

TOWN OF PINETOP-LAKESIDE

RESOLUTION NO. 23-1660

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PINETOP-LAKESIDE, ARIZONA, DECLARING AS A PUBLIC RECORD A CERTAIN DOCUMENT FILED WITH THE TOWN CLERK AND ENTITLED "TOWN CODE AMENDMENTS TO CHAPTER 12.16 TOWN CEMETERY."

WHEREAS, the certain document entitled "TOWN CODE AMENDMENTS TO CHAPTER 12.16 TOWN CEMETERY" attached hereto as "Exhibit A" three copies of which shall be filed in the office of the Town Clerk pursuant to this Resolution and have been ordered to remain on file with the Town Clerk.

WHEREAS, ARS§ 9-802 permits the enactment and publication by reference of a code or public record, including statute, rule or regulation of the municipality, in the interest of economy; and

WHEREAS, the document entitled "TOWN CODE AMENDMENTS TO CHAPTER 12.16 TOWN CEMETERY" "Exhibit A" is a lengthy ordinance to be adopted by Ordinance No. 23-460, and which would qualify for enactment by reference.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Town Council of the Town of Pinetop-Lakeside, Arizona hereby declare that a document entitled "TOWN CODE AMENDMENTS TO CHAPTER 12.16 TOWN CEMETERY" is hereby declared a Public Record for the purpose of adoption by reference pursuant to Ordinance No. 23-460 and order that three (3) copies of the document entitled "TOWN CODE AMENDMENTS TO CHAPTER 12.16 TOWN CEMETERY" be permanently filed in the Office of the Town Clerk and available for public inspection.

PASSED AND ADOPTED by a majority vote of the Mayor and Town Council of the Town of Pinetop-Lakeside in an open meeting on this 2nd day of March 2023.



ATTEST:


Kristi Salskov
Town Clerk

TOWN OF PINETOP-LAKESIDE


Stephanie Irwin, Mayor

APPROVED AS TO FORM:


William J. Sims, III
Town Attorney

EXHIBIT A
Town Code Amendments to Chapter 12.16 TOWN
CEMETERY

Chapter 12.16 TOWN CEMETERY

Sections:

- 12.16.010 Purpose.
- 12.16.020 Uses.
- 12.16.030 Definitions.
- 12.16.040 Administration and maintenance.
- 12.16.050 Reservations and transfers of plots.
- 12.16.060 Application and fees.
- 12.16.070 Burial and exhumation – Cremains.
- 12.16.080 Conduct within the cemetery.
- 12.16.090 Memorials and gravestones – Decoration of gravesites and plots.
- 12.16.100 Use of motorized vehicles in cemeteries.
- 12.16.110 Enforcement and penalties.

12.16.010 Purpose.

The purpose of this chapter is to provide for Town cemeteries, including the Lakeside Cemetery, and to provide rules and regulations for the use, operation, maintenance and care of the cemetery(ies). These rules shall apply to any cemetery owned and operated by the Town. For the mutual protection of ~~plot~~ owners of licenses for the use a plot and the cemetery as a whole, the following rules and regulations are hereby established for the Town of Pinetop-Lakeside. All ~~plot~~ owners of licenses for the use of a plot and persons visiting the cemetery will be expected to abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining the cemetery as a peaceful and beautiful area as well as a reverent symbol of respect for the deceased. (Ord. 16-397 § 1 (part))

12.16.020 Uses.

A. The cemetery shall be used exclusively for the burial of human beings and their remains. (Ord. 16-397 § 1 (part))

12.16.030 Definitions.

As used in this chapter, the following words and phrases will have the following meanings, unless the context clearly indicates a different meaning:

- A. "Cemetery" shall mean any cemetery which is owned, managed or maintained by the Town of Pinetop-Lakeside.
- B. "Navajo County resident" means a Navajo County resident and shall be described as a full-time resident or property owner outside the corporate boundary limits of the Town of Pinetop-Lakeside but within the limits of Navajo County.
- C. "Companion grave" means a special plot or grave site designed and sold for the burial of two (2) persons. Specifically, companion graves are double-depth burials.
- D. "Cremains" means the cremated remains of a deceased body.
- E. "Burial" means the interment of a deceased body or the remains into a grave.
- F. "Exhume" means the disinterment, digging up or removal of a deceased body or the remains from a grave.
- G. "Lot" shall mean a group of plots within a division designated on the plat as a lot.
- H. "Plot" means the lot or space reserved for the burial of a deceased body at a cemetery. (Ord. 16-397 § 1 (part))

I. “Plot Owner” means the purchaser of the right of burial in a particular cemetery plot. The purchase is not a purchase of property and thus, the plot owner does not acquire real or personal property by purchasing a plot in a cemetery owned by the Town of Pinetop-Lakeside. Instead, the purchaser obtains a license for the right of burial in a cemetery plot and shall be referred to as a “Licensee.”

12.16.040 Administration and maintenance.

A. The Town Public Works Director shall be responsible for the administration, operation and maintenance of the cemetery.

B. Prior to interment, a family member or a responsible party will be asked to provide basic information on the individual planned to occupy the site-record of burial. The Town of Pinetop-Lakeside, as a part of the public record, keeps this information.

C. The Town shall have the right to change, modify, or replat the plots or uses in any part of the cemetery not previously reserved for burial purposes. The Lakeside Cemetery shall be platted into lots and plots by the Public Works Department, and the Town Clerk will maintain and keep in his/her office a plat of said cemetery as public record.

D. All applications for reservations or transfers for burial plots shall be made in writing on forms provided by the Town ~~Public Works Department~~.

E. All instructions for burial shall be in writing and on forms provided by the Town.

F. The Town of Pinetop-Lakeside reserves to the Town the perpetual right of entry, use and control of the cemetery land for purposes of maintenance and operation of the cemetery.

G. The Town shall take reasonable precaution to protect ~~plot~~-owners of licenses for the use of a plot and the burial rights of owners within the cemetery. The Town disclaims all responsibility for loss or damage caused by flooding, fire, windstorm, or other causes deemed an act of God, a common enemy, thieves, vandals, strikes, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral.

H. Town employees are not permitted to do any work for ~~plot~~-owners of licenses for the use of a plot except at the direction of the Public Works Director and are prohibited from receiving tips or gratuities.

I. The Public Works Director ~~in consultation with the Town Manager~~ reserves the right to make exceptions, suspensions, or modifications of any of the rules and regulations without notice when, in their judgment, such action appears necessary for the efficient, fair operation of the cemetery. Any such exception, suspension, or modification shall in no way be construed as affecting the general application of this chapter and shall not act as a waiver of any of the provisions herein.

J. The Town of Pinetop-Lakeside reserves the right to adopt new rules, amend or suspend present rules and regulations herein, at any time, without direct or personal notification to ~~plot~~ owners of licenses for the use of a plot.

K. Appeals for decisions made by the Public Works Director relating to the administration and maintenance of the cemetery shall be made first to the Town Manager, then to the Board of Adjustment in writing as set forth in Chapter 17.120.

L. No signs or notices or advertisements of any kind shall be permitted within the cemetery. (Ord. 16-397 § 1 (part))

12.16.050 Reservations and transfers of plots.

A. The Town will show available plot locations and prepare cemetery reservation agreements for selected plot sites. Reservation sales or transfers are not complete or final until the ~~purchaser~~Licensee pays for the plot(s) and signs the reservation agreement.

B. No burial or placing of a memorial shall be permitted until the reservation sale is completed and the purchase price has been paid in full. No burial of any person, family or heirs shall be allowed without proof of the reservation interest to the Town ~~Public Works Department~~.

- C. No deed to a cemetery plot shall be issued. The reservation agreement or a reservation transfer agreement shall constitute the sole agreements between the Town of Pinetop-Lakeside and the ~~purehaserLicensee for the right of burial -in the reserved plot.~~
- D. It shall be the sole responsibility of the reservation agreement holder to keep the Town informed of the correct mailing address. Notices or other correspondence mailed to ~~purehasersLicensees~~, their legal representatives or heirs shall be deemed delivered and received three (3) days after the Town's mailing of the notice or correspondence to the address on file with the Town ~~Public Works Department.~~
- E. All applications and agreements for reservation plot sales or transfers shall be in writing on forms provided by the Town. No other agreements or contracts will be recognized by the Town.
- F. The Town of Pinetop-Lakeside may (but is not required to) repurchase any cemetery plot ~~reservation~~ from the owners ~~of -licenses for the use of a plot for the original price paid~~ upon written request of the owner or his legal heirs or representative and presentation of the plot reservation or cemetery plot certificate.
- G. The Town of Pinetop-Lakeside is the only seller of cemetery plots ~~reservations~~. If an owner wants to sell a plot, the owner shall contact the Town of Pinetop-Lakeside. The Town of Pinetop-Lakeside will buy the plot back at the original plot selling price, less an administration fee of ten (10%) percent of the current plot selling price.
- H. The Town of Pinetop-Lakeside recognizes the original named buyer of the cemetery plot(s) ~~reservation~~ as the owner and, if not assigned or transferred to a specific individual, after their demise the Town will recognize ownership as stated in a legal will or trust. In the absence of a legal will or trust, the ownership will be determined in accordance with A.R.S. Title 14, Chapter 2, Article 1, pertaining to intestate succession.
- I. The Town Clerk's department shall keep a record of plots sold, including the name, address and telephone number of the ~~purehaserLicensee~~ and the date execution of any reservation.
- J. The cemetery certificate of reservation ~~or the Town of Pinetop-Lakeside Cemetery Plot Purchase License Agreement~~ grants right of burial only and does not convey any other title to the plot.
- K. The Town of Pinetop-Lakeside or its employees assume no responsibility for actual damages or mental anguish in the performance of its normal operations, or loss by vandalism or any other acts beyond its reasonable control. (Ord. 16-397 § 1 (part))

12.16.060 Application and fees.

- A. Applications for the purchase or transfer of a reservation for a cemetery plot shall be made on forms provided by the Town. The appropriate purchase/transfer fee shall accompany all applications.
- B. All cemetery fees, including application fees, reservation fees, transfer fees, and other special fees related to cemetery plots shall be set from time to time by resolution of the Town Council.
- C. The reservation agreement of any plot shall be executed by the ~~Public Works Department~~ ~~Town~~, shall be sold in strict accordance with this chapter, and shall be subject to the provisions of this chapter.
- D. There shall be a recording fee for recording any change ~~in title or in~~ ownership ~~of in~~ any ~~license for the use of a~~ plot in the cemetery after initial conveyance of the same by the Town.
- E. A resident of Pinetop-Lakeside and/or a person owning property within the corporate limits of the Town of Pinetop-Lakeside can purchase a burial plot ~~reservation~~ at the Town of Pinetop-Lakeside resident rate. Former residents of Pinetop-Lakeside with relatives buried within the Lakeside Cemetery may purchase burial plots at the Navajo County resident rate. Out of Navajo County residents ~~s~~ can purchase burial plots at the out of Navajo County rate.
- F. The price for a lot shall be the aggregate of the price for each burial plot located within such lot.
- G. All reservation agreements for a plot shall be paid in full within two (2) years from the execution of the agreement. A minimum monthly payment will be necessary per the fee schedule and any remaining balance at the

end of two (2) years will require immediate payment of the remaining balance. If payment is not made within the two (2) year time period, any and all funds paid will first be collectively paid on one (1) plot until paid in full and then the next and so on until as many plots that can be paid in full are. Plot(s) not paid in full will be eligible for resale by the Town.

H. No lot or burial plot reservation shall be sold to or purchased by a funeral director or other person for purpose of resale or speculation. (Ord. 16-397 § 1 (part))

12.16.070 Burial and exhumation – Cremains.

A. All burials and exhumations of bodies are subject to the laws of the state of Arizona and this chapter.

B. All burials shall be in a liner or vault of concrete, steel or other material approved for use by the Town.

C. Charges for burial and exhuming services provided by the Town shall be established by the Town Council, and shall be payable in advance. Prepayment of interment will be accepted. The Town of Pinetop-Lakeside is solely responsible for excavating interments. The Town shall not assume any liability for any damage to a casket, urn or other such container incurred in making a removal.

D. The Town of Pinetop-Lakeside will regulate the charges for opening and closing a grave from time to time. No grave shall be opened or closed, except by the Town of Pinetop-Lakeside.

E. Forty-eight (48) hours' (excluding weekends and holidays) advance notice shall be provided to the Town - ~~Public Works Department~~ for any burial.

F. Seven (7) days' advance, written notice shall be provided to the Town ~~Public Works Department~~ for any exhuming services.

G. No more than one (1) body may be buried in any one (1) plot, grave, vault, or crypt except in the case of a mother and a child less than one (1) year of age, or in a companion grave. However, with consent of the owner or heirs of the owner of a plot, an exception may be made to permit no more than one (1) regular burial and up to four (4) additional cremains in any one (1) plot, grave, vault, or crypt.

H. All cremains shall be buried and appropriate arrangements for the burial shall be scheduled with the Town- ~~Public Works Department~~. Cremains shall not be scattered in the cemetery, or buried without the Town's written permission.

I. In the absence of acceptable evidence of reservation ownership, the Town reserves the right to refuse to open any burial plot and to refuse to conduct a burial. If, for any reason, a plot in a requested location cannot be used, to prevent a delay in burial or funeral services, the Public Works Director may provide one (1) in an available location.

J. The Town shall not be liable for any delay in burial where protest by a deceased person's legal representatives or heirs has been made, or where the law, or rules and regulations have not been complied with.

K. Human remains are the responsibility of the decedent's family, heirs, or executor until buried. During any legal process or protest which delays or prohibits the Town from burying any person, the family, heirs, or personal representative shall store the human remains until the legal process or protest is resolved. The Town shall be reimbursed for any expenses related to burial or the exhuming of ~~any body remains or remains~~ as a result of such protest or legal process.

L. Caskets containing remains or cremains, once buried, will not be opened or removed except in accordance with state law, and without the written consent of personal representative or other legal representative of the deceased, or an order from a court of competent jurisdiction.

M. Removal by the heirs of a body so that the burial plot reservation may be sold for profit to themselves or to any other persons, or removal contrary to the expressed or implied wish of the original burial plot ~~owner~~ Licensee, is repugnant to the ordinary sense of decency and is absolutely forbidden.

N. The interment of bodies of persons who have died of contagious disease shall be in strict accordance with the rule of the Arizona State Board of Health.

O. In the event of a disaster which results in numerous burials for the cemetery, ~~the~~ Public Works ~~crew~~ staff will work as deemed necessary by the Public Works Director. The Public Works Director shall have the authority to void any and all of these rules and regulations as necessary in order to handle the numerous burials as orderly and as quickly as possible.

P. The Town of Pinetop-Lakeside shall not be responsible to provide any equipment for funerals or burials.

Q. No burials shall be conducted after official sunset. (Ord. 16-397 § 1 (part))

12.16.080 Conduct within cemeteries.

A. Visitors are reminded that cemetery grounds are considered sacred and a strict observance of accepted decorum shall be required at all times.

B. Visitors will use the walkways and roads provided to access plots.

C. No person shall dispose of any rubbish, trash, waste materials, litter, or debris of any kind in the cemetery.

D. No person shall plant any tree, shrub or other plant in the cemetery except those permitted and approved in writing by the Town.

E. No person shall cut down, injure, break or destroy any tree, shrub or other plant growing in the cemetery or to pick, pluck or cut any flower or decorative plant in the cemetery except for Public Works staff or contracted maintenance workers during the scheduled cemetery clean-ups.

F. Firearms, other than those carried by police officers or which will be used in approved military honor funeral services, are prohibited in the cemetery.

G. No person shall interfere with the conduct of a funeral, graveside service, burial or exhuming of a body at the cemetery.

H. No person shall desecrate, vandalize, deface, tear down or injure any property, plot, grave, grave stone, monument, tomb, vault, fence, tree or shrub in the cemetery. Likewise, no person shall disturb, destroy, deface, desecrate, vandalize, tear down or injure any decorations, flowers or other tokens of remembrance placed at any grave plot or within the cemetery.

I. No person shall enter into or be upon the cemetery grounds of the Town during the time after sunset and before sunrise of any day without first obtaining the written permission of the Town.

J. Sale of any goods or services on cemetery property is strictly prohibited unless prior, written authorization is given by the Town. (Ord. 16-397 § 1 (part))

12.16.090 Memorials and gravestones – Decoration of gravesites and plots.

A. If a family chooses to buy a headstone, they will do so at their own cost. All headstones or markers in the cemetery shall have a concrete or granite foundation set at ground level with a minimum four (4) inch border, which shall be set by an approved monument vendor who will be under the direct supervision of Town personnel. The monument vendor must contact the Town of Pinetop-Lakeside prior to setting a headstone so it can be placed in the correct location. If a headstone has to be moved, the Town of Pinetop-Lakeside will not be held liable for any damage to the headstone.

B. Only one (1) gravestone will be allowed for each grave plot, and this shall be placed at the head of the grave or plot. In the event a family monument gravestone is placed at the head of a group of grave plots, an individual marker may be placed at the foot of each grave for individuals buried there. Government markers like military markers may also be placed at the foot of the grave in addition to the headstone.

C. All gravestones or markers in the cemetery shall be forty (40) inches or less in height, forty (40) inches or less in width, and shall have a concrete foundation, which shall be poured and set by a licensed memorial representative or Town Public Works Department staff. Gravestones or markers greater than forty (40) inches in height and/or width shall only be permitted with written approval of the Town. Family monument gravestones shall be forty (40) inches or less in height, eighty (80) inches or less in width, and shall have a concrete foundation, which shall be poured and set by a licensed memorial representative or Town Public Works Department staff. Family monument gravestones greater than forty (40) inches in height and/or eighty (80) inches in width shall only be permitted with written approval of the Town.

D. The Town shall not be responsible for the preservation and care of any gravestones, markers or memorials installed in the cemetery.

E. Since the Town does not have a full-time cemetery groundskeeper, daily maintenance of sites is not performed. In order to establish grass on plots and to allow access for mowing machines no rock, gravel, wood, or similar type of ground covering will be allowed. No fences, curbing, borders or barriers are allowed around lots or individual plots, except for those already in existence.

F. If existing fences are not in good and attractive condition, the Public Works Department shall remove the fence. If the fence is removed, a new fence will not be allowed, to comply with current subsection E of this section.

G. The placing of decorations, cut flowers or plastic flowers, or other small tokens of remembrance at individual grave plots, shall be permitted; however, the Town shall not be responsible for the care of such decorations, flowers, tokens of remembrance or the containers that they are placed in. The Town may remove, without notice, all decorations, flowers, real or artificial, tokens of remembrance, tattered flags, or other things that are deteriorated or broken from plots on an as-needed basis.

H. Plastic solar lights are allowed when secured to the headstone.

I. Shepherd hooks are allowed April 1st to June 1st.

J. All funeral arrangement flowers will be removed after ten (10) days.

K. All floral arrangements without a vase that is attached to the foundation, or floral saddles, will be removed three (3) weeks following Memorial Day.

L. Blankets and wreaths are permissible after Thanksgiving and may remain until April 1st.

M. Please note that all decorations will be removed from sites during cemetery clean-ups scheduled for two weeks each on April 1st, August 1st, and October 27th-1st for spring and fall cleanup.

N. The Town shall not be held liable for lost, misplaced or broken flower vases or other decorations or for damage by the elements, thieves, vandals or by causes beyond its control. The Town reserves the right to regulate the method of decorating burial plots and the right to remove any decoration so that a uniform beauty may be maintained.

O. The placement of permanent decorations or small tokens of remembrance shall only be permitted with the express, written permission of the Town.

P. No person shall plant any tree, shrub or other plant at individual grave plots except those permitted and approved in writing by the Town. (Ord. 16-397 § 1 (part))

12.16.100 Use of motorized vehicles in cemeteries.

A. No person shall drive any motorized vehicle within the cemetery except upon driveways designated for that purpose.

B. Vehicles shall not be operated in excess of five (5) miles per hour within cemeteries.

C. Vehicles shall not drive or park off of hard-surfaced roads.

D. Vehicles shall not be parked or left standing where the vehicle blocks other traffic or prevents other vehicles from using or traveling on the cemetery roads. The Town of Pinetop-Lakeside reserves the right to have any vehicle violating this section removed at the owner's expense.

E. Funeral processions entering the cemetery shall be under the direction and control of the Town's Public Works Department. Unless exception is made by the Town in writing, a licensed funeral director shall be present at all times and shall conduct services as provided by existing state laws, the Town Code, and applicable rules and regulations. (Ord. 16-397 § 1 (part))

12.16.110 Enforcement and penalties.

A. The Town Police Department, the Code Enforcement Officer, and employees of the Public Works Department shall, in connection with their duties, enforce the provisions of this chapter.

B. The Town Police Department, the Code Enforcement Officer, and employees of the Public Works Department shall have the authority to order any person or persons acting in violation of this chapter to leave the cemetery.

C. Violators of this chapter may be cited using the uniform traffic citation form or any other form approved by the Chief of Police. The citation shall show the specific section or sections alleged to have been violated, a brief description of the violation, whether the citation is for a civil or criminal offense, and whether the violation is charged as a second, third or greater offense. If there is no designation of a second or greater offense, the citation shall be considered a first offense. For continuing violations, the dates or the number of days shall also be noted on the citation.

D. Violations of the following sections of this chapter shall be charged on the first and subsequent offenses as a Class 2 misdemeanor:

1. Section 12.16.020.
2. Section 12.16.050(B).
3. Sections 12.16.080(C), (D), (E), (F), (G), (H), and (J).
4. Sections 12.16.100(A) and (C).

E. Civil Violations. When a violation of this chapter, except as set forth in subsection D of this section, is undesignated or designated a first offense by the Enforcement Officer or the Town Attorney, a person found to have been in violation of this chapter shall be deemed to have committed a civil offense and shall be subject to a civil penalty of not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), plus restitution for personal injuries, property damage or any other economic loss suffered by any person including the Town.

F. Criminal Violations. When a person convicted of a violation of this chapter is a person who has been previously convicted of a violation of a provision of this chapter within a period of twelve (12) months, the person shall be deemed to have committed a Class 2 misdemeanor, pursuant to Arizona Revised Statutes, Title 13, Chapters 6, 7 and 8, as amended, and shall be subject to a fine of not less than seventy-five dollars (\$75.00) nor more than seven hundred fifty dollars (\$750.00) for each violation or count, plus surcharges, fees and restitution for personal injuries, property damage or any other economic loss suffered by any person including the Town.

G. Jail Time. No violator shall be subject to jail time for offenses charged pursuant to this chapter, but this prohibition shall not apply to offenses designated as violations of Arizona Revised Statutes, the United States Code or other applicable laws. (Ord. 16-397 § 1 (part): Ord. 06-285)