member, if any, and any other Town Council member who has been removed from participation because of bias or self-interest may remain present, but shall not be allowed to participate in the debate. At the conclusion of the debate, the Town Council shall vote, except for the accused Town Council member, if any, and any other Town Council member who has been removed from participation. If the motion is approved by a minimum two-thirds vote of those present and voting, a quorum being present, the motion will be approved and the non-binding resolution of censure adopted. The quorum requirement shall be met if the requisite number is present, even though removal of some from participation may prevent a quorum from actually voting on the issue.

(10) If a resolution of censure is adopted, it shall become a part of the official record of the Town Council. If it pertains to a member of a committee, it shall be the basis for further action, which may be taken immediately following the vote of censure, to remove the committee member from the committee upon which he or she serves.

(Ord. passed 11-16-2010; Res. passed 11-20-2014; Ord. passed - -)

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ORDINANCE # _____

AN ORDINANCE TO REVISE CHAPTER 30 OF THE TOWN OF BOONE CODE OF ORDINANCES RELATING TO THE CODE OF ETHICS GIFT POLICY

WHEREAS, the Boone Town Council finds that it is appropriate to amend current Town Code Chapter 30, Section 52 ("Code of Ethics") to clarify the Town's policy regarding the acceptance of gifts by Town Council Members and other Town board and committee members; and

WHEREAS, the Boone Town Council is authorized to enact this Ordinance pursuant to its general power to enact its own rules of governance and pursuant to the authority of N. C. Gen. Stat. §160A-86;

NOW THEREFORE, BE IT ORDAINED BY THE BOONE TOWN COUNCIL THAT:

SECTION 1. Chapter 30, Section 52 of the Boone Code of Ordinances is hereby amended as follows (additions being underlined in blue, deletions struck through ~~in red~~, and moved text being shown in green):

§ 30.52 CODE OF ETHICS.

(A) *General principles underlying the Code of Ethics*.

****

(B) *Code of Ethics*.

(1) (a) Principle 1-1. Town Council and committee members should obey all laws, including state and federal laws and regulations, and local ordinances which apply to their official actions.

(b) Principle 1-2. Town Council and committee members should be guided by the spirit as well as the letter of the law in whatever they do.

(c) Principle 1-3. Town Council and committee members shall endeavor to keep themselves up to date about new or ongoing legal or ethical issues they may face in their official positions. They should avail themselves of resources and training in these areas which may be reasonably available to them. Town Council and committee members should review the pertinent sections in the town's code, Unified Development Ordinance and other sources concerning the procedures by which they perform their duties so that they will be knowledgeable and informed as they do so.

(2) Mandates:

(a) Town Council and committee members must ask to be recused from voting on matters involving their own direct or indirect financial interests or official conduct and must not participate in the deliberations or votes regarding the matters. They must avoid attempting to influence others who are involved in approving, making or administering a contract with the town if they will derive a direct benefit from the contract.

(b) Town Council and committee members must avoid soliciting or receiving any gift or reward in exchange for recommending, influencing or attempting to influence the award of any contract by the town.

(c) Town Council members and committee members shall reject any gift or favor from a current, past or potential contractor of the town.

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(d) Town Council members and committee members should not knowingly accept any gift unless it falls within one of the exceptions set forth below. A prohibited gift shall be promptly declined, returned, paid for at fair market value, or donated to charity or the City.

1. Exceptions. These prohibitions shall not apply to any of the following:
   a. Gifts from the official's extended family, or a member of the same household.
   b. Anything generally made available or distributed to the general public without charge.
   c. A memento such as a commemorative shovel, plaque, figurine, trinket, or novelty item related to a civic occasion or event.
   d. Informational materials relevant to the duties of the official.
   e. Food and beverages for immediate consumption in connection with any of the following gatherings, so long as the official pays the same amount, if any, that other attendees are charged for attending the gathering or for the food and drink:
      i. A meeting of the Town Council [or committee].
      ii. Business meetings.
      iii. A gathering open to the general public.
   f. Tickets or admittance to, and food and beverages for immediate consumption at, an event or meeting where the official is clearly representing the Town and where the Town has a legitimate purpose in being represented at the event. By way of illustration but not limitation, this would include community events sponsored by the Town and events or meetings hosted by the Boone TDA, the Downtown Boone Development Association, local government agencies and authorities, Appalachian University and other educational institutions, and similar organizations.

2. For purposes of this subsection (e),"gift" means anything of monetary value given or received without fair market value given in return or, for loans or other contractual arrangements, on terms that are not available to the general public in the normal course of business. Gifts do not include the following:
   a. Academic or athletic scholarships given based on the same criteria as applied to the general public.
   b. Anything of value properly reported as required under Article 22A of Chapter 163 of the General Statutes (North Carolina Campaign Contributions Law).
   c. Expressions of condolence related to a death of an individual, including the giving of a sympathy card, letter, or note, flowers, food or beverages for immediate consumption, or donations to a religious organization, charity, the State or a political subdivision of the State, not to exceed a total of two hundred dollars per death per donor.

(c) Town Council and committee members shall avoid using knowledge of a contemplated action by the town, or information learned in their official capacities and not made public, to acquire a financial interest in any property, transaction or enterprise, or to otherwise gain a financial benefit that may be affected by the information or contemplated action, and they shall not help another person in doing so.

~~(d) Town Council members shall reject any gift or favor from a current, past or potential~~

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~~contractor of the town.~~

(e) Town Council and committee members shall not participate in or vote upon any quasi-judicial matter coming before them if prior to hearing the evidence of the case they have a fixed opinion that is not susceptible to change; they have had undisclosed ex parte communications regarding the substance of the matter involved; they have a close familial, business or other associational relationship with an affected person; or they have a financial interest in the outcome of the matter.

(f) Every Town Council member shall attend statutorily mandated ethics training.

SECTION 2: This Ordinance shall be effective as to Town Council members immediately upon its adoption by Town Council and shall be effective as to all committee members 30 days after adoption.

Adopted this _____th day of _____, _____.

_____ ATTEST: _____

Rennie Brantz, Mayor Town Clerk

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TOWN OF BOONE
HISTORIC PRESERVATION COMMISSION
MEETING MINUTES
JULY 14, 2020
3:00 PM

Historic Preservation Commission Members in Attendance:
Chairperson Eric Plaag, Vice-Chairperson Phoebe Pollitt, Teresa Pearman, Bettie Bond, Chuck Watkins, Rennie Brantz and Loretta Clawson

Town Staff in Attendance: Jane Shook-Director of Planning and Inspections**,** Christy Turner – Senior Planner and Marlene Crosby-Board Secretary

Others Present: John Ward-Town Manager, Allison Meade-Town Attorney and Anna Twigg-Town Hall Intern

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Call to Order
Chairperson Plaag called the meeting of the Boone Historic Preservation Commission, held via WebEx, a video conferencing software to order at 3:00 p.m.

Board Training
Ms. Allison Meade, Boone Town Attorney gave a brief introduction to some board training regarding the Town of Boone gift policy. She informed the Historic Preservation Commission that the Council passed a new gift policy in June of 2020. She said the Council asked her to inform each Town board and committee member regarding this change to policy because it applies to them as well as to the Council members. She said at the next HPC meeting she will include a copy of the gift policy and a few other materials that will cover some basic board issues like open meetings law, public records law, and the authority of boards and committees under the Town Code. She said she would answer questions on the material.

Ms. Meade reviewed the new gift policy on the virtual computer screen. She noted that the gift policy is part of the Code of Ethics located in Chapter 30 of the Town Code. She explained that in the revised Chapter 30, Part D (1)(a.-f.), this section now contains more detail in an attempt to provide greater guidance as to gifts. She said in the revised text there is a blanket rule that gifts are not to be accepted. She explained the section on the monetary value of gifts. She also talked about the exceptions to gifts that may be accepted.

Ms. Meade explained and gave some examples of when a board or committee member can accept a gift or not accept a gift. Chairperson Plaag asked Ms. Meade about two potential scenarios that could be an issue involving the current HPC committee members. He said there are times, when the Watauga County Historical Society asks for a historian to speak as part of their speaker series. He said if HPC Member Watkins is given an honorarium to speak at an event and he accepts the honorarium, is this grant against the Town's gift policy. Ms. Meade

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said no because HPC Member Watkins is not a Watauga Historical Society committee member. She also said that Watauga Digital would not be covered under the gift policy. Chairperson Plaag said occasionally another person on the HPC will give him books that they no longer want. He asked if these types of exchanges fall under the gift policy. Ms. Meade said no.

Ms. Meade left the virtual meeting at approximately 3:20 p.m.

Adoption of Agenda

Discussion ensued on moving the Public Comment agenda item permanently to the beginning of the agenda. Chairperson Plaag asked Ms. Christy Turner, Senior Planner, if an agenda item can be permanently moved by the HPC putting forth a motion and vote to do so. Ms. Turner said that she would research the rules and procedures to see what it says about this type of change. Chairperson Plaag explained that it makes better sense to have the public comment at the beginning of the meeting before the discussion and decisions are made on agenda topics.

Chairperson Plaag made a motion, seconded by Vice-Chairperson Pollitt to move the Public Comment agenda item to the beginning of this meeting agenda.

Vote:

Aye – (Clawson, Pearman, Plaag, Pollitt, Watkins)
Nay – None
Abstentions – (Bond and Brantz) due to technical issue
The motion passed.

Approval of Minutes

Member Brantz made a motion, seconded by Vice-Chairperson Pollitt to approve the June 9, 2020 meeting minutes as amended.

Vote:

Aye - All
Nay - None
The motion passed.

Public Comment

There was no public comment at this meeting.

District Designation Report

Chairperson Plaag noted that he was not able to complete the District Designation Report since the HPC last meeting. He said he will try to get it completed in the next seven to ten days and send it out to the HPC members for their review. He asked the HPC members, if they would vote to add the District Designation Report to the next Council agenda because he does not anticipate any issues with it.

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Member Bond made a motion, seconded by Member Brantz to add the draft District Designation Report to the August 2020 Council agenda pending the Historic Preservation Commission's vote at their August 2020 meeting approving the draft report.

Vote:

Aye – all
Nay – none
The motion passed.

Survey Report

Chairperson Plaag reviewed an email from Ms. Annie McDonald containing proposed changes and comments from her review of the draft Survey Report beginning on page three through page 338 (permanently attached).

Chairperson Plaag explained that he and Ms. McDonald agreed that he would make the correction on page 18 by contextualizing the statement further by adding the damage done to the court house here in Boone. He said there were other courthouses that were attempted to be burned during Stoneman's Raid.

Chairperson Plaag said that he would make the proposed changes to the draft report that Ms. McDonald has suggested for page 73, as well as the other proposed changes found in the email from Ms. McDonald. He asked the HPC members, if they had other proposed changes or comments on the proposed changes presented at this meeting. There were no other proposed changes made to the draft Survey Report at this meeting.

Chairperson Plaag asked the HPC members, if they would authorize him to make the proposed changes given to him from Ms. McDonald and presented at this meeting and he would send the draft Survey Report to Ms. Turner. He also asked the HPC members to vote to add the draft Survey Report to the August 2020 Council agenda for approval pending the map from the Town of Boone, GIS Department that will be included in the draft Survey Report.

Member Brantz made a motion, seconded by Member Pearman to authorize Chairperson Plaag to make the proposed changes suggested by Ms. Annie McDonald from the State Historic Preservation Office that were reviewed at this Historic Preservation Commission meeting. And for the Planning Staff to add the draft Survey Report to the Council's August 2020 meeting agenda for final approval.

Vote:

Aye – All
Nay – None
The motion passed.

Member Watkins asked Chairperson Plaag about the plans for disseminating the Survey Report. Chairperson Plaag noted at the last HPC meeting that Ms. Shook had stated that the joint-

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meeting with the SHPO, Community Appearance Commission and the Historic Preservation Commission had been approved by Council; and she was waiting on some other information and dates and once she received the dates, she will send out a doodle poll to schedule the meeting. Chairperson Plaag asked Ms. Shook for an update on the scheduling of the joint meeting. He also stated that it is vital to have the joint meeting and to have a coordinated strategy for how the information will be disseminated to the public and the receiving of feedback on the material, given the pandemic issues we are facing now. Ms. Turner explained that the Planning Staff is working on the logistics of having a virtual meeting with approximately 25 people. Ms. Turner said she would give the HPC an update on the coordinating of the joint meeting at their next HPC meeting. Chairperson Plaag further explained that by August of 2020 the Survey Report and the District Designation Report will be widely available for anyone that is following along with the HPC meetings. He said that he wanted to know that there is a coordinated strategy in place to be able to address concerns that may be raised by business owners or tenants or others that may not understand the process.

Discussion ensued on the publication of the Survey Report and District Designation Report and other information that the HPC generates. Chairperson Plaag explained that there has been previous discussion on placing this type of information on the Town website. He said on option for publications would be a stand-alone Historic Preservation Commission website that is linked to the Town website. He explained that with Council approval, the HPC has the ability to raise funds and use the funds on these types of things. He said a website costs approximately $150.00 per year and someone has to maintain the changes to it.

Discussion ensued on using publish on demand. Member Watkins said that the public could order a hard copy from it. Chairperson Plaag said that publish on demand is a possibility.

Ms. Turner responded to the interest in a stand-alone website. She said that the Town prefers to handle their own website publications. She said there has been a previous discussion on putting the HPC generated information on either the Historic Preservation Commission section of the Town website or the Planning and Inspections Department section of the Town website. Chairperson Plaag suggested that the HPC asks the Council for direction on publicizing the HPC generated information. He also included asking the Cultural Resources Department where they want to see this type of information.

Chairperson Plaag made a motion, seconded by Member Watkins for the Historic Preservation Commission to made a formal request to Council to consider a public online way to disseminate various historical reports that have been generated by the Historic Preservation Commission over the years to include the historic marker reports, historic landmark reports, historic District Designation report and the Downtown Survey Report.

Vote:

Aye – All
Nay – None
The motion passed.

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Member Watkins added a friendly amendment stating that he would prefer that the information generated by the Historic Preservation Commission not be just located publicly online. Member Watkins withdrew his friendly amendment because a second motion and vote were made to cover the hard copy publication portion of the HPC generated information.

Member Watkins made a motion, seconded by Member Brantz for the Historic Preservation Commission to ask the Council to consider a development of a hard copy publication of the Downtown Survey Report in book form that would be available through an on-demand printer depending on the costs involved with the printing.

Chairperson Plaag explained that a University would not be interested in using their presses to print these types of publications, when maybe 200 copies would be needed. He said that there is a fairly reasonable profit margin for on-demand publications, if the pricing is done correctly. He noted that the HPC would need to hire someone using Town funds for the formal layout of the book. He said that the revenue from the sales from the book could be used to re-plenish the HPC fund Town budget line. He also said the hard-copy book sales could be another way to sustain the activities of the HPC.

Vote:

Aye – All
Nay – None
The motion passed.

Burrell Historical Marker Report

Chairperson Plaag reviewed the draft Burrell Historical Marker report entitled, "*Status Update to Town Council Regarding Mary Moretz Request for Historical marker regarding Burrell*" dated July 14, 2020 (permanently attached). He noted that he included the information on John Preston Arthur's account of Daniel Boone's travels to the west and the sources he interviewed indicating Burrell's involvement that is included from the May 1, 1910 newspaper article. He said if the HPC does vote to send this information to Council, he asked the Planning Staff to encourage the Council members to view the newspaper article on a computer screen so they can enlarge the print to make it readable for them.

Chairperson Plaag asked for requested changes or comments on the historical marker report. He thanked Vice-Chairperson Pollitt for starting the draft Burrell historical marker report which saved him a lot of time in putting his portion of the draft report together. He said in the draft report, he expanded on what the misgivings are with the marker. Member Watkins said he would not constitute what Chairperson Plaag included in the draft report as misgivings. He said that Chairperson Plaag noted that the Town has already taken care of the misgivings. Chairperson Plaag further noted that it encourages us to let the facts speak for themselves.

Chairperson Plaag said he would be willing to contextualize some information for the Town website to help the public who reads the website to know who Burrell is and why a street is named after him.

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Vice-Chairperson Pollitt made a motion, seconded by Member Brantz to present the draft Burrell Historical Marker status update to Council for their consideration at their August 2020 Council meetings.

Vote:

Aye – All
Nay – None
The motion passed.

Bryan, Hayes & Greene Cemetery

Chairperson Plaag noted that Ms. Turner is doing research on regulations for cemeteries in other towns. He said Ms. Turner has found regulations from Blowing Rock and Hickory, North Carolina (permanently attached). Ms. Turner noted that the regulations that she has found are for historical private cemeteries and cannot be found in their zoning ordinances. She said that other municipalities are emailing her their regulations. She said she would email the cemetery regulations to the HPC as soon as she receives them.

Chairperson Plaag suggested that any further discussion be tabled on the cemetery topic until the next meeting. He noted that hopefully, he or Vice-Chairperson Pollitt might be able to do more research on the cemetery deed ownership issue. Vice-Chairperson Pollitt said she would try to research it more.

Selection of Next Marker Project

Chairperson Plaag read the list of proposed markers noted in the September 2018 HPC meeting minutes: Founders Hall, second Watauga Hospital, Old Watauga Democrat building, Dan'l Boone Inn Restaurant, first Watauga Hospital, Councill House, Councill store, Old Jail House, Watauga Courthouse, Past Time Theatre, Watauga Drug Store, the Chocolate Bar in the Junaluska Community, the Holshouser House, Kraut Factory, Burley Tobacco Warehouse houses, Worthwhile women's Club and the Advent Christian Church.

Chairperson Plaag also read from the September 2019 HPC meeting minutes the nominations made by the HPC for the next proposed marker project which included: two nominations for the Junaluska Community which has been completed, one nomination for Founders Hall, one nomination for Councill's store and one nomination for Worthwhile Women's Club.

Chairperson Plaag said the HPC could vote for up to two locations. The majority voted for the Junaluska Community marker which has been completed. Members Brantz and Pollitt voted for Founders Hall. Members Bond, Brantz and Watkins voted for the Councill's store. Chairperson Plaag pointed out that the Holshouser House, Advent Christian Church and Rivers House are likely candidates for the national register and he would not recommend starting with these locations to add historical markers.

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Discussion ensued on the selection of the next marker project. Chairperson Plaag noted his concern for the long-term survival of the Watauga County jail as a result of the development that is going up around it. He noted that at the next HPC meeting, he would like to talk about the jail being a possible landmark designation rather than having a historical marker for this historical property. Chairperson Plaag asked if the HPC wanted to work on the Councill store as their next proposed historical marker project or would they want to work on another proposed marker location. Member Brantz said Councill's store is worth researching for the next proposed marker location. Member Bond talked about merging the Councill store proposed marker historical marker with the Boone Sesquicentennial celebration. She suggested the placement of the proposed Councill's Store marker at the bulb out at W. King Street and Grand Boulevard. Chairperson Plaag noted that this would be a perfect location for the proposed marker and it would be near where Councill's store was located.

Mr. John Ward, Town Manager joined the meeting at approximately 4:17 p.m.

Mr. Ward pointed out a major site visibility issue at the bulb out at W. King Street and Grand Boulevard coming into a state route. He said when you are turning left off of Grand Boulevard, it is difficult to see the traffic coming from the left. He explained that he would check with the North Carolina Department of Transportation on the site issue. He also said this suggested location would be a high visibility location for the proposed historical marker, if it can be done safely.

Chairperson Plaag pointed out another possible location for the proposed Councill's Store marker. He described the pocket park that is located beside Town Hall on W. King Street as a possible location for the proposed marker. He noted it is the exact location that the Councill Store was moved to which is directly across the street from the original Councill's store. Mr. Ward explained that it has been discussed that a pocket park with added green space be added at the location beside Town Hall that would connect the Veterans Memorial and Town Hall. Mr. Ward noted that the Council members had made this area a public art space area. Mr. Ward said he likes the idea of incorporating the proposed marker at this location, if it can be worked out. It was the consensus of the HPC members to next work on the proposed historical marker for Councill's store.

Member Brantz made a motion, seconded by Vice-Chairperson Pollitt for the Historic Preservation Commission members to move forward with researching the location for the proposed Councill store historical marker.

Vote:

Aye – All
Nay – None
The motion passed.

Discussion ensued on the HPC members working on the proposed location of Councill's Store historical marker. Member Bond stated that the HPC members could go ahead and start

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researching a proposed location prior to Council considering it at the August 2020 Council meeting. Chairperson Plaag noted Ms. Shook had informed the HPC that Council approved them to work on the Downtown Survey Report and the District Designation Report at this time.

Selection of Next Landmark/District Designation

Chairperson Plaag suggested that the HPC work on the Watauga County Jail landmark designation which would help protect it due to the development going on around it. He noted that Mr. Sam Furgiuele is the owner of the Watauga County Jail property and he felt there would be no owner opposition regarding it. He said the jail is the last 19th Century governmental building in the County. He asked the HPC if there was another landmark designation project that they would like to work on before the Watauga County Jail. Member Bond said she felt the Watauga County Jail needs to be worked on now.

Chairperson Plaag made a motion, seconded by Member Brantz for the Historic Preservation Commission to move forward with exploring local landmark designation for the Watauga County Jail.

Vote:

Aye – (Bond, Brantz, Pearman, Plaag, Pollitt, Watkins)
Nay – None
Abstention – (Clawson) due to technical issues.
The motion passed.

Planning for Boone Sesquicentennial

Chairperson Plaag reviewed the laws of North Carolina from 1871 to 1872 from a newspaper article (permanently attached). He read that the General Assembly voted to incorporate in a body of politic and corporate by the name and style of the Commissioners of the Town of Boone. He pointed out that it was ratified on January 23, 1872.

Discussion ensued on a previous celebration for the Town of Boone Centennial. Chairperson Plaag said he was not aware of a celebration of Boone's founding since around January of 1972. Member Bond talked about a celebration for Boone that included a parade but did not remember the date of it. Chairperson Plaag suggested that an HPC member go to the Watauga County Library and research the details of the Boone Centennial celebration around 1971 or 1972. Chairperson Plaag said in Digital Watauga there is a Boone Centennial paper that could be viewed for details. Chairperson Plaag asked Mr. Ward about his thoughts for this type of celebration. Mr. Ward suggested that the Downtown Staff or Cultural Resources Staff coordinate this type of event along with the Downtown Boone Development Association. He said they would need to request the approval of the Council and the Department of Transportation guided by the HPC. Member Bond suggested announcing that 2022 is the year of the Boone Sesquicentennial; and she noted that she did not want to have the event in January of any year. Chairperson Plaag suggested celebrating the Boone Sesquicentennial all year long by having an event each month. This might also include a larger celebration with the

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4th of July parade. Mr. Ward suggested doing a celebration with the first Friday events rather than having a celebration with a parade.

Chairperson Plaag made a motion, seconded by Member Clawson that the Historic Preservation Commission ask Council to begin to think about a year long series of events for 2022 to celebrate the Sesquicentennial of Boone and to provide direction to the Town Manager for the coordination with Town Staff, Committees, Boards and Commissions to plan this series of events.

Vote:

Aye – All
Nay- None
The motion passed.

Community Member Request for Recognition of John Preston Arthur

Chairperson Plaag read a private email dated May 28, 2020 he had received from a community member regarding John Preston Arthur. He said he responded to said email not as an HPC member but a member of the community. He said the community member supported the honoring of John Preston Arthur but not with erecting a marker because he felt there are better ways to acknowledge him and note his positive contributions to preserving our local history without erecting an individual marker in his honor. He said an individual marker would at minimum be a source of great turmoil and further pain for many members of the Boone community. Mr. Arthur who was a noted confederate apologist and proponent of the lost cause, please see attached article with excerpts from one of his speeches (permanently attached). He said one of the ways the Watauga Historical Society acknowledges Mr. Arthur's work is to provide links to free digital versions of his history of Watauga County and frequently reference it in the Facebook posts, blog entries and other public notifications. The community member had responded to Chairperson Plaag to confirm he did not necessarily mean a historical marker, he meant some other way of recognizing Mr. Arthur.

Chairperson Plaag read from the newspaper article entitled, "Confederate Veterans" (permanently attached). After reading some sections of the article, Chairperson Plaag noted that he felt like the HPC as a body should not be considering a historical marker for Mr. Arthur, especially, in the current climate we are experiencing at this time.

Mr. Ward explained that he has been dealing with some phone calls from people that want to rename Boone. He talked about one of the other historical markers being talked about as being confrontational and he thought that now is not the right time to pursue a historical marker for Mr. Arthur. Member Bond noted that she is not in support of working on a historical marker for Mr. Arthur at this time.

Chairperson Plaag confirmed by consensus that the HPC members are not interested at this time in honoring John Preston Arthur with a historical marker, monument or any other honorary designation. He also informed the HPC members that he would like to email the

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community member as Mr. Eric Plaag a community member to let him know what the HPC had discussed at this meeting and it was the consensus of the HPC members that they were not interested in honoring John Preston Arthur at this time. He asked the HPC members if they had any concerns about him emailing the community member, if so to please let him know at this time.

Informal Discussion/Other Matters

Chairperson Plaag suggested the following topics for the next meeting agenda: board training, District Designation Report, Junaluska Historical Marker Update, Bryan, Hayes and Greene Cemetery and the Turner House.

Mr. Ward gave a brief update on the Turner House. He said that McGill Engineering will soon be presenting three options for parking on the Queen Street elevation lot. He said he forwarded this information to Mr. Deron Geouque, Watauga County Manager. He said that he plans to communicate with Mr. Geouque to see if McGill Engineering can present the information to the County. He talked about the development of a business plan to use the revenue generated from the parking spaces to pay for the debt of the construction. He said that he would like to get feedback from the Council and the County regarding the parking design which has the potential to go from 131 parking spaces to 450 parking spaces.

Adjournment

Member Brantz made a motion, seconded by Vice-Chairperson Pollitt to adjourn the meeting at 4:36 p.m.

Vote:

Aye – All
Nay – None
The motion passed.

_____ _____

Eric Plaag, Chairperson **Marlene Crosby, Board Secretary**

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Marlene Crosby - Report (Final Draft) **Re: Downtown Boone Survey**

From: Eric Plaag
To: Loretta Clawson
Date: 7/13/2020 3:27 PM
Subject: Re: Downtown Boone Survey Report (Final Draft)
Cc: Christy Turner Marlene Crosby <

Hello friends,

Please see the email below from Annie McDonald with formal comments on the Survey Report. We will discuss same at tomorrow's meeting.

Best,

Eric

---------- Forwarded message ---------
From: **McDonald, Annie**
Date: Mon, Jul 13, 2020 at 2:54 PM
Subject: RE: [External] Re: Downtown Boone Survey Report (Final Draft)
To: Eric Plaag

Eric,

Thank you for this reminder, and I'm sorry that you had to give me one. Staff in our HPO (including myself) and our Historical Research office reviewed the report, which was outstanding and one of the best survey reports I've read. And I've heard that others enjoyed reading the manuscript.

The contexts are very well developed. The historic and current images and maps help one visualize the changes and developments over time, and the labeled photo on page 27 is especially helpful. The property entries at the end of the report have exceptional architectural

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and historical detail and are incredibly thorough. Detailed feedback by page is below. You'll find that it's mostly minor spelling/grammar corrections.

Best,

Annie.

- Page 3, Paragraph 3: 'a' should be deleted in "Boone relied primarily on a local agrarian interests..."

- Page 8, Paragraph 2 and Page 9, Paragraph 3: It would be helpful to include the position/role of Annie McDonald (Preservation Specialist in the Survey & National Register Branch of the SHPO) and Lu Ann Welter (previously with the City of Hendersonville's Planning Department).

- Page 18, last Paragraph: "Surprisingly Watauga County's original courthouse somehow survived Stoneman' s Raid" seems redundant, if not extreme. I'm not aware of Stoneman's men targeting courthouses in North Carolina. They mostly were going after infrastructure and supplies. Boone's jail was burned—was it right next to the courthouse? If so, that should be described. As it is, it sounds as though Stoneman's raids targeted courthouses as a matter of fact and "somehow" this on survived. If there is a scholarly source that describes widespread destruction in Boone, cite it and describe more fully the devastation.
- Page 49, Footnote 64: The note is a bit outdated, and it would be good to bring it up to date with whatever has happened and leave it at that—such as: In 2019 the county Commissioners voted to level the Hardin house in order to build a parking lot. Or if it was saved, briefly recount the details.
- Page 53, photo caption: Include the SSN for this resource to be consistent with other captions.

- Page 57, Paragraph 3: Though its location is described later on in the Survey Results and Recommendations section of the report, it may be helpful to include a brief description or explanation of Hippie Hill as this is its first mention. It's an unusual place name and sort-of begs for an explanation, if possible.

- Page 72, Paragraph 3: You might want to add "potentially" in front of "National Register-eligible" in the second line down.

- Page 73, Paragraph 4: In addition to the map with the recommended boundaries for the proposed downtown historic district, you might also include a map that shows the approximate boundaries and number of resources contained within the Hippy Hill area. This would be beneficial if/when the town thinks about further study of this area. One caution I'll add is that to suggest the potential for a local historic district in this area could set up opposition to the designation on the front end. You might simply say that it's "…worthy of further study," and leave it at that without specifying local designation, unless you know now that there is interest in possible local designation. Or you might add a sentence or two about the town engaging with property owners to learn of potential interest in local district designation. If you include a map of this area, you might label it "for further study" or something like that.

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• Page 74: You might want to clarify in the map label that the recommended boundaries are for a locally designated historic district. That it just says "historic district" might lead one to think it's for a National Register designation. I realize that the explanation on page 73 speaks to this, but reinforcing it on Page 74 may be beneficial.

- Page 98, Paragraph 2 (R.L. Clay House): The last sentence, "This retaining wall continues a short distance and parallel with the west elevation of the house," seems to be missing something. Or should the word "and" be deleted?
- Page 105, Paragraph 3 (Frank Linney House): Typo of 'liked' instead of likely;
- Page 118, Paragraph 3: "Windows" is spelled "widows" in the second line down.
- Page 127, Paragraph 2 (Boone Hardware/Farmer's Hardware Block): "Connection with Section_" in the third line is missing which section of the building.
- Page 150, Paragraph 4 (J.L. Qualls Block): "Include" should be "including."
- Page 153, Paragraph 3 (B.W. Stallings Jewelry Store): States that B.W. Stallings lost this property in 1973 to his wife in a divorce and that she held onto it until 1973. Is the phrasing confusing here, or is one of the dates incorrect?
- Page 169, Paragraph 3 (Watauga Motor Company): The first sentence ends with a comma instead of a period.
- Page 170, Paragraph 1 (Watauga Motor Company): "Wih" should be "with" in the seventh line from the bottom of the paragraph.
- Page 187, Paragraph 1 (First Baptist Church): 'Runs along' is written twice, at roughly 1/3 and 2/3 through the paragraph. You may consider rephrasing one to eliminate redundancy.
- Page 211, Paragraph 2 (Colvard Chevrolet Showroom): "Each" should be "east" in the second line.
- Page 212, Paragraph 4 (Colvard Chevrolet Garage): In the sentence beginning "Meanwhile, It...," in the third line from the bottom, "It" should not be capitalized.
- Page 213, Paragraph 4 (A.E. And Roberta Hodges House): Missing open parentheses before Deed Book 52, page 515.
- Page 249, Paragraph 4 (Anderson-Weston Building): "Locatd" in the bottom line should be "located".
- Page 266, Paragraph 3 (R.T. Greer Building): "Is" should be "are" in "The other two openings is" in the third line from the bottom.
- Page 267, Paragraph 3 (Ralph and Edith Estes Apartment Houses): "To the west of this gable is the same door confirmation..." in the fifth line from the bottom of the paragraph. Should "confirmation" be "configuration?"
- Page 268, Paragraph 1 (Ralph and Edith Estes Apartment Houses): "Bump out" misspelled as "bump our" in the third line down.
- Page 290, Paragraph 1 (C.M. Critcher Building): "Portion" misspelled as "portiono" in the first line.
- Page 293, Paragraph 2 (Baker-Commack Hosiery Mills): "Runs" should be "run" in "Metal balustrades runs."

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- Page 311, Paragraph 2 (Sebastian Building): "Double-hung misspelled as "double-hug" in the middle of the paragraph.
- Page 338, Paragraph 3 (Winkler Motor Company Showroom): The sentence "The northernmost portion was something..." is a little confusing.

From: Eric Plaag
Sent: Sunday, July 12, 2020 3:54 PM
To: McDonald, Annie
Subject: [Re: Downtown Boone Survey Report (Final Draft)

CAUTION: External email. Do not click links or open attachments unless you verify. Send all suspicious email as an attachment to report.spam@nc.gov

Hi Annie,

I'm just checking in to see if you have any written feedback for me regarding the Downtown Boone survey report. I am nearing completion of the designation report draft, and I'd like to have all of these things in line for approval in the next couple of months, if possible.

Thanks,

Eric

On Sun, Dec 29, 2019 at 8:09 AM Eric Plaag

> Hi Annie,
>
> At long last, I am sending you a link to the final draft of the Final Report, Comprehensive Architectural Survey of Downtown Boone, North Carolina. This is the compressed, PDF version showing all of the required images. If it would be useful during your review/feedback process to have the text portions as MS Word files, let me know, and I can upload them as well.

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PDF report is here: https://www.dropbox.com/s/c5r4k4tnn7mwwwu/Downtown%20Boone%20Survey%20Report%2C%20Dec%2028%202019%20Final%20Draft%2C%20compiled%2C%20reduced.pdf?dl=0 [dropbox.com]

I understand that the Boone Town Council and Historic Preservation Commission are eager to receive your feedback on the survey report. In the meantime, I have been asked to move forward with preparing the local district designation report for a downtown historic district encompassing the boundaries shown on the map in the report. I anticipate that this will be submitted to you by early spring, following public comment and other feedback I believe the Town intends to solicit from the community.

For your information, the lower (southern) section of Water Street was recently renamed Burrell Street in honor of an enslaved person associated with Benjamin Howard and Daniel Boone. The Water/Burrell Street addresses have not been updated to reflect this change, since new addresses for the handful of properties along that section of Burrell Street were not yet available at the time this report was prepared. We can easily update this information for the truly final version of the report.

Please let me know if you have any questions, and I look forward to receiving your feedback on the report. I will be preparing the updated survey files and shell database this winter/spring and submitting those to you when they are complete.

Best,

Eric

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Status Update to Town Council Regarding Mary Moretz Request for Historical Marker Regarding Burrell
July 14, 2020

Dear Mayor Brantz, Members of Council, and Town Manager Ward,

On August 15, 2019, Mary Moretz appeared before the Boone Town Council asking the Council to honor a man named Burrell with a statue, a marker, a monument, or some similar permanent fixture located somewhere within Boone's town limits. After some discussion, Town Council members voted "that the Town Manager work with Ms. Moretz and the Historic Preservation Commission to formulate a plan for a historical marker in an appropriate place on the Rivers property, near the Daniel Boone statue on campus or on Water/Burrell Street." This memo serves as an update to Town Council regarding their request that the Boone Historic Preservation Commission explore the potential for a marker in Burrell's honor.

Following direction from the Boone Town Council, Mary Moretz appeared before the HPC in late 2019 to share various materials referencing Burrell and to make some additional comments about her request. These materials included a list of sources purporting to "verify the authenticity of Burrell," a brief manuscript prepared by Moretz entitled "In Search of Burrell," a timeline of Benjamin Howard's life, a printout of the Findagrave page for Colonel Isbell, a photocopy from microfilm and a transcription of Benjamin Howard's 1828 will, a transcription of Mary "Polly" Howard's 1836 will, a brief biographical excerpt on Benjamin Howard from *Notable Southern Families,* a printout of the 1840 US Census Slave Schedule entry for Thomas Isbell, and a couple of other articles related to Benjamin Howard.

According to materials provided by Mary Moretz, Burrell was born enslaved around 1745 and was legally the property of Benjamin Howard (1742-1828), who lived in Wilkes County but owned much of the land that is now part of Boone. Howard grazed cattle on his high country lands summer and fall. According to Howard and Isbell family sources, one of his cowherds was Burrell, who was often left alone for months at a time in the mountains to tend to the herds. Upon the death of Benjamin Howard, his daughter Mary inherited Burrell, and she in turn left Burrell to her daughter Prudence when she died. Moretz has speculated that Burrell remained enslaved by Thomas Isbell, Sr., at the 1840 Census, although there is no clear evidence for this. According to Arthur, Burrell spent the later years of his life in a cabin on the Yadkin River, probably in Wilkes County.

In May 1909, local historian John Preston Arthur interviewed Colonel James Martin Isbell (1837-1913, grandson of Thomas Isbell, Sr.) of King's Creek, Wilkes County, NC. Isbell was a great grandson of Benjamin Howard. Isbell recalled that when he was a boy, perhaps around 1845, when he was 7 and Burrell was over 100 years old, Burrell told him stories of leading Daniel Boone and a hunting party over the Blue Ridge into southwest Virginia and northeast Tennessee in the winter months of 1761. Arthur published brief versions of Isbell's reminiscences in a 1914 *Skyland*

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Magazine article entitled "Trail of Daniel Boone" and in two books: *A History of Western North Carolina* (1913) and *A History of Watauga County* (1915). In each publication, Burrell is mentioned in a single paragraph.

HPC members' subsequent research shows that all references to Burrell provided by Moretz (aside from the will documents) derive from Arthur's brief mentions of Burrell in the works cited above. A lengthier, full-page account of Arthur's search for Daniel Boone's path through Watauga County also appeared in the *Charlotte Daily Observer* on May 1, 1910, and is appended as a PDF hereto. It also references Burrell on two occasions (as well as a possible descendant, Burrill, who was living at or near Benjamin Councill's brick house in Vilas prior to 1865) and appears to be the basis for Arthur's later accounts.[1]

Unfortunately, a lone interview with an elderly man recalling stories from his youth 60 or more years prior to the interview, which were in turn based on secondhand stories that were at least 80 years old when they were relayed to him by a man well over the age of 100, is a scant foundation for historical certainty. Of additional concern is that the sole purpose of Burrell's mention in these interview recollections was to establish Daniel Boone's association with the vicinity of Boone, North Carolina, nearly 150 years after the fact, rather than to document Burrell's association with the area or his history as an enslaved person with what must have been a remarkable degree of agency and power in colonial America. Such a narrative, presented as it was in the 1910s, carries with it implications of the insulting, degrading, and ahistorical "happy slave" trope that was so common to southern historical writing of the early twentieth century. In short, it was not Burrell's actual history that Arthur hoped to document by invoking Burrell's name.

During the period from 1909 to 1915, John Preston Arthur and his close friend, Col. William Lewis Bryan, were shameless promoters of the idea that Daniel Boone had camped and hunted at Boone, as well as passed through the area on his route west. Both men played substantial roles in the effort to mark the alleged trail of Daniel Boone and to erect the Daniel Boone Monument on the purported site of the Boone/Howard cabin near Boone Creek in order to drive tourism through the town of Boone. Bryan, in fact, was Boone's first mayor and held the position off and on for a total of 25 years. The early twentieth century was rife with various schemes dreamed up by Boone's leaders to draw visitors to the sleepy, underdeveloped, and remote county seat, and there's a fair amount of evidence that the truth was often sacrificed to what sounded "truthy" during this period. In a footnote on page 142 of Arthur's history of Watauga County, Arthur explained that most of the facts for his chapter on the history of Boone came from Bryan and his wife, rather than from any rigorous, primary source research of his own: "I am also indebted to them for so much other information which I have embodied in this book, that to credit them

[1] As an aside, please note that the photo of the modern (1910) Daniel Boone memorial cabin is from Boone's Ford in Davidson County, not from the alleged Boone/Howard cabin at Boone, North Carolina.

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with each item would be almost impossible. Colonel Bryan, indeed, is almost as much the author of the work as I am myself." Sadly, the circumstances suggest that these men were once again exploiting Burrell's life and history, even in death, to serve a cause to which Burrell remained, in their eyes, a convenient but disposable tool.

In short, the HPC is deeply concerned about the optics and ethics of erecting an historical marker to an enslaved person based solely on the third-hand accounts of white men engaged in using his memory to promote a marketing scheme, especially since at least one of those men was an avowed Confederate apologist and Lost Cause proponent (see attached). That said, the concerns of the HPC should not, under any circumstances, be construed as an assertion that Burrell did not exist or that he did not serve as Benjamin Howard's enslaved cowherd in the valley where the Town of Boone now lies. It is probably true that Burrell lived part of his life in or near what is now Boone and toiled as a cowherd for Benjamin Howard in this area in the fair weather months. It is certainly possible that Burrell accompanied and provided direction to Daniel Boone's hunting party as an enslaved person on the first leg of Boone's initial trek over the Blue Ridge in the winter months of 1761.

Unfortunately, though, the readily available, primary source evidence found to date is far from sufficient to rise to the necessary standard for documenting and justifying an historical marker in Burrell's honor. Evidence about the rest of Burrell's life and contributions may indeed be lost to history. At best, present documentation affirms a local tradition regarding Burrell that dates to the early twentieth century, and while this is intriguing in its own right, this does not meet the documentation standards for the Town of Boone historical marker program or the North Carolina Historical Marker program on which the Town program is based. Further investigation of Burrell and his contributions to Boone's early history would require money and time to search records in the state archives in Raleigh as well as local historical society offices in Yadkin and Wilkes County. The HPC members are concerned that these additional investigations would be costly and unlikely to reveal further significant information about Burrell. Instead, the members of the HPC believe that this money and time would be better spent on other projects—including those focusing on Boone's people of color whose contributions are more tangible and easily documented—that are likely to meet the professional, ethical, and documentary standards to which the members of the HPC are obligated, both under North Carolina law and as part of their existing professional associations.

The members of the HPC instead note that Town Council has already seen fit to rename a portion of Water Street as Burrell Street in Burrell's honor. In lieu of an historical marker in Burrell's honor, the HPC recommends that the Town website be updated, alongside other historical information previously prepared by the HPC about the Town's historic sites, to contextualize and explain the longstanding, local tradition of Burrell's association with the valley where the Town of Boone lies. The HPC will gladly assist in preparing an historically appropriate and contextualized narrative to meet this purpose.

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CHAPTER 13 - CEMETERIES

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CHAPTER 13 - CEMETERIES

Article I - Definitions: Application

Section 13-1 Definitions.

Unless the context otherwise indicates, the following words shall have the meaning indicated when used in this chapter.

(1) ***Administrator***. The public works director or other person designated by the Board to perform the functions and exercise the responsibilities assigned by this chapter to the administrator.

(2) ***Lot.*** A plot of ground within the town cemetery, having dimensions of five feet by ten feet, and intended as a place of interment for one person.

(3) ***Marker.*** A plaque installed at ground level at the site of a grave to indicate the name, date of birth, and date of death of the person buried there.

(4) ***Mausoleum***. A structure or building substantially exposed above ground intended to be used for the entombment of remains of a deceased person.

(5) ***Monument***. A memorial stone or other structure erected at a gravesite in remembrance of the dead.

Section 13-2 Application of Provisions.

The following sections apply to all cemeteries within the town: Sections 13-3, 13-4, 13-5, and 13-6. The remaining sections of this chapter apply only to cemeteries owned or operated by the town.

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CHAPTER 13 - CEMETERIES

Article II - General Regulations

Section 13-3 Burial Only in Cemeteries.

No person may bury or cause to be buried the body of any deceased person within the town limits in any place other than a church cemetery or a cemetery operated by a governmental entity or a private cemetery licensed or specifically exempted from licensing according to the North Carolina Cemetery Act (Article 9 of G.S. Chapter 65).

Section 13-4 Disruptive Activity Prohibited.

(A) No person may drive any motor vehicle of any kind in any cemetery except upon the main roads and avenues provided therein for vehicular traffic.

(B) No person may drive any motor vehicle or park any motor vehicle in any cemetery unless in attendance at burial services or otherwise engaged in activities consistent with the use of a cemetery as a cemetery.

(C) No person may take any dog, horse, or other animal into any cemetery or allow any animal to run at large therein.

(D) No person may intentionally disrupt any funeral services or disturb the quiet and good order of any cemetery by extremely loud or boisterous conduct. Except in the case of military funerals and veterans or military commemorative exercises, no person may carry or discharge firearms in any cemetery.

(E) No person may post or attach any bills, posters, placards, pictures or other form of political or commercial advertising within the cemetery or on the inside or outside of any wall or fence enclosing any cemetery.

Section 13-5 Desecration of Public and Private Cemeteries.

(A) As provided in G.S. 14-150.1, if any person shall willfully commit any of the acts set forth in the following subdivisions, he shall be guilty of a misdemeanor and shall be fined not more than one-hundred dollars ($100.00) or imprisoned for not more than thirty days, or both, in the discretion of the court.

(1) Throwing, placing, or putting any refuse, garbage, trash, or articles of similar nature in or on a public or private cemetery where human bodies are interred.

(2) Destroying, removing, breaking, damaging, overturning, or polluting any flower, plant, shrub, or ornament located in any public or private cemetery where human bodies are interred without the express consent of the person in charge of said cemetery.

Provided nothing contained in this section shall preclude operators of such cemeteries from exercising all the powers reserved to them in their respective rules and regulations relating to the care of such cemeteries.

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Section 13-6 Removing or Defacing Monuments and Tombstones.

As provided in G.S. 14-140, if any person shall, unlawfully and on purpose, remove from its place any monument of marble, stone, brass, wood, or other material, erected for the purpose of designating the spot where any dead body is interred, or for the purpose of preserving and perpetuating the memory, name, fame, birth, age or death of any person, whether situated in or out of the common burying ground, or shall unlawfully and on purpose break or deface such monument, or alter the letters, marks or inscription thereof, he shall be guilty of a misdemeanor. Provided that nothing contained in this section shall preclude operators of public or private cemeteries from exercising all the powers reserved to them in their respective rules and regulations relating to the use and care of such cemeteries.

Section 13-7 Hours of Operation.

(A) The town cemetery shall remain open to the public throughout the year from sunrise until sunset.

(B) No person may enter the town cemetery at any time other than the hours of operation established by subsection (A).

Section 13-8 Trees, Plantings, Landscaping.

(A) No person may plant, prune, or remove any tree, shrub, flower, grass or other plant of any kind except with the consent of and in accordance with the directions of the cemetery administrator.

(B) The cemetery administrator may enter any lot and remove or trim any tree, shrub, or other plant that encroaches upon any other lot or any walkway, or driveway, or other part of the cemetery.

(C) The cemetery administrator may remove from the cemetery all floral designs, flowers, weeds, or plants of any kind from the cemetery as soon as they deteriorate or otherwise become unsightly.

(D) Artificial flowers used in floral decorations may be used in the cemetery but a limit of two months is established as a reasonable period of use of such decorations. After two months such arrangements will be removed and disposed of by the cemetery administrator.

Sections 13-9 and 13-10 Reserved.

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CHAPTER 13 - CEMETERIES

Article III - Designation and Sale of Cemetery Lots

Section 13-11 Cemetery Map Required.

(A) There shall be maintained in the town clerk's office an official cemetery map which shall depict, as accurately as possible, the boundaries of the town cemetery and the location and dimension of all lots within the cemetery.

(B) Burial rights in all lots shall be sold in reference to the official cemetery map.

Section 13-12 Purchase of Burial Rights.

(A) The town shall sell burial rights in cemetery lots in accordance with the provisions of this chapter and the schedule of fees adopted and revised from time to time by the Board, a copy of which schedule shall be maintained in the office of the town clerk. Under this schedule differential fees may be charged according to whether the person purchasing a lot or intended to be buried in such lot is or is not a bona fide resident of the town at the time of purchase.

(B) A deed or certificate of burial right shall be issued to the person who purchases a burial right. The deed or certificate shall identify the purchaser and the specific lot or lots to which the deed or certificate applies.

Section 13-13 Rights of Owner of Deed or Certificate of Burial Right.

(A) The deed or certificate of burial right entitles the owner thereof (i.e., the purchaser) to use the designated lots as a place of burial, subject to the terms and conditions of this ordinance and subject to the town's authority to operate, regulate, control, and abandon cemeteries.

(B) Upon the death of the owner of a deed or certificate of burial right, all rights evidenced by such deed or certificate shall pass to the owner's heirs, legatees, or devisees in the same manner as other interests in personal property.

Section 13-14 Speculation in Burial Rights Prohibited.

(A) No person may purchase or otherwise acquire any burial right for the purpose of sale or exchange.

(B) No person may sell or exchange any burial right for a profit or gain.

Sections 13-15 and 13-16 Reserved.

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CHAPTER 13 - CEMETERIES

Article IV - Mausoleums, Monuments, and Markers

Section 13-17 Mausoleums.

No mausoleums may be placed or located within a town cemetery after the effective date of this chapter.

Section 13-18 Monuments.

Monuments may be placed only in areas so designated on the Town Cemetery plat of record. Such designated area may be enlarged, reduced or eliminated in accordance with the provisions for the amendment of Town Ordinances.

[Amended October 14, 1986]

Section 13-19 Markers.

Individual lots shall be marked with a bronze or stone marker placed flush with the ground on an apron. Such marker may not exceed 7 '6 " in length or 36" in width. Double markers may be used if the combined width does not exceed 72".

Section 13-20 Reserved.

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CHAPTER 13 - CEMETERIES

Article V - Penalties and Remedies

Section 13-21 Penalties and Remedies.

(A) A violation of any of the following provisions shall constitute a misdemeanor, punishable as provided in G.S. 14-4: Sections 13-3, 13-4, 13-7, 13-8, 13-14, 13-17, 13-18, and 13-19.

(B) Violations of any of the sections listed in subsection (A) shall also subject the offender to a civil penalty of one hundred dollars ($100.00). If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.
[Amended July 13, 1993]

(C) The town may seek to enforce this chapter through any appropriate equitable action.

(D) Each day that a violation continues after the offender has been notified of the violation shall constitute separate offense.

(E) The town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

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Chapter 7 - CEMETERIES

ARTICLE I. - IN GENERAL

Sec. 7-1. - Mission and purpose; recognition of rights of all.

(a) This chapter is to set forth the rules and regulations which apply to all activities and rights of burial in the any Hickory Cemetery, as defined hereafter, regardless of when the rights of burial or other rights may have been created.

(1) This chapter and the rules and regulations contained herein are subject to revision by the city at any time, and such amendments or changes may be retroactive.

(2) This chapter supercedes any previous rules, regulations, policies or ordinances pertaining to the administration, maintenance or operations of the cemeteries by the city.

(b) The mission of the municipal cemetery is to provide a place for the safe and sanitary interment of deceased humans, thereby protecting the health, safety and well being of the residents of the city.

(1) In carrying out the mission of the municipal cemetery, it is recognized that the grounds of the cemeteries are sacredly devoted to the interment and memorialization of the honored dead.

(2) As a manifestation of the respect and affection which the community bestows upon those who are buried here, it is intended that all cemeteries be perpetually areas of quiet beauty and serenity, to beckon the living as well as to provide repose for the dead.

(c) It is the desire of the city to extend the greatest freedom possible to all who have either purchased interment sites in a municipal cemetery or who have ancestors or loved ones interred there.

(1) The interest of every individual who uses the cemeteries is identical and shall be subject to all the rules and regulations governing any municipal cemetery.

(2) No individual or group of individuals will be permitted to do that which may restrict or infringe upon the rights of others or mar the beauty and sacredness of the cemeteries.

(d) The use of any municipal cemetery for any purpose whatsoever shall be subject to the ordinances, rules and regulations established in this chapter.

(1) It shall be unlawful to bury any human within the corporate limits of the city, other than in a properly designated cemetery.

(2) It shall be unlawful to scatter or dispose of any human cremains or ashes within the confines of any cemetery of the city other than by interment as set forth herein.

(Amend. No. 7, 5-17-05)

Sec. 7-2. - Definitions.

Body or *bodies* means the corporeal remains of a human after death.

Bronze means any of various alloys of copper, with or without tin, and antimony, phosphorus, or other components used in the creation of monuments or markers. The primary characteristic of bronze as relates to this use is that it is non-corrosive and withstands exposure to the elements for long periods of time without substantial deterioration.

Burial lot. See "burial space".

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Burial right. See "interment right".

Burial space means the ground space or columbarium niche designated in the cemetery intended or used for the interment of human remains.

Casket means a rigid container designed to contain a human body prior to burial in the ground or entombment in a mausoleum.

Cemetery or *cemeteries* means an area of land together with the various improvements and embellishments thereon dedicated to the burial, entombment, inurnment and memorialization of the human dead. Unless a particular cemetery is designated, the word "cemetery" or "cemeteries" shall include all municipally owned or operated facilities.

Fairview Cemetery. Beginning at a P.K. nail located at the point of intersection of the east margin of 18th Street Northwest with the south margin of a street maintained by the City of Hickory for use with its Fairview Cemetery, said P.K. nail being the northwest corner of Siecor Operations, L.L.C. property described as Tract No. 4 in Deed Book 2062 at Page 127, and running thence from the aforementioned P.K. nail as the south margin of the aforementioned cemetery street and the north line of Siecor Operations, L.L.C. Tract No. 4 South 83 degrees 21 minutes 40 seconds East 634.76 feet to a point; thence South 5 degrees 41 minutes 10 seconds West 2.33 feet to an iron the northwest corner of Siecor Operations, L.L.C. property described as Tract No. 1 in Deed Book 2062 at Page 127; thence as the north line of Tract 1 South 86 degrees 14 minutes East 246.30 feet to an iron stake in the west margin of 17th Street Northwest the northeast corner of Siecor Operations, L.L.C. Tract No. 1; thence as the west margin of 17th Street Northwest in a northward direction a distance sufficient to reach the point of intersection of said margin with the south line of the Houck's Chapel Cemetery property; thence as said line North 83 degrees 28 minutes West about 900 feet to the west margin of 18th Street Northwest; thence as said margin South 4 degrees 17 minutes East 223.80 feet to the point of beginning.

Oakwood Cemetery. Beginning at an existing iron rod in the north right-of-way line of 4th Avenue Northwest (formerly known as 14th Avenue), said rod being located South 88 degrees 48 minutes 16 seconds East 119.30 feet from the point of intersection of the east right-of-way line of 4th Street Northwest with the north right-of-way line of 4th Avenue Northwest, said existing iron rod being the southeast corner of Robert Glenn Walker, Jr.'s property described in Deed Book 2261 at Page 841; running thence as walker's east line North 3 degrees and 19 minutes and 25 seconds West 144.59 feet to an iron pipe in a south line of Lacy Pauline Starnes lands described in Deed Book 1123 at Page 758; thence as Starnes' south line South 87 degrees East 30.8 feet to an iron stake; thence as Starnes' east line North 2 degrees 31 minutes East 49.6 feet to an iron stake, the southeast corner of H. Dennis Underwood's property described in Deed Book 1764 at Page 91, thence as Underwood's east line North 5 degrees 12 minutes 42 seconds West, 52.92 feet to a ¾ inch existing iron pipe, the southeast corner of Gloria J. Trull's property as described in Deed Book 2412 at Page 1919; thence as Trull's east line North 3 degrees 11 minutes East 49.91 feet to a 1-inch iron rod, the southeast corner of Ian Saarinen Taylor's property described in Deed Book 2496 Page 160; thence as Taylor's east line North 3 degrees 11 minutes East 49.89 feet to a 1 inch iron rod; thence as Taylor's north line North 86 degrees 51 minutes 01 seconds West 151.32 feet to a ¾ inch existing iron rod in the east right-of-way line of 4th Street Northwest (formerly known as 15th Street.) In running thence as the east right-of-way line of said 4th Street Northwest, North 3 degrees 11 minutes East about 578 feet to a point; thence continuing as the east right-of-way of said 4th Street Northwest North 37 degrees 30 minutes East 210 feet to an iron stake, the western most corner Margaret Candace Whitener Punch's property as described in Deed Book 2208 at Page 21; thence as the south line of Punch's property South 61 degrees 15 minutes East 151.57 feet to an iron stake; thence the east line of Punch's property North 38 degrees 15 minutes East 100 feet to an iron stake; thence as the north line of Punch's North 51 degrees 45 minutes West 149.47 feet to a point in the east right-of-way line in the aforementioned 4th Street Northwest; thence as said right-of-way line North 37 degrees 06 minutes East 143 feet to a point in the center of Cripple Creek, said point being the northwest corner of properties conveyed to the City of Hickory

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by the Hickory Community Foundation, Inc. and described in Deed Book 891 at Page 45; and running thence as Cripple Creek and the south line of properties formerly owned by Hickory Community Foundation, Inc. and now known as YMCA property the following calls: South 65 degrees 38 minutes East 86.8 feet, South 75 degrees 52 minutes East 93.48 feet, South 55 degrees 04 minutes East 52.65 feet, South 70 degrees 23 minutes East 76.55 feet, South 49 degrees 24 minutes East 424.05 feet, South 72 degrees 59 minutes East 27.8 feet, South 38 degrees 58 minutes East 56.8 feet, South 45 degrees 12 minutes East 144.75 feet, South 6 degrees 18 minutes East 126.4 feet, South 13 degrees 41 minutes East 152.4 feet to the northwest corner of Paul E. Culpepper's property as described in Deed Book 1942 at Page 819 in Cripple Creek; thence as Cripple Creek and the western lines of said Culpepper property the following calls: South 8 degrees 53 minutes 17 seconds East 44.09 feet, South 18 degrees 23 minutes 25 seconds East 89.41 feet, South 10 degrees 18 minutes 22 seconds East 49.37 feet to a point in said Cripple Creek, the northwest corner of Nathan Moretz' property as described 2464 at Page 1944; thence as Cripple Creek and Moretz west line South 15 degrees 04 minutes 26 seconds East 95.47 feet to the northwest corner of John C. Eldridge's property as described in Deed Book 2162 at Page 252; thence as Cripple Creek and Eldridge's western lines the following calls: South 4 degrees 33 minutes 34 seconds West 69.35 feet, South 9 degrees 59 minutes 51 seconds West 47.65 feet, South 20 degrees 36 minutes 53 seconds West 55.42 feet to a point in Cripple Creek the northwest corner of John Chapman Eldridge's property described in Deed Book 1280 at Page 553; thence as said Creek and Eldridge's west line South 10 degrees 22 minutes West 93.8 feet to a point in the north right-of-way line of 4th Avenue Northwest (formerly known as 14th Avenue); thence as the north right-of-way line of 4th Avenue Northwest in a westerly direction approximately 1050 feet to the point of beginning.

Ridgeview Cemetery.

Tract 1—Beginning at a point, said point being the intersection of the southwest right-of-way line of 3rd Street Court SW with the southeast line of Stanley J. Corne property as described in Deed Book 2357 at Page 1901 and running thence as the southwest right-of-way line of 3rd Street Court SW in a southeastwardly direction about 600 feet to the point of intersection of the southwest right-of-way line of 3rd Street Court SW and the northwest right-of-way line of 8th Avenue Drive SW; thence as the northwest right-of-way line of 8th Avenue Drive SW in a southwestwardly direction a distance sufficient to reach the point of intersection of the northwest right-of-way line of 8th Avenue Drive SW and the northeast right-of-way line of 4th Street SW; thence as the northeast right-of-way line of 4th Street SW in a northwestwardly direction about 640 feet to a point, the southwest corner of the aforementioned Stanley J. Corne property; thence as Stanley J. Corne southeast line North 65 degrees 52 minutes East about 270 feet to the beginning.

Tract 2—Beginning at a power pole, the southeast corner of the First National Bank property as described in Deed Book 2182 at Page 1638 and running thence as east lines of said First National Bank property the following calls: North 26 degrees 39 minutes 47 seconds East 47.00 feet to an iron pin; thence North 51 degrees 08 minutes 49 seconds East 258.25 feet to an iron pin in the southwest right-of-way line of 4th Street SW; thence as the southwest right-of-way line of 4th Street SW South 25 degrees East about 405 feet to a point, the northernmost corner of Herbert Lee Ketcham property as described in Deed Book 461 at Page 110; thence as Ketcham northwest line South 54 degrees 25 minutes West 214.03 feet to its point of intersection with the northeast right-of-way line of U.S. Highway 64-70 (75 feet from the center); thence as the northeast right-of-way line of U.S. Highway 64-70 in a westwardly direction a distance sufficient to reach the southeast corner of Lot 5 of the City of Hickory Property as shown on a map by T.R. Morris, Registered Surveyor, dated July 9, 1957 and being filed as map 4A-44 in the City of Hickory City Engineering Office; thence as the east line of said Lot 5, North 27 degrees 07 minutes East 150.00 feet, to the point of beginning.

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Robinson Cemetery. Beginning at an iron stake in the south margin of 1st Avenue Southeast (formerly 9th Avenue) the northeast corner of Cleveland Investments Inc. property described in Deed Book 468 at Page 7 and running thence as the east line of said Cleveland Investments Inc. property South 2 degrees 25 minutes West 299.75 feet to an iron stake in the north margin of 2nd Avenue Southeast (formerly 8th Avenue); thence as the north margin of 2nd Avenue Southeast in an eastwardly direction a distance sufficient to reach an iron stake in said margin the southwest corner of Brian K. Gadoury property described in Deed Book 2228 at Page 76; thence as Gadoury west line North 5 degrees 11 minutes East 263.81 feet to an iron stake in the south margin of 1st Avenue Southeast; thence as the south margin of 1st Avenue Southeast in a westerly direction a distance sufficient to reach the point of beginning.

Southside Cemetery. Beginning at a point where the north right-of-way line of Interstate Highway 40 intersects the west property line of the City of Hickory property described in Deed Book 516 at page 507 and running thence (bearings and distances from this point are from drawing number 20A-11 office of the City Engineer, City of Hickory) as the old line North 4 degrees 15 minutes 20 seconds East 336.15 feet to the southwest corner of Lot 15 of Block A of the Lyerly Subdivision shown in Plat Book 13 at page 96; thence leaving the old line as the south lines of Lots 15, 16, 17, 18, and 19 Block A of the aforementioned Lyerly Subdivision the following calls North 84 degrees 44 minutes East 475.53 feet; thence as the southeast lines of Lots 19 and 20 North 48 degrees 52 minutes East 208.65 feet to the southernmost corner of Lot 21; thence as the southwest lines of Lots 22 and 23 South 54 degrees 15 minutes 40 seconds East 156 feet; thence as the southeast line of Lot 23 North 47 degrees 33 minutes 40 seconds East 200.21 feet to a point in the center of the 50 foot right-of-way of 14th Avenue Drive Southwest; thence (bearings and distances from this point are from sheet number 9 of state project 8.1792202) as the center of said right-of-way South 37 degrees 58 minutes 14 seconds East 109.03 feet to the point of curvature; thence as the center of the aforementioned right-of-way a curve to the left having a Delta angle of 45 degrees 27 minutes 55 seconds, an arc length of 192.15 feet and a chord bearing and distance of South 60 degrees 42 minutes 12 seconds East 187.14 feet to a point in the west right-of-way line of North Carolina Highway 127; thence as said right-of-way line South 7 degrees 21 minutes 24 seconds West 48.40 feet; thence as said right-of-way South 18 degrees 26 minutes 26 seconds West 288.83 feet to a point in the north right-of-way line of Interstate Highway 40 (bearings and distances from this point are from drawing number 20A-11 office of the City Engineer, City of Hickory); thence as the north right-of-way line of Interstate Highway 40 the following calls South 78 degrees 44 minutes West 399.10 feet; thence North 69 degrees 57 minutes West 116.13 feet; thence South 87 degrees 12 minutes West 567.20 feet to the beginning.

Cemetery deed means that document which conveys to an individual or individuals the right to inter the remains of a deceased human being in a particular burial space. Includes a columbarium niche purchase agreement for purposes of this chapter.

Cemetery hours means those hours when a cemetery shall be open for business, as established by this chapter and the cemetery sexton.

Cemetery sexton. See "sexton".

City means the City of Hickory, North Carolina.

Columbarium means a structure, either freestanding or part of another building, containing niches for the inurnment of cremated human remains.

Columbarium niche means a space within a columbarium used or intended to be used for inurnment of cremated human remains. Each columbarium niche contains space for two cremains.

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Columbarium niche purchase agreement means that document establishing the right of an individual or individuals to request the inurnment of cremated human remains in a particular space in the columbarium, and outlining, in conjunction with the provisions contained in this chapter, the terms and conditions thereof.

Contractor means any person, firm, or corporation, other than an employee of the city, erecting or repairing any memorial, delivering any material, or performing any work in the cemetery.

Cremains means the ashes that remain after cremation of a human corpse; sometimes referred to as cremated human remains.

Cremation burial space means a designated parcel within the city cemetery for the purpose of interment of cremated human remains in the earth, generally two feet by two feet in dimension.

Cremation burial vault means a container made of concrete or other suitable material as approved by the city, for the purpose of containing an urn in the earth.

Crypt means a space in a mausoleum or lawn crypt which is designated to receive a casket or caskets.

Decorations means an object or objects of a decorative nature such as, but not necessarily limited to, natural or artificial flowers, wreaths, candles, pin wheels, hangars, balloons, flags, rocks, sculpture, toys or other items, other than grave markers as defined herein, which may be placed on burial spaces or memorials.

Disinter or *disinterment* means to dig up or remove from a grave, tomb or niche. Disinterment does not include relocation of remains from a temporary location to a place of permanent burial.

Easter season means that period of time beginning at 8:00 a.m. On Thursday prior to Easter Sunday of each year, and ending at 5:00 p.m. on the Thursday following Easter Sunday.

Embalm means a procedure where human remains are chemically treated by injection and/or topical application for temporary preservation, including, but not limited to, the act of disinfecting, preserving, and restoring the human remains to a natural life-like appearance.

Entomb or *entombment* means the act of placing human remains in a crypt.

Exhume or *exhumation.* See "disinterment".

Family mausoleum. See "multiple interment mausoleum".

Family burial space. See "multiple grave burial space".

Floral arrangement means a collective mass of natural or artificial cut flowers bound together in order to create a aesthetically appealing unit which may then be inserted in a vase or attached to the top of a monument.

Floral frame or *flower rack* means a metal or wooden device used to display floral arrangements at or near a burial space, without attaching the floral arrangement to the monument or marker.

Foot or *foot end* means that end of a burial space furthest away from a monument.

Funeral director means a person, licensed by the State of North Carolina, who manages a mortuary.

Granite means a common, coarse-grained, light-colored, hard igneous rock consisting chiefly of quartz, orthoclase or microcline, and mica, used in monuments and for building.

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Grave liner means a commercially prepared receptacle made of concrete, metal or synthetic material which will not degrade when exposed to the earth into which a casket is placed for interment in the ground.

Gravesite. See "burial space".

Head or *head end* means the end of a burial space which is designated for the placement of markers or monuments.

Holiday season means that period beginning at 8:00 a.m. on the Thursday preceding Thanksgiving, and continuing through 5:00 p.m. the following January 4.

Human or *human being* means a member of the species *homo sapien.*

Infant burial lot means a burial lot, two feet by two feet, intended for the interment of infants or small children. Two infant burial lots may be located in the space of one standard burial lot, or an infant burial lot may be included either at the head or foot of a standard burial lot, or in the place of a cremation burial space.

Inter means to bury or place a human body or cremains in a grave, tomb or niche.

Interment means the disposition of human remains by burial in the earth, entombment in a mausoleum or inurnment in a columbarium.

Interment right means the inheritable right to specify the identity of a human, including the holder of such right, to be interred in a specified burial space, mausoleum crypt, or columbarium niche; sometimes called "burial right".

Interment service means the rite or ritual held in the cemetery at the time of interment; commonly referred to as "graveside services".

Inurnment means to enclose in an urn either in the ground, a mausoleum, or columbarium niche.

Lawn crypts means burial vaults, intended to hold either one or two caskets, placed underground prior to the actual interment of a human body.

Ledger means a solid slab of marble, granite or bronze designed to completely cover a burial space at grade level; sometimes called a "slab".

Lot means a particular single burial space in the earth, approximately four feet by ten feet, normally designated by map numbers and location within the cemetery, in which rights are transferred pursuant to a cemetery deed.

Lot owner means the owner of interment rights in a burial space.

Marble means a metamorphic rock formed by alteration of limestone or dolomite, often irregularly colored by impurities, and used especially in architecture and sculpture.

Marker means any memorial stone complying with the requirements of this chapter laying flat on the ground, generally set flush with the level of the turf.

Marker row means areas among burial spaces where privileges are granted to memorialize the burial of an individual in a cemetery with the installation of a marker when the actual location of the burial space for such person is either unknown or is located in a place other than the cemetery.

Mausoleum means a building or structure housing crypts, normally extending above the ground.

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Memorial means any monument, marker, tablet, name plate, or structure placed upon or in any place of interment or elsewhere in the cemetery for the purpose of identification or in memory of a deceased person or persons.

Memorial season means that period of time beginning on the Friday in May immediately preceding Mother's Day, and continuing through 5:00 p.m. on the Monday in June following the subsequent Father's Day.

Monument means any memorial set upright or perpendicular to the grade consisting of two or more pieces joined and designed to be used as a single unit.

Mortuary means a place of business used in the care, planning, and preparation for final disposition or transportation of human remains, including, but not limited to embalming human bodies, arranging and conducting funerals.

Mowing season means that period of time, from approximately April 1 through October 31, during which mowing and lawn maintenance is normally necessary. The mowing season for a particular year may be extended or shortened by the cemetery sexton depending on weather conditions that season.

Multiple grave burial space means any contiguously located burial spaces in the ground purchased with the intent that they be treated as a unit for purposes of interment of members of the same family, religious, fraternal or other group.

In order to be considered a multiple grave burial space, the owners of burial spaces included must indicate to the cemetery sexton, in writing, the desire to have the lots considered as a multiple grave burial space.

After designation as a multiple grave burial space, such designation may not be removed except upon written request of all owners of burial rights in all involved lots, whether occupied or not, prior to the placement of any monument, bench or marker on the multiple grave burial space.

Multiple interment mausoleum means a mausoleum privately purchased and installed for the use of individuals who have bound particular burial spaces together as a multiple grave burial space.

Municipal holiday means any day recognized by the City of Hickory as a holiday, when city offices are closed to normal business.

Niche means a compartment in a columbarium for holding urns or containers of cremated remains.

Office hours means those hours during which the cemetery sexton shall be normally available to conduct business.

Original purchaser means the individual or individuals who purchase a burial space directly from the City of Hickory, as opposed to having inherited such right. An individual who acquires a burial space from an individual other than the city, but who obtains the approval of the city for such conveyance, shall be treated as an original purchaser for purposes of this chapter.

Outer burial container means a commercially available crypt or underground receptacle, usually made of concrete, steel, fiberglass or other rigid synthetic material which is used for interment in the ground and which is designed to encase and protect caskets or similar burial devices and prevent the earth surrounding the burial space from collapsing or sinking. Sometimes referred to as a vault or grave liner.

Owner means the owner of interment rights in a particular burial space.

Perpetual care means keeping the established sod in good condition, reasonably free of weeds and debris, keeping markers flush with the turf, cutting grass at proper intervals and otherwise taking such actions as may be authorized by the city to insure the cemeteries are kept reasonably neat in appearance forever.

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Sexton means the city co-worker designated by the city manager to oversee the maintenance and operations of the cemetery.

Slab means a flat stone, bronze or granite memorial covering the entire grave; see "ledger".

Standard burial space means an area, normally four feet wide and ten feet long, platted and intended for the interment of human remains in the earth in a casket.

Tomb means any gravesite, regardless of whether the same shall be in the earth, a mausoleum or columbarium.

Urn means any vase or container used for preserving the ashes of a dead human after cremation.

Vase means a marble, granite or bronze container integral to or permanently attached to a monument or marker which is designed to hold floral arrangements.

Vault. See "outer burial container".

(Amend. No. 7, 5-17-05)

Secs. 7-3—7-15. - Reserved.

ARTICLE II. - CEMETERY OPERATION

Sec. 7-16. - Operations.

(a) It shall be the duty of the city manager to have charge of the cemeteries of the city and to have the same kept in good order and worked and cultivated as provided in this chapter.

(b) The city manager may appoint a cemetery sexton or such other employees as may, in the opinion of the city manager, be necessary to oversee daily operations of the cemeteries, and may delegate or vest such authority in such individuals as the city manager may deem appropriate.

(c) For purposes of this chapter, duties and responsibilities shall be ascribed to the cemetery sexton, which shall include the individual charged with the duties attributable thereto, as well as any supervisor of such individual, to and including the city manager.

(Amend. No. 7, 5-17-05)

Sec. 7-17. - Purchase of lots; prices, sale and management of burial spaces.

(a) Individuals desiring to purchase a burial space in the city cemetery must pay the fee designated for such burial space to the finance department of the city prior to use.

(1) The schedule of fees for cemetery charges shall be established by the city council annually as a part of the fee schedule adopted during the budget process.

(2) In the absence of an adopted fee schedule, the next preceding fee schedule shall be applied.

(b) The cemetery sexton may close the sale of burial spaces in the cemetery or any portions thereof as may, in the sexton's discretion, promote the orderly development and operation of the cemetery.

(1) Recognizing that many of the city's cemetery grounds have been in use in excess of a century, and that a significant number of unmarked graves are discovered during cemetery operations, the cemetery sexton is given the authority to close any cemetery or portion thereof when, in the sexton's opinion, the number

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of usable gravesites is significantly impacted by the number of unmarked graves.

a. Such authority shall carry the ability to determine whether the cemetery or portion thereof shall be closed solely to the sale of future gravesites, or whether no further apparently unused gravesites shall be opened for purposes of interment.

b. In the event that a cemetery or portion thereof has been closed to the opening of apparently unused gravesites, the cemetery sexton may make an exception if, in the sexton's opinion, the likelihood of a gravesite in question being previously occupied but unmarked is low given the information available either from the sexton's records, from information provided by next of kin or parties with knowledge of adjacent gravesites, or from other sources of information which may be available to the sexton.

(2) The cemetery sexton shall notify the city manager in writing of the decision to close any cemetery or part thereof, and the city manager shall thereafter notify the council.

(3) In the event that an original purchaser shall have previously purchased a burial space in an area which has been closed to the opening of further gravesites, such original purchaser shall be allowed alternative burial spaces in another city cemetery or, alternatively and at the option of the original purchaser of the interment rights for a particular gravesite, the original purchaser may receive a refund of the original purchase price paid. This right shall not extend to any individual other than the original purchaser.

(c) The cemetery sexton may limit the sale of burial spaces to a particular area or section of the cemetery until such time as the sale and use of such section warrants the opening of additional areas.

(Amend. No. 7, 5-17-05)

Sec. 7-18. - Limitation on sale of lots.

(a) An individual may purchase no more than eight contiguous standard burial spaces, sometimes known as a "family plot" or "multiple grave burial space" at any one time.

(1) No burial space may be purchased for speculation or sold for a price higher than that paid to the city.

(2) The city may repurchase from any individual desiring to convey and at the original sale price, burial spaces at any time prior to use.

(3) The city retains, in all burial spaces, the right to repurchase any lot offered for sale or attempted to be conveyed to any other individual if, in the opinion of the city, recovery of the burial space is necessary for the efficient operation of the cemetery or for any other reason.

(4) The city shall not be obligated to recognize any attempt to convey or transfer burial spaces unless the same shall have been submitted to and approved by the city on the appropriate form.

(b) Burial spaces will be sold to funeral homes or mortuaries only for purposes of interment of a specific individual, and may not be held by any individual or entity for speculation or resale.

(1) The sale of burial spaces to a funeral home or mortuary is intended as a convenience to the individuals and families affected by the death of a loved one, and to allow commercial entities to make arrangements on their behalf.

(2) Any funeral home or other commercial entity making arrangements for the purchase of a burial space shall remain responsible to the city for payment of fees associated with such purchase.

(3) Cemetery deeds intended to convey interment rights in a burial space shall be issued only to individual human beings, and not to any artificial or corporate entity.

(c) *Use of burial spaces.*

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(1) Burial spaces shall not be used until the fee for the same shall have been paid in full.

(2) A burial space immediately adjacent to a used or reserved space may be reserved for a period of 60 days from the date of use of the initial space. If the fee for such space shall not be paid within such time, the burial space shall be released and may be resold as any other lot.

(d) *Certificates and deeds.*

(1) Upon payment of the sum required, the finance director, or the finance director's designee, shall advise the cemetery sexton of the sale of the designated burial space.

(2) A cemetery deed, in the case of a burial space in the ground, or columbarium niche purchase agreement, as may be appropriate, shall be prepared and executed by the required municipal officials.

a. A cemetery deed shall be signed by the mayor or city manager, and shall be attested by the city manager or city clerk. The city manager may not sign as principal and attest the same document.

b. The city clerk shall retain records of the issuance of cemetery deeds. The primary responsibility for maintaining such records and physical location of the same may be assigned to other city departments with the approval of the city manager, although the city clerk shall retain ultimate responsibility for maintaining the records.

(3) The purchaser shall remain responsible for filing the cemetery deed with the registrar of deeds of the county where the cemetery is located.

a. The deed need not be filed with the register of deeds to be effective as between the city and the purchaser. However, in order to fully protect the purchaser's rights, it is strongly encouraged that the deeds be filed with the register of deeds. The purchaser is responsible for the expense of filing this document.

b. Columbarium niche purchase agreements shall not be recorded with the county registrar of deeds, but records of such sale shall be maintained by the city clerk.

(e) In the event of the loss or destruction of an original cemetery deed prior to the filing of the same with the registrar of deeds, the city clerk, upon concurrence with the staff attorney, may issue a replacement cemetery deed to the original holder without charge.

(1) If a replacement cemetery deed is requested by the original purchaser or a surviving spouse of the original purchaser remains alive, the replacement cemetery deed shall be reissued in the name of the original purchaser or the surviving spouse of the original purchaser, as may be appropriate.

(2) If the original purchaser is deceased and there is no surviving spouse of the original purchaser, a replacement cemetery deed may be issued to an individual purporting to be entitled to the burial space by reason of either being named as an heir, devisee or legatee of the burial spaces pursuant to a properly probated will or pursuant to the laws of intestate succession of the State of North Carolina.

a. In the event that an individual is claiming to be entitled pursuant to the laws of intestate succession, the burden of providing proof of such entitlement rests with the individual making such claim.

b. Prior to the issuance of a replacement cemetery deed to an individual claiming pursuant to a will or intestate succession, such individual shall execute an agreement to indemnify the city for any costs or loss incurred, including reasonable attorney fees, in the event that a challenge is raised as to ownership of the burial space.

(f) Conveyance of a burial space in a city cemetery, whether in the earth, a mausoleum or columbarium niche, does not imply ownership of the underlying fee estate, but instead carries only the right to use a location for the interment of a deceased human.

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(g) The use of any cemetery property is limited by the provisions of the North Carolina General Statutes, Hickory City any rules or regulations promulgated by any regulatory entity having jurisdiction for the safe, efficient and respe the city cemetery.

(Amend. No. 7, 5-17-05)

Sec. 7-19. - Descent of burial rights.

(a) Inasmuch as questions will arise as to the rights of kindred of the original purchaser of a burial space to inter upon said burial space after the original purchaser's death, it is hereby declared, in order to make such rights more certain and definite, as follows:

(b) The original purchaser may stipulate who is to receive the use of any remaining burial spaces.

(1) Such designation may be made in writing, either at the time of purchase or at a later date, signed by the original purchaser and properly attested.

(2) Any such direction must carry an agreement to indemnify the city for any costs incurred due to the challenge of such action.

(c) Should the original purchaser of a lot expire without having designated the persons to be buried therein or without having transferred the burial right to such burial space to another person, then the right of burial on said burial space shall pass pursuant to the laws of intestate succession of the State of North Carolina.

(1) The city shall be bound by any decree of a court of competent jurisdiction entering an appropriate finding and order identifying the individual entitled to the burial rights of any unused burial space.

(2) In the event that a burial space may be owned by a number of individuals upon the demise of a prior owner or owners, the following procedures shall occur in determining the interment rights to a burial space:

a. Two-thirds of the living descendants of the original purchaser must, by an agreement in writing, duly signed, notarized, and deposited with the city clerk, designate who has burial rights in said burial space.

b. Such agreement must be accompanied by satisfactory evidence in writing that the persons signing the same are surviving heirs of the original purchaser.

c. Each such agreement must carry an indemnification from each signatory thereto indicating that the city will be held harmless from any claim whatsoever, including court costs and reasonable attorney fees, for honoring such request.

(3) In the event the original purchaser of a burial space has not made such designation and the descendants have not entered into such an agreement, then interments in said burial space shall be made in the following order:

a. Space must be reserved for any surviving spouse, regardless of whether such surviving spouse shall remarry after the death of the original purchaser, and such surviving spouse shall have first right to interment to the exclusion of all other persons.

b. The direct lineal descendants of the original purchaser in nearest degree of blood or consanguinity shall have next right of burial in the order of their death, provided that grandchildren of the purchaser and kindred of more remote degree shall not be buried on said lot without the written consent of at least two-thirds of all the then living lineal descendants of nearer degree of blood or consanguinity to the purchaser.

c. If there remain unoccupied spaces after providing for interments as aforesaid or if there be no

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lineal descendants, then collateral kindred of the original purchaser in the nearest degree of blood or consanguinity are entitled to interment therein.

(4) Notwithstanding the foregoing provisions, in the event that more than three individuals would be entitled to interment rights in a particular burial space, the city may repurchase said burial space from such individuals, with or without their consent, by paying the greater of either the original purchase price of the burial space or $100.00, divided among such individuals as their interests may appear.

(d) In determining the ownership of interment rights, the city shall not at anytime be bound to recognize any person as grantee or owner of any rights except the original purchaser named in the original conveyance and successors as herein specified, nor shall the city at any time be bound to recognize any agreement or understanding affecting such rights not in compliance with the provisions of this chapter and filed with the city clerk.

(Amend. No. 7, 5-17-05)

Sec. 7-20. - Errors.

(a) The city reserves and shall have the right, without any liability or damages therefore, to correct errors that may be made by it in allowing interments, disinterments or removals.

(b) The city shall further have the right to correct errors in the description, transfer or conveyance of any burial space, either by canceling such conveyance and substituting and conveying in lieu thereof other burial space of equal value and similar location as far as reasonably possible, or, in the sole discretion of the city, by refunding the price paid for such burial space or spaces.

(c) In the event the error shall involve the interment of the remains of any person in such space, the city reserves and shall have the right to remove and re-inter the remains to such other space of equal value and similar location as may be substituted and conveyed in lieu thereof.

(Amend. No. 7, 5-17-05)

Secs. 7-21—7-35. - Reserved.

ARTICLE III. - CEMETERY MANAGEMENT AND REGULATIONS

Sec. 7-36. - Cemetery sexton's duties.

No activities shall occur in the cemetery without the acquisition, in advance, of the appropriate permit for the same and oversight by the cemetery sexton or the cemetery sexton's designee.

(Amend. No. 7, 5-17-05)

Sec. 7-37. - Supervision of interments and disinterments.

(a) The cemetery sexton shall supervise the digging of all graves in the cemetery and the disinterment or exhumation of any bodies therein interred whether in the earth, in a mausoleum or other crypt, or in a columbarium niche.

(1) No interment shall occur until the appropriate fee has been paid to the city, as established in the fee schedule, and a permit for the interment shall have been obtained from the cemetery sexton.

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(2) No interment shall occur if any dispute exists regarding interment rights associated with a particular burial l

(b) The cemetery sexton shall be advised at least 24 hours prior to an interment or other event to be held in any cemetery. In the event of an interment scheduled for Monday or the day after any municipal holiday, notice must be given not later than noon of the preceding workday.

(c) The normal hours of the cemetery sexton shall be Monday through Friday, from 8:30 a.m. until 3:00 p.m., except for designated municipal holidays or in cases of inclement weather.

(1) No interments shall be permitted on New Years Day, Good Friday, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday subsequent to Thanksgiving Day, Christmas Eve or Christmas Day.

(2) No funeral procession or rite shall continue for a period of more than three hours in the cemetery, and all proceedings must be concluded not later than 7:00 p.m.

(3) No person shall enter the cemetery after the same shall have been closed for the day. Entry in the cemetery after visiting hours shall constitute trespass.

(Amend. No. 7, 5-17-05)

Secs. 7-38—7-45. - Reserved.

ARTICLE IV. - CONDUCT AND ACTIONS WITHIN CEMETERIES

Sec. 7-46. - Regulation of other contractors in the cemetery conduct within the cemetery.

(a) It is the policy of the city that regardless of race, religion, creed or other belief, those interred there and their families and loved ones are entitled to expect that the cemetery shall be treated as a sacred place, deserving of the respect of all.

(1) Events occurring at the cemetery are likely to be of such a nature that they cannot be delayed or performed at another time.

a. If a conflict exists between differing individuals who have legitimate purposes in the cemetery, those with the most immediate need, as determined by the cemetery sexton after consultation with any individual deemed necessary by the cemetery sexton, shall have the right to request that other individuals be moved a reasonable distance from the first location so as to no longer disrupt proceedings.

b. An interment service shall be deemed to have the highest priority of any event occurring in the cemetery.

(2) The cemetery is municipal property, and as such is subject to all rules, regulations or restrictions generally applicable to municipal facilities whether set forth in this chapter or elsewhere.

a. Individuals who are unwilling or unable to act in accordance with these regulations may be ejected or temporarily or permanently banned from the cemetery.

b. Any individual ejected or banned from the cemetery shall be entitled to appeal such determination in accordance with the appeal procedure established in the appropriate city policy.

(b) Conduct with respect to funerals. Employees of the city as well as employees of outside contractors who may be working in the cemeteries should stop work and stand respectfully if a funeral procession should pass near them, if the same may be reasonably and safely done. If working in the immediate vicinity of a funeral

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procession, employees must stop work during the committal service and withdraw to a respectful distance.

(c) All persons entering the cemetery shall have a bona fide purpose for doing so, including, but not limited to, visiting a burial space, attending ceremonies or services held in the cemetery, or such other purpose as may be reasonably related to the cemetery.

(1) Loud or boisterous conduct shall not be allowed in the cemetery.

a. Any activity of a noisy nature by any person in any area of the cemetery shall cease during ceremonies or services.

b. Persons within the cemetery grounds shall use only the avenues, walks, alleys, roads and streets and shall not walk across gravesites or on the grass unless that is the only way to reach a burial space.

c. Picnicking, lunching, camping, hunting, gathering berries, fruits or nuts, running, romping, playing, loitering, lounging, lying full length or sitting on the ground shall not be allowed in the cemetery.

d. No person shall sit or climb on any mausoleum, monument, marker or fixture of any kind.

e. No chairs, furnishings, coverings, tents or awnings will be allowed in the cemetery except when installed by a funeral home preparing to conduct services in the cemetery, and the same shall be removed from the cemetery as soon as reasonably possible after the services.

(2) The scratching, marring, defacing, injuring or otherwise disturbing of any monument or marker, mausoleum, floral arrangement, building or other thing being a part of or placed or used in connection with the cemetery, or any burial space, pathway, street, alley or roadway therein is prohibited.

(3) No person shall put, deposit or leave any paper, rubbish, dead or wilted flowers, unwanted artificial floral arrangements or any part thereof, shrubs, plants, branches or any other unwanted thing on any burial space, pathway, street, alley or roadway or any other place in the cemetery, except in receptacles provided for that purpose.

(4) No dogs or other pets shall be allowed in the cemetery at any time.

(5) Except for law enforcement officers and special ceremonies, horses are not permitted in the cemetery.

(6) No person shall fish, hunt, trap, molest or kill any birds, water fowl, game or animal of any kind in the cemetery, except an authorized animal control officer of the city or the state, acting in the performance of such officer's duties to control such birds, water fowl, game or other animal.

(7) No commercial advertising shall be allowed in the cemetery at any time.

a. There shall be no display or distribution of signs, cards, handbills, circulars, or anything relating to any business, profession, office or other commercial enterprise, except, identifying information regarding a funeral home conducting services in the cemetery may be allowed either to direct individuals to the appropriate burial space, or as is customarily included on memorial folders.

b. Soliciting by any party for the sale of decorations, plants, floral arrangements or any other item or purpose is prohibited within the cemetery.

(8) No individual shall peddle, beg, or solicit for any purpose, whether charitable or commercial, at any time.

(9) No individual may play games or engage in similar conduct in the cemetery.

(10) No individual may protest, picket, distribute leaflets or otherwise engage in similar conduct in the cemetery.

(11) Intoxicating beverages or other controlled substances are prohibited within the cemetery.

(12) Firearms are prohibited in cemeteries, other than for honor guards at military funerals, special ceremonies, police officers or security guards.

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(13) Gates of cemeteries will open at approximately 8:30 a.m. Monday through Saturday, and will be closed at approximately sundown.

a. All persons must enter and leave the cemeteries through designated entrances only.

b. Vehicular traffic must use only designated roads.

c. No traffic of any kind should be permitted to pass immediately by a location where a committal service is being held.

d. Cemetery roads are not to be used as a shortcut or in lieu of other public streets or highways.

e. Speed limits within the cemetery shall be as established in the Hickory Traffic Ordinance, and shall be posted.

f. Skateboards, roller skates, and scooters, whether motorized or manual, are prohibited in the cemetery. Bicycles, motorcycles and mopeds must remain on paved roadways and otherwise obey applicable traffic ordinances.

(14) No individual shall be allowed to take photographs during an interment or during the period three hours prior to beginning or three hours subsequent to the completion of an interment, other than a member of the family of the person interred or their duly authorized agent.

a. The city reserves the right to permit pictures of a burial space, monument, marker or any other part of the cemetery at any other time.

b. A representative of the funeral home directing an interment service may take photographs during this period if necessary to protect the interest of the funeral home, or if done at the request of a member of the family.

(15) The conduct of genealogical research, whether or not the individual conducting such research is related to any individual interred in the cemetery, shall be considered a bona fide purpose as long as:

a. The research is being conducted by not more than three persons in the cemetery at any particular time, except in the case of classes or instruction in genealogical research being presented by or in conjunction with any public library or institution of higher learning, in which case classes of no more than 20 persons, including the instructor or instructors may be allowed upon receipt of prior approval by the cemetery sexton; and

b. The research is being conducted by individuals over 18 years of age, or if involving individuals younger than 18, under the direction of a responsible adult over the age of 18; and

c. The research is being conducted during normal operating hours of the cemetery.

(Amend. No. 7, 5-17-05)

Sec. 7-47. - Motor vehicles.

(a) All motor vehicles operated within the cemetery are required to follow any posted regulatory or traffic control devices, which shall control over the regulations set forth herein. In the absence of specific traffic control devices, the regulations set forth herein shall control.

(b) All vehicles shall strictly observe a speed limit of ten miles per hour inside the cemetery.

(c) No vehicle shall be driven across or upon any burial space or lawn, except as necessary for operations in the cemetery with the permission of the cemetery sexton.

(d) No vehicle shall be parked or left upon any driveway or roadway within the cemetery at such location or in such position as to prevent any other vehicle from passing the stopped vehicle. If so parked or left, the vehicle

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may be towed without further notice and at the vehicle owner's expense.

(e) No vehicle may make a complete or partial reverse turn on any road or driveway within the cemetery. Vehicles must continue forward to the next intersection of the drive before changing direction of progress.

(f) The city may exclude or limit vehicles from the grounds when the cemetery is unusually crowded.

(g) No commercial vehicle of any kind may enter the cemetery or use the roadways through the cemetery, except those commercial vehicles which have specific business in the cemetery, and they must obtain permission from the cemetery sexton prior to entering the cemetery.

(Amend. No. 7, 5-17-05)

Secs. 7-48—7-60. - Reserved.

ARTICLE V. - MAUSOLEUMS, MONUMENTS AND MARKERS

Sec. 7-61. - Mausoleums.

(a) No private mausoleums or vaults shall be erected on plots or lots within the cemetery unless said plots or lots are purchased for the particular purposes of erecting such mausoleums or vaults in an area designated as such by the cemetery sexton, and any mausoleums or vaults erected must be located on such plots or lots in such a way that it does not interfere with any of the surrounding property or landscape.

(b) Family mausoleums must be located on not less than two nor more than ten consecutive burial lots.

(c) Family mausoleums may not be designed to hold more than 12 standard caskets.

(1) Not more than one row containing four caskets may be below grade.

(2) Not more than three rows containing four caskets may be above grade.

(d) Prior to the construction of any family mausoleum, a building permit must be obtained from the city and plans must be submitted to the city engineer for approval.

(1) All construction of family mausoleums must comply with the applicable provisions of the North Carolina Building Code.

(2) At the time a permit is issued for construction of a family mausoleum, the applicant must deposit with the city a bond, equal to the cost of purchase and construction of the family mausoleum, to be held to insure completion of the structure.

(e) A family mausoleum, whether constructed above or below ground, must be provided with an appropriate system of ventilation and with crypts entirely and separately enclosed independent of the walls thereof, arranged so that when an interment occurs any crypt may be opened without the requirement of opening any other crypt, and further so that each crypt, after use, may be hermetically sealed.

(f) A family mausoleum must be so located on the underlying burial lots that no grave will be within three feet of the edges of the base of the family mausoleum.

(g) The city reserves the right, in the event that any family mausoleum shall be damaged or fall into disrepair such that it is unsightly or unsafe, to disinter any remains located therein, demolish or remove the mausoleum, and re-inter the remains on the site to the extent possible on the site where the family mausoleum was located.

(1) Prior to taking the action described above, the city shall attempt to give notice to any known interested parties at least ten days prior to demolition, in order to allow the interested parties to take remedial action.

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(2) Any materials which may be salvaged, or unused lots which exist after removal of a family mausoleum, may disposed of to provide funds to offset the costs of such demolition and re-interment.

(h) Family mausoleums must provide space, visible to the exterior of the structure, identifying all remains located therein, including the full name, date of birth and date of death of individuals located therein through permanent inscription etched into the exterior material of the mausoleum or by permanent attachment of a bronze plaque or plaques.

(Amend. No. 7, 5-17-05)

Sec. 7-62. - Monuments or benches.

(a) Either one monument or one bench may be allowed on a multiple grave burial space under the conditions set forth in this section.

(b) All monuments or benches must be constructed of marble, granite or bronze.

(1) No monuments may be constructed of wood, iron, rough or unworked stone, or any other material which is subject to degrade due to exposure to the elements.

(2) Synthetic materials which provide an appearance similar to that of marble, granite or bronze may be approved by the cemetery sexton as long as such materials are warranted by the manufacturer to be substantially as durable as their natural counterpart and their appearance is harmonious with other monuments and benches in the cemetery.

(c) Any monument currently existing in the cemetery shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.

(1) Monuments which are repaired or restored may be returned to their original size and configuration, regardless of whether they comply with the criteria of this chapter, so long as the condition to which it is being restored does not constitute a health or safety hazard. Monuments which are replaced must comply with the requirements of this chapter.

(2) Monuments which have been ordered prior September 1, 2004, and which are delivered and installed in the cemetery prior to December 31, 2005, shall be deemed conforming and allowed, regardless of whether they shall meet the criteria of this chapter, so long as they do not constitute a health or safety hazard.

(3) In the event of the repair or restoration of a monument, the same shall be installed in accordance with the criteria set forth in this chapter with regard to location, ground preparation, foundation and other criteria established to insure the safe and stable installation of the monument, regardless of the original placement or method of installation.

(d) All monuments must comply with the requirements set forth herein.

(1) Monuments for two, four or six contiguous burial spaces comprising a single multiple grave burial space shall be not larger than two feet, eight inches high by five feet, zero inches long by ten inches thick, resting on a stone base not more than two feet, zero inches wide by seven feet, zero inches long by eight inches thick, set in a concrete foundation as required in this chapter.

(2) Monuments for eight consecutive burial lots shall meet the above requirements, except that they may be a maximum of eight feet, zero inches long, with the base size adjusted proportionally.

(3) Each monument must be supported by an appropriate foundation, created of structural concrete poured in place to a minimum depth of four inches below grade, or to a depth sufficient to support the monument, whichever is greater, and which leaves no visible margin above grade around the base of the

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monument.

(e) All benches must be constructed of granite, marble, or bronze, and must be not larger than 16 inches wide by 48 inches long, and an appropriate height for an adult to sit comfortably thereon.

(f) Subsequent to September 1, 2004, only one monument and one bench will be allowed on a multiple grave burial space comprised of four or more burial lots.

(1) Either one monument or one bench will be allowed on a multiple grave burial space comprised of two or three burial spaces.

(2) Neither a monument nor a bench will be allowed on a single burial space.

(g) Monuments shall be generally centered on the multiple grave burial space which they serve. The cemetery sexton may direct reasonable variations in location to accommodate appearance, maintenance or other functions of the cemetery.

(1) Individual markers which comply with the requirements of this chapter may be placed over each burial space, in addition to the monument serving a multiple grave burial space.

(2) A burial space in a multiple grave burial space may contain, at most, one marker for a standard burial space plus one marker for an infant grave.

(Amend. No. 7, 5-17-05)

Sec. 7-63. - Markers.

(a) Only flat markers, set horizontal to the grade in such a manner as to permit mowers and equipment to pass over them without damage to the marker and without adjustment to the equipment, will be allowed on single burial lots, to mark the interment of cremated remains, or to mark infant graves, subject to the conditions set forth in this chapter.

(b) All markers must be constructed of marble, granite or bronze.

(1) No markers may be constructed of wood, iron, rough or unworked stone, or any other material which is subject to degrade due to exposure to the elements.

(2) Synthetic materials which provide an appearance similar to that of marble, granite or bronze may be approved by the cemetery sexton as long as such materials are warranted by the manufacturer to be substantially as durable as their natural counterpart and their appearance is harmonious with other monuments and benches in the cemetery.

(c) Any marker currently existing in the cemetery shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.

(1) Markers which are repaired or restored may be returned to their original size and configuration, regardless of whether they comply with the criteria of this chapter, so long as the condition to which it is being restored does not constitute a health or safety hazard. Markers which are replaced for any reason must comply with the requirements of this chapter.

(2) Markers which have been ordered prior September 1, 2004, and which are delivered and installed in the cemetery prior to December 31, 2005, shall be deemed conforming and allowed, regardless of whether they shall meet the criteria of this chapter, so long as they do not constitute a health or safety hazard.

(3) In the event of the repair or restoration of a marker, the same shall be installed in accordance with the criteria set forth in this chapter with regard to location, ground preparation, foundation and other criteria established to insure the safe and stable installation of the marker, regardless of the original placement or method of installation.

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(d) All markers must comply with the requirements set forth herein.

(1) Markers for single graves or cremated remains may be a maximum of 18 inches by 36 inches.

(2) Markers shall be installed flat against the grade, so that mowers and other equipment may pass safely over them, except for markers in a multiple grave burial space which are being matched to adjacent burial lots, in which those located either at the head or the foot of the grave may be installed to match, as nearly as reasonably possible, those adjacent markers.

(3) Any vase intended to hold decorations or floral arrangements shall be constructed of marble, granite, or bronze and must be permanently incorporated into the marker or its foundation and must fit within the allowable space for the marker.

(4) Each marker must be supported by an appropriate foundation, created of structural concrete poured in place to a minimum depth of four inches below grade, or to a depth sufficient to support the marker, whichever is greater, and which leaves no visible margin above grade around the base of the marker.

(e) Subsequent to September 1, 2004, a maximum of four markers will be allowed on a single burial space used for an adult interment.

(1) In the absence of a monument, the marker shall normally be located at the head end of the burial space.

(2) Memorial markers, to commemorate individuals buried elsewhere or whose exact burial location is unknown, may be placed over single burial spaces occupied by others if desired by the owner.

(f) Only markers located either at the head or the foot of the burial space may have vases that protrude above grade incorporated into them.

(g) Markers shall generally be located either at the head or the foot of the burial lot. The cemetery sexton may direct reasonable variations in location to accommodate appearance, maintenance or other functions of the cemetery.

(h) No marker shall be removed from any burial lot without first obtaining a permit for the same from the cemetery sexton.

(1) No marker shall be removed from any burial lot until arrangements have been made, including payment of the full purchase price, for the installation of a replacement marker.

(2) In the event that it is necessary to move or remove any marker to allow the opening, closing or maintenance of any adjacent burial lot, the cost of such moving or removing shall be born by the owner of the burial lot with the marker which must be moved or removed.

(i) Burial spaces which are marked with a leger or slab may not have an additional marker installed.

(Amend. No. 7, 5-17-05)

Secs. 7-64—7-75. - Reserved.

ARTICLE VI. - COLUMBARIUM

Sec. 7-76. - General provisions.

(a) The columbarium shall be used for the inurnment only of cremated human remains.

(b) All rights to inter or inurn cremains in the columbarium are subject to the provisions of this chapter, and may be changed in the future as deemed appropriate by the city, with or without notice.

(c) Burial rights in the columbarium shall be confirmed through the execution of a columbarium contract, which

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shall be deemed the equivalent of a cemetery deed as set forth in this chapter.

(d) Individual niches are not owned by purchasers, and title to all structures, facilities and land remains with the city.

(1) Purchase of a niche implies only the right to the use of a space for the inurnment of cremated human remains.

(2) Niches may not be sold or transferred to any individual at a price higher than that paid by the original purchaser.

a. A purchaser may make written application to the city for the substitution of a designee not named as the intended original occupant of a niche space.

b. Such substitution will be allowed upon payment to the city of the difference between the original sale price and the current sale price.

(3) If an individual desires to surrender a niche back to the city, the original sales price less a service charge of 15 percent of the current sale price of a niche will be refunded.

(e) The city specifically reserves the right to relocate the columbarium, or the cremated remains therein to another proper location should it become necessary for any reason.

(Amend. No. 7, 5-17-05)

Sec. 7-77. - Inurnment and removal.

(a) Inurnments may occur only during normal cemetery business hours and when either the cemetery sexton or a designated representative is available to oversee the opening and closing of the niche.

(1) The cemetery sexton may limit the number of openings/closings scheduled for a particular day to conform to staffing abilities.

(2) The fee for opening and closing a niche is as established in the city fee schedule.

(3) Only the cemetery sexton or the cemetery sexton's designee may open or close columbarium niches, and then only under the direction of a licensed funeral director.

(b) Each niche shall contain two spaces, intended to contain the cremains of one human in each space.

(c) No items shall be allowed to be placed in any niche, or in any container placed in any niche, other than cremated human remains and any identifying information as required by the laws of the state.

(d) Urns may be made of metal, glass, wood, or plastic, but may not be made of cardboard or any other material not reasonably designed to contain the remains in the event the same must be transported.

(1) Urns must be a rigid container which does not exceed a size of 11 inches tall by 11 inches wide by five inches deep, and which is specifically intended for the permanent containment of cremated human remains.

(2) Urns must be sealed under the direction of a licensed funeral director. If any personal items or memento (jewelry, etc.) are to be included, the same must be placed in the container prior to sealing.

(3) Urns must have a flat bottom which allows them to remain stable and upright.

(4) Each urn must have, either permanently affixed to the outside or within the sealed container, the identity of the remains contained therein.

(Amend. No. 7, 5-17-05)

Sec. 7-78. - Removal of cremains.

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(a) A surviving spouse or lawfully appointed personal representative of an estate may remove cremated remains fro after inurnment upon payment of any fees associated with opening and closing the niche and any other expense associated with such action.

(b) Other individuals will be allowed to remove remains from a niche only upon a showing of lawful authority to do so and after posting an indemnity to the city in an amount of not less than $5,000.00, and upon further agreeing to indemnify the city for all costs and expenses, including reasonable attorney fees, associated with such action and compliance with all requirements of state, municipal or other requirements of law.

(Amend. No. 7, 5-17-05)

Sec. 7-79. - Decorations and exterior appearance.

(a) Bronze identity plates on the niches will be uniform in color, size and style and provided by the city as a part of the purchase price.

(1) Such plaques may be inscribed only with the decedent's name, date of birth and date of death.

(2) The names of individuals contained in the niche will be separated by a horizontal line.

(3) No other inscriptions or engravings will be permitted.

(b) No flowers, vases, decorations or memorial items may be attached to the columbarium, any stone plate or identifying plaque at any time, including Easter, holiday or memorial seasons.

(1) Floral arrangements may be attached to nearby memorial areas.

(2) Floral arrangements will be removed and discarded according to the provisions of this chapter.

(Amend. No. 7, 5-17-05)

Sec. 7-80. - Designation of responsible party.

(a) Each purchaser must designate, at the time of purchase, the identity of a representative or next of kin who may be contacted regarding any issues that may arise.

(b) Up to three individuals may be named in such capacity.

(c) Attempts to contact will occur in the order listed, and contact with any individual on the list shall be presumed binding on the others.

(Amend. No. 7, 5-17-05)

Sec. 7-81. - Reversion to the city.

A niche space shall revert to the city upon the happening of the following events:

(1) Failure to use the niche within 24 months following the death of the person for whom the niche is reserved, or following the death of the last person for whom a niche is reserved, in the case of the contemporaneous purchase of two spaces; and

(2) The designated contact person, as reflected in cemetery records, fails to respond to a certified letter sent to their last known address; or

(3) Following completion of any process for the recovery of unused burial spaces as allowed by the laws of the state or the City Code.

(Amend. No. 7, 5-17-05)

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Secs. 7-82—7-95. - Reserved.

ARTICLE VII. - SHRUBS, PLANTINGS AND FIXTURES

Sec. 7-96. - Plantings and trees.

(a) The indiscriminate planting of trees and shrubs in the cemetery is prohibited.

(1) Only such landscaping as shall be directed by the cemetery sexton shall be allowed in the cemetery. Individual owners of burial lots shall not install permanent plantings at any location in the cemetery.

(2) Any planting or sowing done within the cemeteries in violation of this section will be immediately removed without notice, and the plant materials may be discarded or otherwise used by the cemetery sexton.

(3) The cemetery sexton shall have the right to trim, prune, remove or destroy, in whole or in part and without notice, all trees, shrubs, plants, herbage of any type or other things which, in the cemetery sexton's opinion, are diseased, unsightly, dangerous, detrimental, undesirable or otherwise objectionable or renders access to any lot inconvenient.

(b) No trees or shrubs shall be trimmed, pruned, cut, broken, removed, destroyed or otherwise modified by any individual except the cemetery sexton or individuals acting under the cemetery sexton's direction.

(c) The cemetery sexton shall have the authority, after consultation with the appropriate resource persons, to prune, trim, or remove any tree, shrub or other plant which may become dangerous or detrimental to adjacent burial lots, paths, alleys, roads, or individuals lawfully using the cemetery.

(1) The cemetery sexton shall have no obligation to remove trees, shrubs or other plants simply because the same shall have overgrown or invaded any burial lot or other location within the cemetery.

(2) The city shall not be responsible for the growth of, or damage to, any planting, irrespective of the cause of origin, either within or beyond its control.

(Amend. No. 7, 5-17-05)

Sec. 7-97. - Curbs, coping and fencing.

(a) No coping, curbing, fencing, hedging, borders, corner posts or enclosures of any kind shall be permitted around any burial space in the cemetery.

(b) Any poured-in-place coping, curbing, fencing, hedging, border, corner post or enclosure at grade existing as of July 1, 2005 shall be allowed to remain regardless of whether it meets the criteria of this chapter, so long as it is in good condition and does not constitute a health or safety hazard.

(c) Any coping, curbing, fencing, hedging, border, corner post or enclosure at grade which is removed or falls into disrepair shall not be replaced after the same is removed.

(d) No coping, curbing, fencing, hedging, border, corner post or enclosure comprised of modular or pre-cast segments shall be allowed around any burial space in the cemetery.

(Amend. No. 7, 5-17-05)

Secs. 7-98—7-110. - Reserved.

ARTICLE VIII. - MEMORIALS AND DECORATIONS

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Sec. 7-111. - General provisions.

(a) The city recognizes that many traditions and customs exist regarding the ornamentation of burial sites. It is the city's desire to balance those traditions against the rights of others who have burial space in the cemetery and the need to maintain the grounds as efficiently as possible through the use of mechanical mowing and grounds maintenance equipment.

(b) *General guidelines.* Decorations may be placed on any burial space, other than the columbarium, within the guidelines set forth in this chapter.

(1) The city is not in any way responsible for lost, misplaced, broken, damaged or vandalized floral arrangements or decorations.

(2) Decorations or floral arrangements not in compliance with the terms of this chapter shall be removed from the cemetery and disposed of by the cemetery sexton without further notice.

(c) *Decorations and floral arrangements at the time of internment.* Floral offerings may be left covering the entire burial space at the time of interment.

(1) Floral offerings left at the time of interment will be allowed to remain for a period of seven days.

(2) Floral offerings not retrieved after seven days may be removed and disposed of by the cemetery sexton without further notice.

(3) Any container, plant stand, easel or vase which is not a part of the monument or marker will be disposed of if not retrieved within the seven days.

(d) After seven days subsequent to interment, only one floral arrangement will be allowed for each occupied burial space, unless otherwise excepted.

(e) One saddle-type arrangement, designed to be affixed to the top of a monument, may be displayed on top of each monument, along with one floral arrangement in each vase which is permanently affixed to and a part of such monument.

(f) During the Easter season, holiday season and memorial season, seasonal floral arrangements and decorations will be allowed.

(g) During the period of time that additional floral arrangements and decorations are allowed, arrangements need not be confined to attachment to the memorial or marker, but may be placed on plant stands, trellises, wire racks, or other appropriate weatherproof displays.

(h) Other than during the Easter season, holiday season or memorial season, all floral arrangements must be contained in vases or containers which are integral to the monument or marker.

(1) Floral arrangements must be placed either on top of the monument or marker, and not on the grass adjacent thereto.

(2) Vases to contain a floral arrangement must be of marble, granite or bronze, and must be permanently affixed to the monument or marker.

(3) Vases which drop into a cavity in the ground flush with the grade may be placed immediately in front of a memorial or marker.

a. Such vases must be set in concrete flush with the grade and extending no more than 12 inches from the memorial or marker.

b. Such vases may only be used during the Easter, holiday or memorial seasons, and must be retracted into the ground during the mowing season, unless such vase is incorporated into a

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permanent foundation of the monument or marker and does not interfere with mowing or grounds maintenance.

(4) No floral arrangements may be displayed in glass containers at any time.

(5) Floral arrangements attached to a monument must be securely affixed to the monument in such a way as to prevent them from becoming dislodged by the weather in normal conditions.

(i) Items such as vases which are not integral to a monument or marker, trinkets, shells, toys, metal sculpture, ornaments, chairs, glass crockery, wood or iron items of any type, bird houses, figurines of any type, balloons, music boxes, wind chimes, metal or wooden poles, artificial lights (either solar or battery operated), stuffed animals, or Shepard's Crooks holding any of these or similar items, are prohibited in the cemetery.

(1) Prohibited items which are discovered in the cemetery will be removed by the sexton and discarded without notice.

(2) Flags not exceeding eight inches by 12 inches, on stakes not more than 18 inches long, honoring individuals who have served in the Armed Services of the United States of America or the Confederate States of America or in any fraternal or eleemosynary organization with a history of displaying flags on the graves of members shall be allowed during Easter, holiday or memorial seasons, and up to seven days preceding and seven days following organized memorial services held in honor of such organization in the cemetery.

(j) Only the cemetery sexton or the individual who has placed a prohibited item on a burial space shall be authorized to remove the same.

(k) The cemetery sexton may remove and discard or otherwise dispose of, without notice, any floral arrangement which becomes faded, wilted, or otherwise unsightly.

(l) The cemetery sexton may discard or otherwise dispose of, without notice, any floral arrangement which is not properly secured to a monument or which has become dislodged from a vase, regardless of the reason that the same may have become dislodged or unattached, except in the event that it shall have become dislodged or unattached through the action of the cemetery sexton, in which event the cemetery sexton shall replace or reattach the floral arrangement, as may be appropriate.

(m) Floral frames which are clearly marked with identifying information of the florist of origination may be retrieved by the florist within 30 days subsequent to placement at a burial space either at the time of interment or during the Easter, holiday or memorial seasons.

(1) The cemetery sexton shall have no obligation to notify the florist of the existence or availability of the frames.

(2) The cost of retrieving the frames shall remain with the florist.

(3) If no florist has appeared to retrieve the frames after the 30-day period, the cemetery sexton may dispose of them without notice in any manner deemed appropriate, including releasing them to another florist or individual requesting them.

(Amend. No. 7, 5-17-05)

Secs. 7-112—7-125. - Reserved.

ARTICLE IX. - INTERMENT AND DISINTERMENT

Sec. 7-126. - Responsibility disclaimer.

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The city shall not be responsible for determining the identity of the body sought to be interred, nor for in any way preparing or embalming the body, nor for providing a casket or other items necessary for interment.

(Amend. No. 7, 5-17-05)

Sec. 7-127. - General provisions.

(a) No interment may occur without first obtaining an interment permit from the cemetery sexton.
  (1) Applications for interment permits must be made at least one business day in advance of the preparation of the burial space.
  (2) Applications shall be made in writing on a form to be provided by the cemetery sexton.
  (3) Faxed or electronically submitted applications shall be allowed, and the signature thereon of the owner of a burial space or a funeral director acting on such individuals behalf shall be deemed as effective as an original signature.

(b) No interment will be allowed in any burial space while ownership of such burial space remains unsettled.

(c) It is the responsibility of the owner of any burial space, or a funeral director acting on behalf of such person, to provide information regarding the location of the burial space.
  (1) The cemetery sexton shall assist such individual when necessary by using available cemetery or other records, and shall designate the location of a designated burial space.
  (2) Neither the city, its officers, employees nor agents shall be held responsible for errors that may occur in the designation of a burial space.
  (3) Directions or information given by telephone shall be entirely at the risk of the individual giving such directions or information, and the city shall not be held responsible for any order given by telephone.

(d) No burial space may be occupied until the entire fee for the same shall have been paid.

(e) A funeral director assisting with arrangements for interment of a deceased individual who provides information regarding the location of a burial space shall remain responsible if such information is later found to be erroneous.

(Amend. No. 7, 5-17-05)

Sec. 7-128. - Casket required.

(a) For all interment in the earth, or entombment in a mausoleum, the body must be contained in a casket sufficiently durable in construction and workmanship so as to contain and support the remains while being transported and during interment, and to encase the remains to protect those involved with the interment from exposure.

(b) Containers must be of a rigid material. Cloth or fabric containers or pouches are not allowed.

(c) Cardboard or paper fiber containers are not allowed.

(d) All remains to be entombed in a mausoleum must be embalmed.

(Amend. No. 7, 5-17-05)

Sec. 7-129. - Outer burial container.

(a) Prior to interment, any burial space to be used in conjunction with a standard casket shall have an outer burial container installed to prevent the collapse or settling of the earth surrounding the burial space.

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(b) No outer burial container is required for interment of an infant casket.

(c) No outer burial container is required for interment of cremains.

(Amend. No. 7, 5-17-05)

Sec. 7-130. - Interment.

(a) After each interment, burial spaces in the earth shall be filled, thoroughly tamped, and sod replaced with the top of the grave left even with the surrounding grade of the cemetery.

(b) All waste shall be removed from the cemetery or placed in an approved location as designated by the cemetery sexton.

(c) No dirt or fill material shall be added or removed from the cemetery without the express direction of the cemetery sexton.

(d) The responsibility of the funeral director shall end when the grave has been properly closed.

(Amend. No. 7, 5-17-05)

Sec. 7-131. - Disinterment.

(a) No body will be disinterred without a properly completed permit for disinterment obtained from the county health department, and any other permits required by any body or organization having regulatory authority over the same.

(b) No disinterment shall occur without having first obtained a permit for the same, and paying the required fee therefore, from the cemetery sexton. The fee shall be established annually in the city fee schedule.

(c) No disinterment shall occur except under the supervision of a licensed funeral director who shall agree to indemnify and hold the city harmless from any costs or liability whatsoever, including court costs and attorney fees incurred as the result of any litigation which may occur as the result of such disinterment.

(d) Other than at the request of law enforcement agencies or any regulatory body of the State of North Carolina or the United States of America, no disinterment shall happen without seven days' prior notice in writing to the cemetery sexton.

(e) No disinterment shall occur after 4:00 p.m. on any weekday or on Saturday, Sunday, or any municipal holiday or other day as defined in section 7-2 of this chapter.

(Amend. No. 7, 5-17-05)

Sec. 7-132. - Installation of mausoleums, monuments and markers.

(a) All persons are required to acquire a monument installation permit for each monument, marker, ledger, mausoleum or crypt installed within the cemetery.

(1) Procurement of this permit shall be made through the cemetery sexton.

(2) A fee for the permit shall be determined by the city council and established in the fee schedule annually.

(3) All persons installing mausoleums, monuments or markers shall be required to adequately protect the surrounding turf areas by bridging as necessary and shall be responsible for damages to any roadway, pathway, burial space, tree, shrub, water or sewer line, or any other fixture or item damaged within the cemetery as a result of negligence or mishap during the installation process.

(b) *Insurance.* Any individual other than a city coworker providing services in the cemetery shall provide public liability insurance in accordance with the policy established by the city.

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(Amend. No. 7, 5-17-05)

Sec. 7-133. - Rights and obligations of the city.

(a) The city shall exercise the utmost care in acting responsibly for the interment and disinterment of remains, but assumes no liability nor shall it be held responsible for damages incurred to outer burial containers, caskets or urns while making the interment or disinterment.

(b) The city shall be in no way responsible for any delay in the interment of a body which may arise from causes beyond its reasonable control and, especially from delays caused by the elements, an act of God, key equipment breakdowns, common enemy, thieves, vandals, strikes, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or the order of any military or civil authority.

(c) The city shall in no way be liable for any delay in the interment or disinterment of a body where a protest to the interment or disinterment has been made, if there has not been full compliance with this chapter or any rules or regulations promulgated in accordance with this chapter.

(d) The city may, at any time it deems advisable in the discretion of the cemetery sexton or city manager, require a court order be obtained prior to the interment or disinterment of any body.

(Amend. No. 7, 5-17-05)

Secs. 7-134—7-145. - Reserved.

ARTICLE X. - ABANDONED OR UNUSED BURIAL SPACES

Sec. 7-146. - Abandoned burial spaces.

(a) A burial space may be determined to be "abandoned" by the city according to the following standards and procedures:

(1) Upon investigation, the cemetery sexton shall determine that there has been no interment in the burial space for a period of 50 years subsequent to the date of purchase.

(2) The cemetery sexton shall conduct a reasonable effort to locate the original purchaser, including the sending of certified mail inquiries to the original purchaser's last known address as well as to the last known address of any contact persons listed by the original purchaser with the cemetery sexton.

(3) Upon making reasonable investigation, if no valid response is received, the cemetery sexton shall certify and report these efforts to the city manager, who shall advise the council, who shall direct the city clerk to publish notice of its intent to determine that a burial space has been abandoned not less than one time per week for four consecutive weeks in a newspaper published in the city, such notice requesting the purchaser, his or her heirs or immediate family members to report to the city that the burial space is intended to be used and has not in fact been abandoned.

(b) Upon receiving no valid responses to the published notice required, the burial space and all burial rights associated therewith shall revert to the city, which then may resell or otherwise use the burial space in the normal course of business.

(c) In the event the original purchaser or some other person entitled to burial rights in the burial space shall reappear after the resale of the burial space, a full refund of the original purchase price shall be made by the city.

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(Amend. No. 7, 5-17-05)

Secs. 7-147—7-155. - Reserved.

ARTICLE XI. - MODIFICATIONS TO CEMETERY GROUNDS AND AMENDMENTS TO CODE

Sec. 7-156. - Alterations to land.

The city expressly retains the right to enlarge, replat and/or change the boundaries or grading of any section or portion of the cemetery from time to time, including the right to modify and/or change the location of or remove or re-grade roads, drives, alleys, walks and paths, to plant or remove trees, shrubs or other herbage, or to add, remove, or otherwise modify any statuary or other ornamentation which may be installed in the cemetery. Furthermore:

(1) The city expressly reserves the right to lay, maintain and operate pipelines, gutters, drainage ways, paths, roads, walkways or alleys as it may, in its sole discretion, deem appropriate.

(2) The city further reserves the right to install or remove sprinkling systems, drainage structures, ponds, lakes, and other facilities.

(3) The city further reserves the perpetual right of ingress and egress over burial spaces for the purpose of passage to and from other burial spaces or for any other purpose necessary.

(Amend. No. 7, 5-17-05)

Sec. 7-157. - Amendments.

(a) The city expressly reserves the right to adopt, amend or modify this chapter, or any code provisions or policy which may be later adopted by the city or its designees, at any time or times when it may appear in their judgment to be in the best interest for the health, safety and well being of the residents of Hickory.

(b) The city reserves the right to stop all work of any nature in the cemetery whenever, in the opinion of the cemetery sexton after consultation with such individuals as the cemetery sexton may deem appropriate:

(1) Proper preparation therefore has not been made; or

(2) The work is being executed in such a manner as to threaten life or property; or

(3) Any reasonable request of the city is disregarded; or

(4) Continuation of the work could expose the city to liability for any reason whatsoever; or

(5) Work is not being executed according to specifications; or

(6) Any fees or charges payable to the city remain outstanding by the individual requesting, hiring or performing such work, whether such fees are related to the particular project in question or some other reason.

(c) It shall be unlawful for any person, except for city coworkers in the performance of their duties, to perform any work in the cemetery without having previously obtained a permit for such work.

(d) The city expressly reserves the right to use any burial space for purposes necessary to the management or operation of the cemetery, including, but not limited to, the right of passing over, passing machinery over, standing or otherwise occupying the surface of such lot.

(Amend. No. 7, 5-17-05)

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Marlene Crosby - **Markers and Landmark Designations**

From: Christy Turner
To: Eric Plaag
Date: 7/13/2020 4:00 PM
Subject: Markers and Landmark Designations
Cc: Marlene Crosby

Eric-
The following is an excerpt from the September 11, 2018 meeting when HPC voted on the next five markers. Let me know if you need anything else. Sorry for the delay. I've been sick, we are covered up with permits and down quite a few people. I hope you're doing well. Looking forward to the meeting tomorrow. Thanks and take care.
Christy

Discussion of List of Next Five Markers

Chairperson Plaag said he did speak with Ms. Roberta Jackson of the Junaluska Heritage Association regarding a plaque for the Junaluska area and she liked the idea of having a marker for the Junaluska community as a whole but she wanted to discuss it with the Junaluska Heritage Association members. He said he also spoke with Ms. Sue Keefe, a JHA member and she was interested in a plaque that would generally talk about the history of the Junaluska community.

Discussion ensued on the placement of the next five markers. The HPC talked about considering the following locations for markers: Founders Hall/second Watauga Hospital, Old Watauga Democrat building, Dan'l Boone Inn Restaurant/first Watauga Hospital, Council House, Council Store, Old Jail House, Watauga Courthouse, Past Time Theatre, Watauga Drug Store, and the Chocolate Bar in the Junaluska Community, Junaluska Community, the Holshouser House, Kraut Factory, Burley Tobacco Warehouse houses, Worthwhile Women's Club and the Advent Christian Church.

The HPC nominated the following three locations for markers out of the above list: Member Bond and Watkins nominated the Junaluska Community, Member Brantz nominated Founders Hall located on State property and Chairperson Plaag nominated the Council Store. Vice-Chairperson Pearman nominated the Worthwhile Women's Club that is owned by Mr. Carl and Mrs. Virginia Roseman.

Chairperson Plaag told the HPC they could vote for up to two locations. Members Plaag, Pollitt, Bond, Brantz and Watkins voted for the Junaluska Community. Members Brantz and Pollitt voted for Founders Hall. Members Bond, Brantz and Watkins voted for the Council Store. Chairperson Plaag noted that the HPC would research these markers at the next HPC meeting.

Chairperson Plaag pointed out that the Holshouser House, Advent Christian Church and Rivers House are likely candidates for the national register and he would not recommend starting with these locations to add markers. He said it would be better to put the Town's resources on getting property owner authorization and try to get them on the national register.

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Chairperson Plaag talked about possibly doing a marker for the Watauga Handicrafts Building because it will not be placed on the national register because it has been moved and altered.

Chairperson Plaag talked about the difficult history of the Ku Klux Klan in Boone. He said the 1875 Watauga Courthouse was renamed Ku Klux Klan hall in 1925 and kept that name for several years. He said that this history needs to be unfolded and the HPC needs to decide how much of this type of difficult history should be interpreted to the public.

Christy M. Turner
Senior Planner
Town of Boone
Planning and Inspections Department
(828) 268-6960 Phone
(828) 268-6961 Fax

Disclaimer: The information provided herein is only informal advice. This email is not a final decision, is not binding on the Town, and is not appealable. A binding decision or interpretation may only be provided in response upon proper written application. If you wish to obtain a final and binding decision or interpretation from the Town, you must specifically request such a decision or interpretation and submit the required written application and fee. Please contact the Planning and Inspections Department for more information.

>>> Eric Plaag < 7/12/2020 4:07 PM >>>
Hi Christy,

As we discussed at the last meeting, I believe the HPC had previously created a prioritized list of future historical markers as well as local landmark designations. You had said you would look for this and email it to me.

Could you track these lists down and get them to me prior to Tuesday's meeting? I'll also search about on this end for the lists.

Thanks,

Eric

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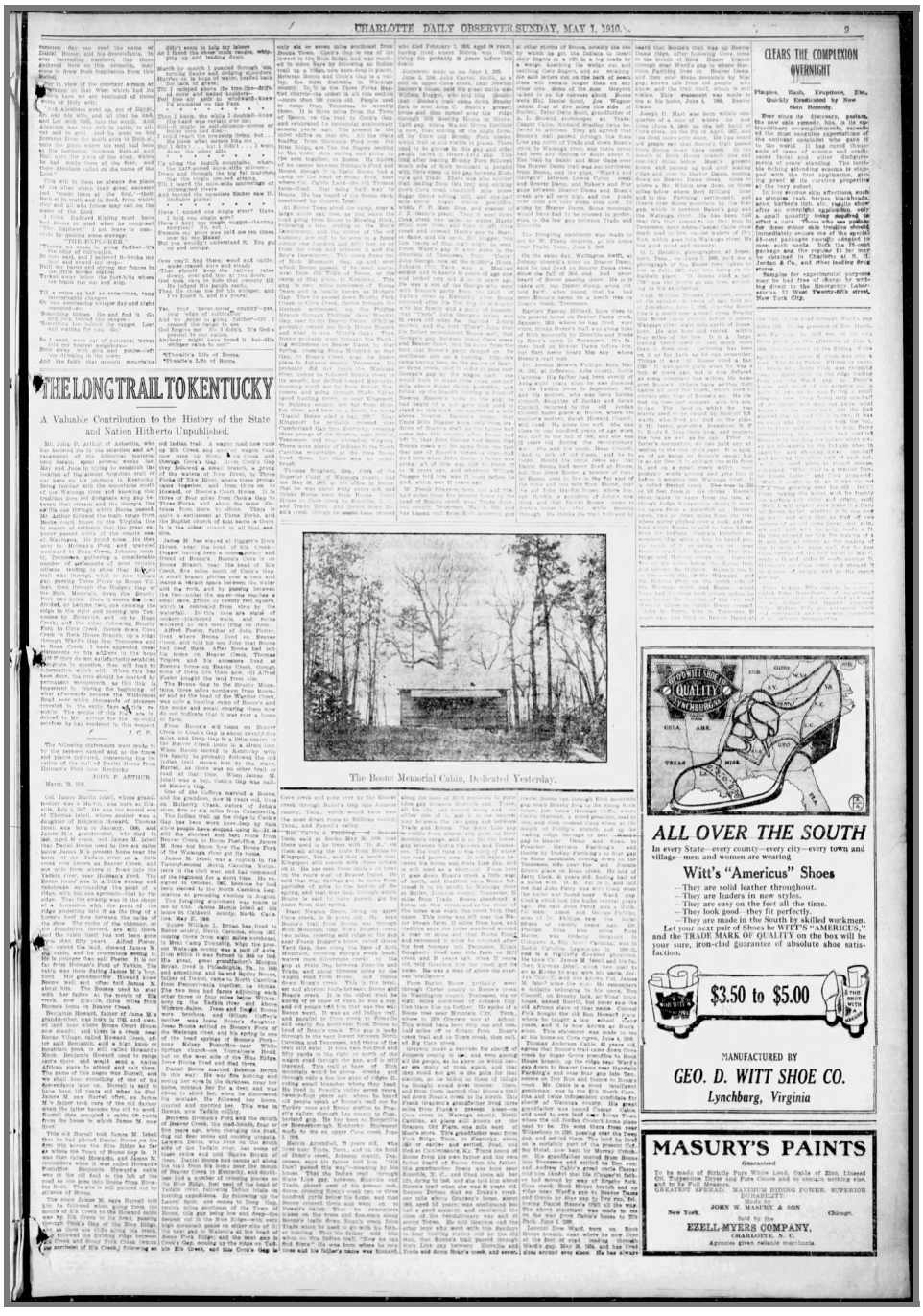

CHARLOTTE DAILY OBSERVER SUNDAY, MAY 1, 1910.

THE LONG TRAIL TO KENTUCKY

A Valuable Contribution to the History of the State and Nation Hitherto Unpublished.

The Boone Memorial Cabin, Dedicated Yesterday.

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In less serious skin affections, such as pimples, rash, herpes, blackheads, acne, barber's itch, etc., postum shows after an overnight application, only a few days' use being necessary to effect a cure. Those who are publicly for these minor skin troubles should immediately secure one of the special 25-cent packages recently adapted to meet such needs. Both the 25-cent package and the regular 50 (or more) can be obtained in Charlotte, at S. T. Jordan & Co., and other leading drug stores.

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CONFEDERATE VETERANS.

AN APPEAL IN THEIR BEHALF.

A County Home For Such of These Peerless Heroes As Cannot Receive Shelter In the State Home.

Editor Argus.

The undersigned at the last meeting of Thomas Rufin Camp, Confederate Veterans, of Wayne county, were appointed a committee to devise means for the erection of a Soldiers' Home for indigent ex-Confederate Soldiers of Wayne county.

There are now living in the county about 500 ex-Confederate soldiers, of this number there are 50 or 60, who, on account of wounds and diseases, are totally unable to provide for themselves. The State of North Carolina, at the last session of the Legislature, appropriated two hundred thousand dollars for the enlargement of the Home at Raleigh and pensions for disabled soldiers and widows. The Home is now crowded to its full capacity. Wayne county we understand, has only 2 inmates, which, it is claimed, is its proportionate number. The Home is now filled and it is impossible to secure admission for others. Of this we are not complaining. Perhaps it is as much as the State can do, or at least, as it is doing, and provision must be made for those who are among us, and who are suffering for the common necessaries of life. We are in a position to know something of the distress and suffering which some of the poor old fellows are undergoing, and realize the necessity of making provision for them. It is our purpose to erect a Home for them near the city of Goldsboro, and see that they are taken care of the few remaining years of their life. In making this appeal to those of the ex-Confederate soldiers who are able to contribute, and the public generally, we confidently believe that you will cheerfully and gladly respond to the call. We do not believe any one who is able to contribute will fail to do so after reading the following extract from an address delivered by Jno. P. Arthur, Esq., of the Asheville Bar:

"These men were young soldiers then, but they are old soldiers now. They belong to a once large, but now rapidly diminishing class of men whom we have come to regard almost with the eyes of indifference—the Confederate veteran. With modest mein and uncomplaining speech they come and go, gray veterans, with bent forms and frosty locks, and the ashes of age supplanting the roses of youth, that but a little while ago blushed on heardless cheeks. The eyes that blazed with the battle-light of Seven Pines and Missionary Ridge look out upon these smiling plains and everlasting hills, but they are dim and almost sightless now. The daring hearts of many of them that charged up the heights of Gettysburg are contending with a deadlier foe than shrapnel, bayonet or minnie ball. Cold and hunger and disease are drawing their deadly parallels ever nearer. They can hear the sapper and miner digging beneath redan and counterscarp as distinctly as they heard them in the trenches in front of Petersburg in the dread winter of sixty-five; but no counter-mine that they can construct, no desperate sally that they can make can much longer keep the unseen enemy from his prey. They diligently pursue the paths of peace, and watch the world go past them as in a dream. They are being rapidly left behind. Their children have grown up and left them, and it may even be that the patient partners of their lives are sleeping out yonder in unmarked graves, and the ashes on their hearths are cold and gray. The State does not even promise them a grave, save in the Potter's field, and the fitful slumber of old age is haunted by the nightmare of poverty, and cold and loneliness. They do not murmur; but ah, they cannot forget. Would they could, for they are often made to feel that they are forgotten and cast aside. Nothing was too good for the gallant boys who marched up the storied Swannanoa, forty-one years ago to whistling fife and throbbing drum, beneath the bright banners that the girls they left behind them had made from their dainties gowns and embroidered by the work of their deft fingers. They were offering to lay down their lives for you and me, in a cause that was yours and mine They were broken on the wheel of war in the cause the State had made its own: Ask the new leaders of the New South to remember the old soldiers of the Old South. Their ranks are thinning fast. The last long roll beats for some of them every day. Soon there will not be a single veteran left to need our grudging bounty; soon all will have passed over the river to rest with Stonewall Jackson "beneath the shade of the trees," where blossom only "the lilies of eternal peace, whose odors haunt our dreams."

"Remember the scant ration of parched corn and tepid branch water; remember the long, hard hot marches beneath the blazing suns of summer; remember the short nights of troubled sleep upon the tentless field and in the sultry thicket with fence rails for a pillow and the dread reveille of musketry and cannon for their awaking. Remember the winter camp upon the frozen ground; remember the letters from home that told between lines of privation, hardship and sickness, and barefoot children singing beside wan mothers, "when this cruel war is over;" remember the lonely hours upon the cheerless picket line, when they "thought of the two in the low trundle bed, far in the cot on the mountain."

"I confess to a keen sense of personal humiliation that I, who bore no part in the war, should feel constrained to remind men of Southern blood and birth of these things. Can it be that these sacrifices are already forgotten! And by Southern men! Be sure, my friends, that the world has not forgotten, and that our children will not forget, "for as long as the Southern struggle shall linger in tradition and in song will their memory be cherished by the descendants of the Southern race." Of them Henry Ward Beecher truly said, that 'they followed their disunion flag to wounds and death as simply and as bravely as if it had been the Banner of the Cross and they the old Crusaders."

"History holds no page one-half so refulgent as the record of the Private Soldier of the Southern Confederacy. In neglecting him, we dishonor ourselves and asperse the memory of Davis, Jackson and Lee.

"When our children gather around the winter hearthstone to hear the wonder-tale of Chicamauga, Chancellorsville, the Bloody Angle, Gettysburg and Malvern Hill, what shall we tell them was the measure of our Gratitude to the men who stood beneath the bat-winged pall of Appomattox? What shall we say we did for the tattered remnant that, after returning to build up the waste places of the South, found that they must still for twenty years carry on a warfare for civilization? What shall we say we were doing for those men who had done so much for us, when forty years after Malvern Hill, they could do for themselves no longer?"

We do not believe this appeal will be in vain. Already have we been encouraged by liberal donations from ex-Confederates and other good citizens of the county, and we now ask for contributions sufficient to swell the amount to $2,000, which amount we believe will be ample for the purpose. Subscription lists will be placed in the hands of men in the several sections of the county and we bespeak for them liberal donations. If any should be overlooked, your contribution can be sent to the committee at Goldsboro or left at the drug store of J. H. Hill & Son.

A. B. Hollowell,
W. H. Foer,
M. T. Johnson,
John T. Dees,
Committee.

FOR SHERIFF.

To the Democrats of Wayne county:

The undersigned hereby announces himself a candidate for the office of Sheriff of Wayne county, subject to the action of the Democratic nominating convention.

I wish to thank my friends for the very generous and loyal support they gave me so heartily two years ago. I have not been unmindful of it nor ceased to appreciate it in the meantime, and have endeavored at all times to hold their continued confidence and support.

Should the party in convention nominate me, as I hope they will, I shall endeavor to sustain the duties of the office to the best of my ability.

Respectfully,
E. A. Stevens.

Communication: July 14, 2020 Meeting Minutes (Approval of MInutes)

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Chapel Hill, NC

Chapter 6 - CEMETERIES[1]

Footnotes:

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State Law reference— Municipal authority to establish and operate cemeteries, G.S. § 160A-341; regulation of city cemeteries, G.S. § 160A-348.

ARTICLE I. - IN GENERAL

DIVISION 1. - GENERALLY

Sec. 6-1. - Dead bodies to be buried in cemeteries.

No person shall bury or cause to be buried, any dead body in any other place within the town limits than in the public cemeteries.

(Comp. 1961, p. 228, § 1)

Sec. 6-2. - Multiple burials in graves; required depth of graves; opening and closing graves.

(a) Multiple burials in a single grave shall be limited to one of the following: 1) the interment of two (2) burial vaults; or 2) the interment of one burial vault and one (1) cremation urn; or 3) the interment of no more than four (4) cremation urns.

(b) No grave shall be opened to a depth of less than five (5) feet to the bottom thereof. All burial vaults and cremation urns shall be at least eighteen (18) inches below the ground level. Graves shall be opened and closed only under the direction of the funeral director in charge of the interment, subject to supervision by the town manager, and at no cost to the town.

(Comp. 1961, p. 229, § 12; Ord. No. 2003-03-24/0-3, § 1)

Sec. 6-2.1. - Graveliners and vaults.

Grave liners or vaults shall be required for all burials except for cremations, in the town cemeteries. When personal and/or religious reasons would preclude the use of grave liners or vaults, an interment fee shall be paid to the town.

Grave liners or vaults shall be constructed of concrete or a material of equivalent strength and durability approved by the town.

(Ord. No. 90-3-26/O-2, § 1)

Editor's note— Ord. No. 90-3-26/O-2, § 1, adopted March 26, 1990, amended the Code by adding provisions designated as § 6-2(a). In the interest of facilitating classification and ease of usage of the Code, said provisions have been redesignated as 6-2.1 at the discretion of the editor.

Communication: Chapel Hill, NC Code of Ordinances, Chapter 6: Cemeteries (Bryan, Hayes, Greene Cemetery)

Sec. 6-3. - Preservation of peace and good order; firearms; noise; profanity; exposure.

No person shall in any way disturb any funeral service in any cemetery or use any cemetery as a playground, loafing or parking place, make loud noises or disturbances of any kind or discharge any firearms, except in connection with military funerals or Memorial Day services, use loud, profane or indecent language, make any indecent exposure of the person or commit any other indecent act in any cemetery. Any person who disturbs the quiet and good order of any cemetery by unnecessary noise or other improper conduct may be removed and upon refusing to leave when notified to do so because of any disturbance, improper conduct or other violation of ordinances or regulations relating to any cemetery, shall be guilty of a misdemeanor.

Except in connection with military funerals and Memorial Day exercises, it shall be unlawful except by authorized officers to carry any firearms in any part of any cemetery.

(Comp. 1961, p. 229, § 13)

Cross reference— Miscellaneous provisions and offenses, Ch. 11.

Sec. 6-4. - Traffic regulation; animals.

No person shall drive any vehicle of any kind in any cemetery except upon the main roads and avenues provided therein for vehicular traffic. Horseback riding and the use of bicycles or motorcycles is prohibited. No person shall drive or lead any horse or horse-driven vehicle in any cemetery faster than a walk or drive any motor vehicle at a rate of speed exceeding ten (10) miles per hour. No commercial vehicle shall be driven in any cemetery except in the conduct of business connected with the proper use of the cemetery. No person shall take any dog or other animal into any cemetery or allow any animal to run at large therein.

(Comp. 1961, p. 229, § 14)

Cross reference— Animals and fowl, Ch. 4; traffic, Ch. 21.

Sec. 6-5. - Entry, departure; hours of operation.

It shall be unlawful for any person to enter or leave any cemetery except at the proper places provided for entrance and exit. No person shall enter any cemetery except during the hours in which it is open to the public as herein provided, except by permission from the town manager. Between the first day of April and the first day of October of every year, each cemetery shall remain open to the public from seven o'clock a.m. to seven o'clock p.m.; at other times, each cemetery shall remain open to the public from seven-thirty o'clock a.m. to five o'clock p.m., provided that any deviation from the above schedule may be made by the town manager.

(Comp. 1961, p. 229, § 15)

Sec. 6-6. - Disturbing, defacing grave, grave marker, flowers, shrubs, property; removal of flowers.

It shall be unlawful for any person, in any manner, to disturb any grave, deface or remove any grave marker or to damage any flowers, shrubs, trees, or other property in any cemetery. The town manager may authorize removal from the cemetery, of any floral designs, flowers, weeds, plants or herbage of any kind when, in his judgment, they become unsightly or if they fail to conform to the standards generally maintained in any cemetery.

(Comp. 1961, p. 229, § 16)

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Sec. 6-7. - Use of artificial flowers.

Artificial flowers used in floral decorations may be used in the cemetery but a limit of two (2) weeks is hereby established as a reasonable period for use of such decorations. After two (2) weeks, such arrangements will be removed and disposed of by the cemetery attendants.

(Ord. of 2-12-68, § 1)

DIVISION 2. - CEMETERIES ADVISORY BOARD

Sec. 6-8. - Created; named.

A cemeteries advisory board is hereby created for the Town of Chapel Hill for the purpose of providing citizen input to the town council on policies for the operation and maintenance of the town's cemeteries.

(Ord. No. 2008-06-25/O-6, § 1)

Sec. 6-9. - Membership, terms.

The cemeteries advisory board shall consist of five (5) members appointed by town council. In addition to council-appointed members, the historic district commission and the Preservation Society of Chapel Hill shall designate one of its current members to represent them on the cemeteries advisory board as non-voting representatives. The terms of office shall be three (3) years, or until their successors are appointed and qualified, except that the initial terms of members first appointed shall be as follows: two (2) members shall be appointed for a period of one (1) year, two (2) members shall be appointed for a period of two (2) years, and one (1) member shall be appointed for a period of three (3) years. Members may be reappointed to succeed themselves for a second consecutive term. The terms of all members shall expire on the thirtieth day of June following the end of the final year of their terms.

(Ord. No. 2008-06-25/O-6, § 1)

Sec. 6-10. - Appointment, vacancies.

The members shall be appointed and vacancies filled as prescribed in Section 11.D-2 of the Council's Procedures Manual.

(Ord. No. 2008-06-25/O-6, § 1)

Sec. 6-11. - Meetings, chairperson.

The cemeteries advisory board shall hold meetings quarterly at such time and places as it shall determine. It shall annually elect one (1) member to serve as chairperson and to preside over its meetings. All meetings of the board shall be open to the public in accord with the Open Meetings Law of North Carolina, and reasonable notice of the time and place thereof shall be given to the public in accord with Chapter 143, Article 33C of the N.C. General Statutes. The board shall keep a record of its meetings; including attendance of its members; its resolutions, findings, recommendations and actions. A quorum of the board, necessary to take any official action, shall consist of half (½) of the total membership plus one (1). The concurring vote of a simple majority of those members present shall be necessary to take any official action.

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(Ord. No. 2008-06-25/O-6, § 1)

Secs. 6-12—6-17. - Reserved.

ARTICLE II. - CHAPEL HILL MEMORIAL CEMETERY

Sec. 6-18. - Established; named.

The town shall open, operate and maintain a cemetery on the property purchased by the town from Dr. Foy Robertson, and others and located south of the Chapel Hill-Durham Highway at a point east of the Town of Chapel Hill.

The name of the cemetery shall be Chapel Hill Memorial Cemetery.

(Comp. 1961, p. 229, § 2)

Sec. 6-19. - Official plan.

The master map of the area effected by the Chapel Hill Memorial Cemetery, prepared by Richard W. Boggs, landscape architect, dated 1980, a copy of which is on file in the office of the town manager and identified by the official signatures of the mayor, town clerk and town manager, with the official seal of the municipality attached, which map is hereby incorporated herein as a part of this article, is hereby adopted as the official map or plan for the development of the entire cemetery area and the provisions of said master map shall be adhered to in the development of the cemetery.

(Comp. 1962, p. 229, § 3; Ord. No. O-80-68, § 1, 10-13-80)

Sec. 6-20. - Reserved.

Editor's note— Ord. No. O-80-68, § 1, enacted Oct. 13, 1980, provided for the deletion of § 6-20, relative to detail maps.

Sec. 6-21. - Reserved.

Editor's note— Ord. of May 10, 1971, repealed former § 6-21 relative to the reservation of certain sections in Chapel Hill Memorial Cemetery for particular races. Said section was derived from Comp. 1961, p. 229, § 5 and Comp. 1961, p. 232c, § 2.

Sec. 6-22. - No conveyance of title of grave space.

Fee simple title to the property included in the cemetery governed by this article shall remain vested in the Town of Chapel Hill. There shall be no conveyance of title to any grave space, but the right or privilege of interment shall be sold as herein provided and such right or privilege shall be evidenced by a certificate issued in the name of the municipality by the town manager.

(Comp. 1961, p. 229, § 6)

Sec. 6-23. - Fees.

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Fees shall be charged for the purchase of grave and cremation spaces in town cemeteries. The fees shall be based on the type of space purchased and whether or not the purchaser resides or owns property within the corporate limits of the town. The fee for cemetery space shall be determined as of the time of purchase; and subsequent extension of the corporate limits or subsequent change in the residence or property ownership status of a purchaser shall not cause an increase or decrease in the fee paid for cemetery space. The fee for each cemetery shall be paid to the town in cash before interment. An additional fee shall be charged for interments which do not include use of a grave liner or burial vault approved by the town. The fees hereinabove set forth do not include the costs of opening and closing of spaces. The cemetery fees shall be according to the current fee schedule resolution adopted by the town council.

(Comp. 1961, p. 229, § 7; Ord. of 3-26-63, § 1; Ord. No. O-78-41, § 1, 6-12-78; Ord. No. 90-3-26/O-2)

Sec. 6-24. - Transfer of purchased rights.

The purchaser of interment or burial rights or privileges may not transfer the same. The town will refund, without interest, any sum paid for interment privilege if requested to do so in writing by the purchaser thereof prior to the opening of a grave in the grave space purchased and upon surrender by the purchaser of the interment or burial privilege certificate issued for such grave space. Upon the death of the holder of a burial or interment privilege certificate, his or her heirs, legatees or devisees, shall succeed to his rights in said certificates. The owner of a burial or interment privilege certificate may permit interment in the grave space or spaces therein described of any person designated in writing by the certificate owner, provided no compensation for such interment is received by the certificate owner and provided the interment is made in compliance with the provisions of the master map or plan and the detail map hereinbefore referred to.

(Comp. 1961, p. 229, § 8; Ord. of 3-26-63)

Sec. 6-25. - List of purchasers, grave spaces to be kept.

An alphabetical list of purchasers of interment privilege certificates and a section-numerical list of grave spaces sold shall be kept on file in the town hall by the town manager or such other municipal officer as the council may designate.

(Comp. 1961, p. 229, § 9)

Sec. 6-26. - Interment, opening grave; permit required, application.

No grave shall be opened and no interment shall be made without a written permit issued by the town manager, or other municipal officer as designated by the council, and such permit shall be secured at least eight (8) hours prior to the opening of the grave. Application for permit to open a grave must be made in writing by the owner of the burial space certificate if living or by a relative of a deceased owner for interment of a deceased owner. Said application shall state the name, age, sex, race and date and place of death of the person to be interred.

(Comp. 1961, p. 229, § 10)

Sec. 6-27. - Markers, shrubbery and landscaping generally.

No planting of trees, shrubbery or flowers shall be permitted in the cemetery except by or under the direction of the town manager and in accordance with the master plan map. No walls, trees, shrubbery or any other obstruction shall be permitted in the cemetery except in areas designated for such purposes on the master plan. All graves shall be level with the surrounding area. No mounds shall be allowed.

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All markers in the cemetery shall be bronze or stone. A family marker shall be permitted on two (2) or more adjacent graves, located side by side, and shall be placed along the base line of the grave spaces and centered between the spaces. Single and cremation markers shall be placed along the base line of the grave space and centered on the axis of the space.

Aboveground monuments shall have four-inch concrete aprons which shall be flush with the ground in order to facilitate monument protection, stability and maintenance. No monument shall exceed four (4) feet in height or ten (10) feet in width. All foot markers shall be laid flush with the ground. A maximum of one (1) upright monument shall be permitted per each grave.

The persons placing the markers shall request the town to locate the grave corners prior to placing the monument. After installation, a final inspection of the marker shall be made by the town. All installations of markers shall comply with dimensions and placement details approved by the town manager.

Anyone placing or causing to be placed a grave marker so that it is not in conformity with this section will correct it. If the marker is not brought into conformity as requested, the town shall make the correction and bill the person who placed or caused to be placed the marker.

(Comp. 1961, p. 232a; Ord. of 4-9-62, § 1; Ord. of 3-26-63, § 1; Ord. of 11-25-63; Ord. No. O-73-23, §§ 1, 2, 6-25-73; Ord. No. O-80-20, § 1, 3-10-80; Ord. No. O-80-68, § 1, 10-13-80; Ord. No. 94-7-5/O-5, § 1)

ARTICLE III. - WEST CHAPEL HILL CEMETERY

Sec. 6-28. - Established; named.

The town shall maintain the existing cemetery located on property adjacent to the intersection of Village Drive and Jay Street.

The name of the cemetery shall be the West Chapel Hill Cemetery.

(Ord. No. O-80-68, § 1, 10-13-80)

Sec. 6-29. - Official plan.

The master map of the area effected by the West Chapel Hill Cemetery, prepared by Richard W. Boggs, landscape architect, dated 1980, a copy of which is on file in the office of the town manager and identified by the official signatures of the mayor, town clerk and the town manager, with the official seal of the municipality attached, which map is hereby incorporated herein as a part of this article, is hereby adopted as the official map or plan for the development of the entire cemetery area and the provisions of said master map shall be adhered to in the development of the cemetery.

(Ord. No. O-80-68, § 1, 10-13-80)

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Chapter 13 - CEMETERIES[1]

Footnotes:

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State Law reference— *Municipal authority to establish and operate cemeteries, G.S. 160A-341; regulation of city cemeteries, G.S. 160A-348.*

ARTICLE I. - DEFINITIONS; APPLICATION

Sec. 13-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the person designated by the Board to perform the functions and exercise the responsibilities assigned by this chapter to the administrator.

Lot means a plot of ground within the town cemetery consisting of two or more burial spaces, as shown on the official cemetery map.

Marker means a plaque installed at ground level at the site of a grave to indicate the name, date of birth, and date of death of the person buried there.

Mausoleum means a structure or building substantially exposed aboveground intended to be used for the entombment of remains of a deceased person.

Monument means a memorial stone or other structure erected at a gravesite in remembrance of the deceased.

(Prior Code, § 13-1)

Sec. 13-2. - Application of provisions.

The following sections apply to all cemeteries within the town: sections 13-3, 13-4, 13-5 and 13-6. The remaining sections of this chapter apply only to cemeteries owned or operated by the town.

(Prior Code, § 13-2)

ARTICLE II. - GENERAL REGULATIONS

Sec. 13-3. - Burial only in cemeteries.

No person may bury or cause to be buried the body of any deceased person within the town limits in any place other than a church cemetery or a cemetery operated by a governmental entity or a private cemetery licensed or specifically exempted from licensing according to the North Carolina Cemetery Act, article 9 of G.S. chapter 65 (G.S. 65-46—65-73).

(Prior Code, § 13-3)

Sec. 13-4. - Disruptive activity prohibited.

(a) No person may drive any motor vehicle of any kind in any cemetery except upon the main roads and avenues provided therein for vehicular traffic. Excluded from this prohibition are any types of equipment necessary for grave preparation or monument setting.

(b) No person may drive any motor vehicle or park any motor vehicle in any cemetery unless in attendance at burial services or otherwise engaged in activities consistent with the use of a cemetery as a cemetery.

(c) No person may take any dog, except when on a leash, horse, or other animal into any cemetery or allow any animal to run at large therein.

(d) No person may intentionally disrupt any funeral services or disturb the quiet and good order of any cemetery by extremely loud or boisterous conduct. Except in the case of military funerals and veterans or military commemorative exercises, no person may carry or discharge firearms in any cemetery.

(e) No person may post or attach any bills, posters, placards, pictures or other form of political or commercial

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advertising within the cemetery or on the inside or outside of any wall or fence enclosing any cemetery.

(Prior Code, § 13-4; Ord. of 5-9-1994)

Sec. 13-5. - Desecration of public and private cemeteries.

(a) As provided in G.S. 14-150.1, if any person shall willfully commit any of the acts set forth in the following subsections, he shall be guilty of a misdemeanor and shall be fined not more than $100.00 or imprisoned for not more than 30 days, or both, at the discretion of the court.

(1) Throwing, placing, or putting any refuse, garbage, trash, or articles of similar nature in or on a public or private cemetery where human bodies are interred.

(2) Destroying, removing, breaking, damaging, overturning, or polluting any flower, plant, shrub, or ornament located in any public or private cemetery where human bodies are interred without the expressed consent of the person in charge of said cemetery.

(b) Provided nothing contained in this section shall preclude operators of such cemeteries from exercising all the powers reserved to them in their respective rules and regulations relating to the care of such cemeteries.

(Prior Code, § 13-5)

Sec. 13-6. - Removing or defacing monuments and tombstones.

As provided in G.S. 14-140, if any person shall, unlawfully and on purpose, remove from its place any monument of marble, stone, brass, wood, or other material, erected for the purpose of designating the spot where any dead body is interred, or for the purpose of preserving and perpetuating the memory, name, fame, birth, age or death of any person, whether situated in or out of the common burying ground, or shall unlawfully and on purpose break or deface such monument, or alter the letters, marks or inscription thereof, he shall be guilty of a misdemeanor. Provided that nothing contained in this section shall preclude operators of public or private cemeteries from exercising all the powers reserved to them in their respective rules and regulations relating to the use and care of such cemeteries.

(Prior Code, § 13-6)

Sec. 13-7. - Hours of operation.

(a) The town cemetery shall remain open to the public throughout the year from sunrise until sunset.

(b) No person may enter the town cemetery at any time other than the hours of operation established by subsection (a) of this section.

(Prior Code, § 13-7)

Sec. 13-8. - Trees; plantings; landscaping.

(a) No person may plant, prune, or remove any tree, shrub, flower, grass or other plant of any kind located within the cemetery.

(b) No person may place on or around any gravesite a fence, border, picture, toy, handmade ornament, or other self-described memoriam between March 1 and the October 31 of each year.

(c) The public works director or his designee may enter any lot and remove any tree, shrub, or other plant that hinders the maintenance of any part of the cemetery. This also applies to the items referred to in subsection (b) of this section.

(d) The public works director or his designee may remove from the cemetery all floral designs, flowers, weeds, or plants of any kind from the cemetery as soon as they deteriorate or otherwise become unsightly.

(Prior Code, § 13-8; Ord. of 11-17-1997; Ord. of 6-11-2001)

Secs. 13-9, 13-10. - Reserved.

ARTICLE III. - DESIGNATION AND SALE OF CEMETERY LOTS AND SPACES

Sec. 13-11. - Cemetery map required.

(a) There shall be maintained by the town an official cemetery map which shall depict, as accurately as possible, the boundaries of the town cemetery and the location and dimension of all lots and spaces within the cemetery.

(b) Burial rights in all lots and spaces shall be sold in reference to the official cemetery map.

(Prior Code, § 13-11; Ord. of 1-12-2004)

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Sec. 13-12. - Purchase of burial rights.

(a) The town shall sell burial rights in cemetery lots and spaces in accordance with the provisions of this chapter and the schedule of fees set forth in the Miscellaneous Fees and Charges Schedule maintained in the office of the town clerk.

(b) Differential fees shall be charged according to whether the person intended to be buried in the space with respect to which a burial right is purchased is a town resident or a town tax paying nonresident at the time such right is purchased. The same fees shall apply whether the burial plot shall be used for interment or cremation.

(c) A Certificate of Burial Right shall be issued to the person who purchases a burial right. The certificate shall identify the purchaser and the specific lots or spaces to which the certificate applies. There shall be no conveyance of title to any grave space, but the right or privilege of interment shall be sold as herein provided and such right or privilege shall be evidenced by the Certificate of Burial Right.

(d) For the purpose of selecting a specific lot or space, the purchaser of a burial right may be required to inspect the lot or space at the cemetery accompanied by the public works supervisor, or other designated representative of the town.

(Prior Code, § 13-12; Ord. of 10-10-1994; Ord. of 6-11-2001; Ord. of 1-12-2004)

Sec. 13-13. - Rights of owner of Certificate of Burial Right.

(a) The Certificate of Burial Right entitles the owner thereof (i.e., the purchaser) to use the designated spaces as a place of burial for any person they choose, provided that section 13-14(c) is not violated, subject to the terms and conditions of this article and subject to the town's authority to operate, regulate, control, and abandon cemeteries.

(b) Upon the death of the owner of a Certificate of Burial Right, all rights evidenced by such certificate shall pass to the owner's heirs, legatees, or devisees in the same manner as other interests in personal property. In addition, the town will refund, without interest, any sums paid for spaces that the owner of a Certificate of Burial Right no longer wishes to reserve, upon surrender of the Certificate of Burial Right covering those spaces. In order to receive the refund, the owner of a Certificate of Burial Right must provide the Certificate for surrender. (Deleted text to charge additional fees for owners of Certificate of Burial Rights to change the designation of persons entitled to be buried in spaces covered by the certificate.)

(Prior Code, § 13-13)

Sec. 13-14. - Speculation in burial rights prohibited.

(a) No person may purchase or otherwise acquire any burial right for the purpose of sale or exchange.

(b) No person may sell or exchange any burial right for a profit or gain.

(c) No town resident or town tax paying nonresident may purchase or otherwise acquire any burial rights at an in-town purchase rate for the intended burial of an out-of-town (non-town taxpaying) resident.

(Prior Code, § 13-14; Ord. of 5-9-1994)

Secs. 13-15, 13-16. - Reserved.

ARTICLE IV. - MAUSOLEUMS, MONUMENTS, AND MARKERS

Sec. 13-17. - Mausoleums (Reserved).

Sec. 13-18. - Monuments and markers.

(a) No monument or marker shall be placed on any site except under the supervision of and according to the instructions of the public works director , or other designated representative of the town.

(b) Grave space markers shall be composed of either a marble or granite base and shall be a maximum size of 52 inches by 18 inches (double) and 28 inches by 16 inches (single). No marker composed of a brick or concrete base of border shall be permitted. All markers in zones 9, 10, 11 and 12 must be flat markers level with the surrounding ground.

(c) Monuments or markers which do not otherwise satisfy the requirements of this section may be allowed upon approval by the Board of Commissioners if the requested monument or marker will not impair the use of adjoining grave spaces and will not require a substantial increase in future maintenance and repair needs.

(Prior Code, § 13-18; Ord. of 6-11-2001; Ord. of 1-12-2004)

Sec. 13-19. - Installation, repair or removal of monuments.

(a) Should any monument or marker in the town's cemetery at any time become unsafe, unsightly, or in need of

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repair or resetting, the cemetery administrator shall notify the owner of the relevant Certificate of Burial Rights of such condition and shall request such person to make any needed repairs under the administrator's supervision.

(b) Nothing in this section shall obligate the town to place, replace, or repair any monument or marker in the town's cemeteries.

(c) Exceptions handled on a case-by-case basis.

(Prior Code, § 13-19; Ord. of 5-9-1994)

Sec. 13-20. - Reserved.

ARTICLE V. - BURIALS

Sec. 13-21. - Burial procedure.

(a) No grave may be opened and no burial may take place in a town cemetery except by a licensed funeral director or his employees under the supervision of the public works supervisor or other designated representative of the town. The town shall be notified at least ten hours in advance of any funeral for which a grave shall be opened. Town staff will not be available to provide this service on weekends.

(b) No grave may be opened and no burial may take place in a town cemetery until a grave space for the burial has been marked by a town representative. Marking of graves prior to opening shall be accomplished according to the specifications and in the presence of the public works supervisor, or other designated town representative. Town staff will not be available to provide this service on weekends.

(c) The licensed funeral director responsible for any burial in a town cemetery shall be responsible for ensuring that grave spaces opened in connection with any funeral conducted by him or her are restored to the reasonable satisfaction of the public works director or other administrator designated by the town manager. If, within six months from the date of the funeral, a grave space sinks below the level of the surrounding ground, becomes eroded, or has otherwise become unsightly due to the lack of proper restoration or stabilization, the town shall so notify the responsible funeral director who shall ensure that appropriate corrective action is taken within ten days following such notification.

(1) If the funeral director fails to correct the problem within the period specified above following notification from the town, the town manager shall notify the funeral director in writing that the funeral director's privilege of conducting burials within any town cemetery is suspended until the defective condition is remedied.

(2) No funeral director may conduct any burial within any town cemetery after receiving the notice specified in subsection (c)(1) of this section, until the town manager has notified the funeral director in writing that the defective condition has been remedied and the suspension is lifted.

(3) Any suspension imposed under this section may be appealed to the Board of Commissioners. An appeal is initiated by filing a written notice of appeal with the town manager. An appeal stays the suspension pending the outcome of the appeal.

(d) No grave shall be opened to a depth of less than five feet to the bottom thereof except in the cases of cremations.

(e) All graves shall be level with the surrounding areas and no mounds shall be allowed.

(f) The usage of each burial space shall be limited to one of the following:

(1) The interment of one human body;

(2) The interment of one human body and one cremation urn; or

(3) The interment of no more than four cremation urns.

(Prior Code, § 13-21; Ord. of 7-11-1994; Ord. of 6-11-2001; Ord. of 1-12-2004)

Sec. 13-22. - Records of persons buried required.

The town shall keep as complete and accurate records as possible of the name and burial plot of every person buried in the town cemetery.

(Prior Code, § 13-22; Ord. of 1-12-2004)

Sec. 13-23. - Disinterment procedure.

(a) No disinterment may take place in a town cemetery except by a licensed funeral director or his employees pursuant to a valid and unrevoked permit for disinterment/reinterment issued by the Orange County Health Department under the supervision of the public works Supervisor, or other designated representative of the town. The town shall be notified at least ten hours in advance of any disinterment.

(b) Marking of graves prior to opening for disinterment shall be accomplished according to the specifications and in

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the presence of the public works supervisor, or other designated town representative. Town staff will not be available to provide this service on weekends.

(c) All disinterred graves shall be restored to a condition level with surrounding areas.

(Prior Code, § 13-23; Ord. of 6-11-2001; Ord. of 1-12-2004)

Secs. 13-24, 13-25. - Reserved.

ARTICLE VI. - PENALTIES AND REMEDIES

Sec. 13-26. - Misdemeanor, civil action and enforcement provisions.

(a) A violation of any of the following provisions shall constitute a misdemeanor, punishable by a fine of $100.00: sections 13-3, 13-4 (except section 13-4(a) and (b)), 13-7, 13-8, 13-14, 13-21 and 13-23.

(b) A violation of section 13-4(a) and (b) shall constitute a misdemeanor, punishable by a fine of $50.00.

(c) Violations of any of the sections listed in subsections (a) and (b) of this section shall also subject the offender to a civil penalty of $25.00. If a person fails to pay this penalty within ten days after being cited for a violation, the town may seek to recover the penalty by filing a civil action in the nature of debt.

(d) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.

(e) The town may seek to enforce this chapter by using any one or any combination of the foregoing remedies.

(Prior Code, § 13-26; Ord. of 5-9-1994; Ord. of 6-11-2001)

Sec. 12-24. - Penalties and remedies.

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