

ORDINANCE NO. 836

**AN ORDINANCE OF THE CITY OF BAYPORT, WASHINGTON COUNTY, MINNESOTA
AMENDING CHAPTER 24, CEMETERIES, OF THE BAYPORT CITY CODE**

THE CITY COUNCIL OF THE CITY OF BAYPORT DOES HEREBY ORDAIN:

Section 1. The Bayport City Code is hereby amended as follows:

Sec. 24-1. - Location—Plat; prohibition of other cemeteries.

A cemetery known as Hazelwood Cemetery has been established and is continued upon land owned by the city as described as follows:

Parcel 1: Block 5, Secrest and Perra's Addition to Bayport, Washington County, Minnesota, according to the plat thereof on file and of record in the Office of the County Recorder of said Washington County, Minnesota.

Parcel 2: (Quit Claim Deed rec. in Book 169 of Deeds, pg. 2, Washington County Recorders Office, Washington County, Minnesota) All that part of the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE 1/4) of Section three (3), Township Twenty-nine (29) North, Range Twenty (20) West, described as follows, to-wit: Beginning at a point on the south line thereof, said point being 103.95 feet west of the southeast corner thereof, and running thence north on a line parallel to and 103.95 feet west of the east line thereof 340.00 feet; thence west on a line parallel to the south line thereof 125 feet; thence south on a line parallel to the east line thereof 340 feet to the south line thereof; thence east along said south line 125 feet to the point of beginning; containing .98 acre, more or less; the same to be used by said village for cemetery purposes as an addition to its municipality owned cemetery.

A plat of the cemetery, as prepared by Barrett M. Stack, Surveyor, and placed on file in the office of the city administrator, is hereby adopted as the official plat of the cemetery which shall be called the Hazelwood Cemetery.

A cremains burial area located within Hazelwood Cemetery has been designated by the city council and defined by plat. A plat of the cremains burial area as defined by the Certificate of Survey prepared by Landmark Surveying, Inc., dated March 20, 2008, is on file in the office of the city administrator and is hereby adopted as the official plat of the cremains burial area located within Hazelwood Cemetery. The cremains burial area is governed by rules and regulations established by the city council for use of Hazelwood Cemetery. Cremains gravesites are issued in numerical order, assigned by the superintendent of cemetery.

Sec. 24-2. Cemetery fees.

Fees for the various cemetery services provided by the city shall be determined by the city council and designated in Appendix D – Fee Schedule of the Bayport City Code of Ordinances.

Sec. 24-3. Gravesite license agreement.

Any person making application and paying a fee for any gravesite shall be entitled to a license agreement granting the right to use the gravesite for burial purposes for the deceased, subject to the rules and regulations as the city council may adopt relative to the use of the cemetery. Gravesites shall be held subject to provisions and restrictions of the laws of the State of Minnesota, respecting and pertaining to cemeteries, which may have been, or shall be, lawfully and constitutionally enacted, and all amendments that may be thereto, and shall not be used for any other purpose than as burial for the dead. Transfer or assignment of a gravesite is strictly prohibited without written consent of the city. Licensees are prohibited from accepting compensation from any party for burial within the cemetery.

The city may rescind a license for unused gravesites upon request from the licensee, or their successors, descendants, or assigns or if, in the reasonable determination of the city, the gravesite is not being used for the intended purposes of the license. The city may reimburse the licensee for unused gravesite plots at 50 percent of the original fee paid. If fees were paid for a gravesite before the year 2003, or no price is on record, the reimbursement fee for an unused gravesite shall be \$100.00, with licensee to bear the cost of transfer fees.

Unless otherwise transferred, a gravesite license agreement shall descend in the order, as follows:

- (1) To a licensee's surviving spouse;
- (2) To a licensee's surviving child, eldest to youngest;
- (3) To a licensee's surviving sibling, youngest to eldest;
- (4) To a licensee's parent.

Should a deed exist for a gravesite that has not been used for burial purposes for more than 60 years, the city may revert itself with title to the gravesite(s), if certain procedures under state law are followed, and after a due and diligent search to locate the descendent, or any other individual having a valid legal interest in such gravesite(s) has been conducted, without avail.

Sec. 24-4. - Burial request.

Before any burial shall be made in Hazelwood Cemetery, a burial request shall be submitted to the city accompanied by a disposition permit or certificate of cremation for the deceased person to be buried. All applicable fees for cemetery services as provided in Appendix D – Fee Schedule of the Bayport City Code of Ordinances shall be paid to the city prior to the burial. Burials will be accommodated Monday – Friday, excluding designated holidays, until 3:00 p.m. Saturday burial requests may be considered, with prior approval by the city, for an additional fee. Prior to commencing a burial, a family member or family representative must meet with the city staff at Hazelwood Cemetery to ensure the location of the burial site for a family member is correct. No person, other than the person regularly contracted by the city, shall open graves unless requested to do so by a proper city authority.

Sec. 24-5. - Superintendent of cemetery (city sexton)—Duties.

The city council shall appoint a superintendent who shall have control and management of the cemetery and be responsible for its maintenance and improvement. The superintendent shall have such powers and duties as are prescribed by law or by the city council.

Sec. 24-6. - General cemetery rules and regulations.

- (1) No person may discharge any firearm or have possession of any firearm within the cemetery grounds without the permission of the city.
- (2) No person may remove any object from any place in the cemetery or make any excavation without the consent of the superintendent.
- (3) No person may obstruct any drive or path in the cemetery or in any way injure, deface or destroy any structure, grave, flower, tree or other thing in the cemetery.
- (4) No person may drive any vehicle faster than a walk within the cemetery, nor drive over any path or roadway not authorized by the superintendent.
- (5) No person may disturb the quiet of the cemetery by noise or improper conduct of any kind.
- (6) No person may enter or leave the cemetery except at the gates provided.

- (7) No person may use the cemetery grounds or any road therein as a public thoroughfare, nor drive any vehicle through the cemetery grounds except for purposes related to the cemetery.
- (8) No child may be permitted within the cemetery unless in the control of an adult.
- (9) No person may allow any animal to run at large in the cemetery.
- (10) No person may loiter at any time, nor be in the cemetery without permission of the cemetery superintendent at any time.
- (11) The cemetery shall be open to visitors from: April 1 through October 31 - 8:00 a.m. to 9:00 p.m. and November 1 through March 31 - 8:00 a.m. to 5:00 p.m.
- (12) The city reserves the right to refuse admission to the cemetery and to refuse the use of any of the cemetery's facilities at any time to any person or persons.

Sec. 24-7. – General gravesite rules and regulations.

(1) Number of burials: Prior to January 1, 2013, a traditional gravesite may contain one casket burial with up to three cremations; or up to four cremations, if no casket burial. Commencing January 1, 2013, a traditional gravesite may contain one casket burial with up to two cremations; or up to three cremations with no casket burial. A cremains gravesite may contain one cremation.

(2) Burial receptacles and position: All caskets must be encased in a permanent, non-fiberglass type burial vault, positioned with the head of the casket on the west end of the gravesite. All cremains must be encased in a permanent burial receptacle, positioned within the ground. Scattering of cremains within the confines of the cemetery is prohibited. An infant casket no larger than 12 x 24 inches shall be counted as a cremation when buried in a traditional gravesite.

(3) Fixtures, embellishments, and plants:

(a) Temporary/seasonal:

Artificial flowers, balloons, pinwheels, shepherd hooks, statues, rocks, food, bottles or cans, and other such decorations and mementos may be placed at a gravesite at the time of burial, and left until the following Sunday night. If items are not removed, city staff will remove and dispose of these items on Monday. Long-term display of these items is not allowed.

Wreaths of natural material only are permitted November 1- March 1. City staff will remove and dispose of wreaths and stands beginning March 2. One U.S. flag, up to 36-inches in height, and one single clear solar light fixture may be displayed at a gravesite, provided the items are in good condition.

(b) Permanent:

No upright fixtures, plants, flowers, or urn stands are allowed at a cremains gravesite. Only one city approved aboveground plant urn stand is allowed at a single traditional gravesite. One aboveground upright headstone, one city approved plant urn stand, or one upright headstone/plant urn combination is allowed on two or more side by side traditional gravesites, unless previously approved by the city prior to adoption of this ordinance.

Only living plants are permitted and must be displayed in a city approved plant urn stand. Ground planting of trees, shrubs or plants is not permitted, unless approved and executed by the city. The city reserves the right to remove any tree, shrub, vine, plant, flower, or container which may become unsightly, dangerous, or not in keeping with the landscape design of the cemetery.

Urns, stands, and plants are the property of the gravesite licensee, who is responsible for their maintenance. All grass mowing, fertilizing and watering of common cemetery areas shall be done exclusively by the city's designated personnel.

(4) Headstones:

All gravesites must have a headstone installed at the west (head) end of the gravesite, which indicates the individual(s) buried in the gravesite. Cremains and single traditional gravesites may only have a flat headstone. Two or more side by side adjoining traditional gravesites may have either a flat headstone or an upright headstone. The city is not responsible for headstone maintenance.

(a) Dimensions:

Flat single headstone	10 x 20 inches minimum; 12 x 24 inches maximum
Flat double headstone	12 x 36 inches
Upright double headstone	12 x 48 inches (maximum)
Upright triple headstone	12 x 54 inches (maximum)
Upright height	42 inches (up to 72 inches with city council approval)

(b) Placement:

The city requires a fee for marking the location of all non-veteran gravesite headstones, for installation by the licensee's headstone monument company. In the event a headstone is installed improperly due to incorrect marking, the city will correct and reinstall the headstone at no additional expense. Upright headstones must be centered on a minimum of a 5 inch thick steel reinforced concrete slab, 24 inches wide by 12 inches longer than the headstone, with the finished slab to be flush with the existing grade. As applicable, a flower urn stand pipe is to be installed in the slab.

(c) Deposit:

The city requires a headstone deposit upon submittal of a burial request. If a headstone is not properly installed within 18 months after burial, the city may use the deposit to purchase and install a headstone to identify the individual(s) buried in the gravesite. The city will refund the deposit upon proper installation of the headstone.

Sec. 24-8. City liability.

- (1) Unless due to the gross negligence or reckless intentional conduct of the city, the city is not liable for damaged, stolen, lost, or misplaced monuments, markers, urns, flowers, etc.
- (2) The city reserves, and shall have the right to correct any error made in the description or transfer of any gravesite, either by, at the option of the licensee, canceling such transfer and providing a replacement gravesite, if available, or reimbursing the licensee fees paid for the gravesite. In the event such errors involve the remains of any person buried in such gravesite, the city reserves and shall have the right to remove and/or transfer such remains to an alternate gravesite and bill the licensee for such work, unless the city is responsible for the error under clause (1) hereunder.
- (3) The city shall have the right to correct any errors made by placing an improper description, including an incorrect name or date, either on the headstone at the cost of the licensee, unless the city is responsible for the error under clause (1) hereunder.
- (4) In the event of a misunderstanding or dispute regarding these rules, the decision of the city council shall be final and binding of all parties.

Sec. 24-9. - Penalty.

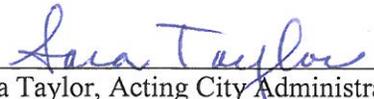
Any person violating any provision of this chapter is guilty of a misdemeanor and shall be punished by a fine of not to exceed \$1,000.00, and by imprisonment for a period not to exceed 90 days.

Section 4. This ordinance shall be in full force and effect from and after its passage and publication according to law. Passed by the City Council for the City of Bayport this 4th day of March, 2013.



Susan St. Ores, Mayor

Attest:



Sara Taylor, Acting City Administrator