

## CHAPTER 11

### Streets, Sidewalks and Public Property

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## ARTICLE I

### General

#### **Sec. 11-1. Certain ordinances relating to streets not affected by Code.**

(a) Nothing in this Code or the ordinance adopting this Code shall be construed as repealing or otherwise affecting the validity of any ordinance:

- (1) Dedicating, accepting, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or other public way in the Town;
- (2) Relating to municipal street maintenance agreements with the State;
- (3) Establishing or prescribing grades for streets in the Town;

(b) All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein. (Prior code 22-1)

#### **Sec. 11-2. Encroachments prohibited.**

No encroachment or obstruction whatever, other than provided by law, authorized by the Board of Trustees, by provision of this Code or by other ordinance, shall be made or placed upon any street, alley, sidewalk, curb, gutter, curbside or other public place within the Town. (Prior code 22-2)

#### **Sec. 11-3. Notice and removal of encroachments.**

Whenever any encroachment or obstruction is made, located, permitted or maintained contrary to this Chapter, the Chief of Police shall give notice to the person who made, caused or permitted the same, or to the person who owns or controls the premises on which the same is located or connected, directing such person to remove such encroachment or obstruction within twenty-four (24) hours after receipt of the notice. In the event such notice shall not be obeyed, the Chief of Police may order the removal of the encroachment or obstruction; and the costs and expenses of such removal shall be assessed against the responsible person pursuant to the provisions of Chapter 7. (Prior code 22-3)

#### **Sec. 11-4. Throwing broken glass, nails or dangerous substances on streets and sidewalks prohibited.**

It shall be unlawful for any person to throw, deposit or cause to be thrown or deposited on any street, alley, sidewalk or other public way, any broken glass, broken crockery, nails or any other dangerous substance. (Prior code 22-4)

#### **Sec. 11-5. Tree planting, maintenance and removal.**

(a) It shall be unlawful to plant or cause to be planted any species of tree in the right of way of any street, alley, sidewalk or other public place within the Town which by its habit or growth would obstruct, restrict or conflict with necessary and safe use of the public right-of-way.

(b) It shall be unlawful as a normal practice for any person or firm to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes or certain trees under utility wires of other obstructions where other pruning practices are impractical may be exempted from this Section at the determination of the Board of Trustees. (Ord. 460, § 16-153, 1991)

**Sec. 11-6. Parade permits.**

No procession or parade, excepting the forces of the United States armed services, the military forces of this State and the forces of the Police and Fire Departments, shall occupy, march or proceed along any street, sidewalk or other public property except in accordance with a permit issued by the Chief of Police and such other regulations as are set forth in this Code which may apply. (Prior code 22-5)

**Secs. 11-6—11-20. Reserved.**

**ARTICLE II**

**Excavations**

**Sec. 11-21. Supervision of work.**

All work on any excavation, cut, trench or opening in or under any street, sidewalk, curb, gutter, curbside, alley or other public place shall be supervised by the Street Superintendent. (Prior code 22-18)

**Sec. 11-22. Preparation and approval of rules and regulations.**

A complete set of rules and regulations shall be prepared by the Street Superintendent and approved by the Board of Trustees describing the procedures, precautions and specifications under which excavation work and backfilling shall be done under the provisions of this Article and any other provisions deemed necessary to the best interests of the Town in connection therewith. (Prior code 22-19)

**Sec. 11-23. Commencement and completion.**

All work authorized by a permit issued pursuant to this Article shall be commenced within a reasonable time after issuance of the permit and shall be diligently and continuously performed until completion. In the event that weather, process of law or any other unexpected obstacle shall cause work to be stopped for so long a time that public travel shall be unreasonably obstructed, the Street Superintendent may order the excavation refilled and repaved as if the work contemplated in the permit were actually completed. (Prior code 22-20)

**Sec. 11-24. Barricades and lights.**

Every person making or causing to be made any excavation shall keep the excavation barricaded at all times and, between the hours of sunset and sunrise, he or she shall keep such excavation properly lighted so as to warn all persons thereof. (Prior code 22-21)

**Sec. 11-25. Width and minimum inconvenience to public.**

No opening or excavation under this Article shall be undercut or have a greater width at the bottom than at the top. In no case shall more than one-half ( $\frac{1}{2}$ ) of the width of any street, alley or other public place be opened or excavated at one (1) time, and, in all cases, one-half ( $\frac{1}{2}$ ) is restored for safe use. All such work shall be performed in such way as to cause minimum inconvenience and restriction to the public and to both pedestrian and vehicular traffic. (Prior code 22-22)

**Sec. 11-26. Sidewalks and gutters clear.**

It shall be unlawful for any person performing any excavation work to place any dirt or other materials upon any sidewalk or in any gutters, and such work shall be performed so as to permit the free passage of water along the gutters. (Prior code 22-23)

**Secs. 11-27—11-40. Reserved.**

**ARTICLE III**

**Sidewalks, Curbs and Gutters**

**Sec. 11-41. Sidewalks, curbs and gutters mandatory.**

It shall be the duty of every owner of real property within the Town to construct, install, maintain, repair and replace a sidewalk, curb and gutter or curbside adjacent to his or her property in strict accordance with written standards and specifications adopted from time to time by resolution of the Town Council. The Town Council shall also determine on a case-by-case basis whether and to what degree the Town shall pay for repairing, maintaining and replacing existing curb and gutter. (Prior code 22-6; Ord. 2005-741 §1)

**Sec. 11-42. Notice and order to install sidewalk, curb, gutter or curbside and related procedures.**

(a) When the Town Council deems it necessary that any portion of any sidewalk, curb, gutter or curbside be constructed, repaired or replaced, it may order the same to be done in accordance with the provisions of this Chapter. The Town shall give written notice of the Town Council's order by mailing such notice by first class mail to the name and address of the owner of any property affected as it appears on the records of the County Assessor.

(b) If the property owner objects to the Town Council's order, he or she may request a hearing before the Town Council. Any such request shall be in writing stating the specific grounds for the objection and shall be received by the Town Clerk within fifteen (15) days of the date of the Town's notice. Upon proper request, the Town Council shall promptly hear the matter at a public meeting.

after notice to the property owner, at which he or she shall be given an opportunity to be heard. After due consideration, the Town Council shall affirm, modify or reverse its original order.

(c) If the property owner does not construct, repair or replace the improvements ordered pursuant to this Section within ninety (90) days from the date of the original notice or from the Town Council's order after notice and a hearing, the Town Council may order the same to be performed by the Town with the costs and expenses assessed against the property owner. The Town may collect any unpaid assessments under this Section as provided by law. (Prior code 22-7)

**Sec. 11-43. Duty to keep sidewalks, gutters, curbs and curbwalks free and clean.**

(a) For the purposes of this Section, the word *sidewalks* shall include not only areas improved with concrete or other such material but shall include also areas within a street right-of-way actually used by the public as pedestrian walkways, or capable of being so used, although unimproved.

(b) It shall be the duty of all owners or occupants of every premises within the Town to keep the sidewalks, gutters, curbs and curbwalks in front of and adjacent to the tenements and grounds occupied by them free of mud, dirt, debris, rubbish and filth.

(c) It shall be the duty of all persons within the corporate limits of the Town to keep the sidewalks in front of and adjacent to the tenements and grounds occupied by them clear of snow and ice, and after any fall of snow such persons shall remove the same from such sidewalks within twenty-four (24) hours after the termination of each such snowfall.

(d) If the snow or ice has not been removed as herein set forth, and not removed forthwith after notification from the Town, then the owner or tenant shall be in violation of this Section and subject to the penalties herein provided.

(e) If the snow or ice has not been removed from the sidewalks as herein described after notification from the Town Marshal, the owner or tenant shall be in violation of this Section and subject to the penalties set forth herein.

(f) Wherever houses or other buildings shall be occupied by several tenants, it shall be the duty of the persons occupying the story or stories nearest such sidewalks to clean snow and ice from the same. Where the basement of any building shall reach below the level of the ground the second story shall be deemed nearest as aforesaid, and such basement or first story the nearest after such second story; provided that no occupant shall be required to keep clear as aforesaid any such sidewalk for a greater number of feet than may be contiguous or opposite to any premises or part of the premises actually occupied by him or her.

(g) Where any premises, or parts of premises, are not occupied in any manner, it shall be the duty of the owner thereof to comply with the requirements of Subsections (b), (c), (d), (e) and (f).

(h) In the event the owner of any such premises contemplated under Section 7-2(g) and so unoccupied is a nonresident of the Town or absent from the Town, any agent who has charge of such premises shall comply with the requirement of Subsections (b), (c) (d) (e) and (f).

(i) It is unlawful for any person to drag, shovel or deposit any snow that has been removed from private property upon any street, gutter or sidewalk or upon any other public ground or place. This provision does not apply in regard to the properties used as stores and places of business in the downtown area of the Town. (Prior code 13-2; Ord. 455, 1990)

**Secs. 11-44—11-60. Reserved.**

## **ARTICLE IV**

### **Street Numbering and Naming**

**Sec. 11-61. Numbers required.**

It is the duty of the owner or occupant of every building in the Town to number such building in accordance with the provisions of this Article and with the numbers assigned by the Town Clerk. The Street Superintendent shall assign to every building its proper number. The expense of such numbering shall be paid by the owner or occupant of the building. (Prior code 22-34)

**Sec. 11-62. System of numbering.**

In numbering the buildings upon the streets, all even numbers shall be on the south and west sides of each street or avenue and all odd numbers shall be on the north and east sides of each street or avenue; provided, however, that where a street or avenue shall curve or change direction, the street or avenue shall nevertheless be numbered in accordance with the principal direction thereof. The numbering of a cul-de-sac shall be clockwise. (Prior code 22-35)

**Sec. 11-63. Placing numbers required.**

It shall be the duty of the owner or occupant of any building to place assigned numerals in a conspicuous position at the front of each building and, upon notice from the Street Superintendent, such numerals shall be so placed within thirty (30) days after service of such notice. (Prior code 22-36)

**Sec. 11-64. Material of numerals.**

All numerals shall be of a metallic, glass, porcelain or other durable material, or gilt lettering on the inside of a glass transom of a door, and shall be distinctly legible and at least three (3) inches in height. (Prior code 22-37)

**Sec. 11-65. Unauthorized numbers.**

It shall be unlawful for any owner or occupant of any building to use or permit to be used upon any building any number other than the number assigned by the Street Superintendent. (Prior code 22-38)

**Sec. 11-66. Map of streets indicating numbers required.**

The Town Clerk shall prepare, or cause to be prepared, from time to time when directed by the Board of Trustees, a map of the streets showing the numbers of all buildings and lots and the names of all streets. (Prior code 22-39)

**Sec. 11-67. Authority to name streets and subdivide streets and lands.**

The Board of Trustees shall have the power to name or rename any of the streets or public highways, and the Board of Trustees shall have the power to divide or subdivide any of the streets, public highways or public lands into streets, roadways, gutters, sidewalks and parks. (Prior code 22-40)

**Secs. 11-68—11-80. Reserved.**

**ARTICLE V**

**Parks**

**Sec. 11-81. Definition.**

For purposes of this Article, the term *park* shall mean a park, reservation, playground, beach, recreation center or any other area in the Town, either now existing or which shall be subsequently acquired in accordance with the provisions of this Article, owned or used by the Town, and devoted to active or passive recreation. (Prior code 19-1)

**Sec. 11-82. Authority to establish.**

The Town shall have authority to acquire, establish and maintain, in the manner provided for by state law, public parks or pleasure grounds. (Prior code 19-2)

**Sec. 11-83. Daily park hours.**

The parks shall be open daily to the public from 5:00 a.m. until 11:00 p.m., and no person not an employee of the parks shall remain in them at any other time; provided, however, that the Town Council may, by permit first having been obtained, extend or limit the time herein specified. (Prior code 19-3)

**Sec. 11-84. Destruction of park property.**

It shall be unlawful to cut, mark, remove, break or climb upon, or in any way injure, damage or deface the trees, shrubs, plants, turf or any of the buildings, fences, bridges or other structures or property within or upon park premises, or in any other way injure or impair the natural beauty or usefulness of any park or recreation area. (Prior code 19-4)

**Sec. 11-85. Erection of tents and buildings.**

It shall be unlawful to build or place any tent, building, booth, stand or other structure in or upon any of the parks or other recreational facilities without first having obtained a permit to do so from the Town Council. (Prior code 19-5)

**Sec. 11-86. 3.2% beer permit.**

(a) A special 3.2% beer permit is hereby established to authorize the consumption of 3.2% beer in Hays Park.

(b) A fee for the permit shall be collected at the time the permit is issued. A portion of the fee shall be returned provided there is full and proper cleanup and no violation of governing laws, rules or regulations.

(c) The collection, administration and enforcement of the 3.2% beer permit shall be performed by the Town Clerk or Police Department. The Town Council is authorized to adopt all rules and regulations which may be necessary or appropriate for the collection, administration and enforcement of the 3.2% beer permit. (Ord. 457, 1990)

**Sec. 11-87. Lake Park rules and regulations.**

The following shall apply to the use and enjoyment of Lake Park:

(1) Anyone may fish in Lake Park, provided that he or she purchase and have in his or her possession a fishing permit issued by the Town Clerk. A fee to be set by resolution shall be charged to purchasers of a fishing permit, the revenues collected to be used for administrative costs such as trash removal, police patrol, Code enforcement and overall maintenance. The permit issued shall not be transferable to any other person and any improper use of the facility of Lake Park may cause such permit to be revoked by the Town.

(2) There shall be no swimming in the lake, nor boating. Within Lake Park there shall be no alcoholic beverages and possession of firearms within the park, except by law enforcement personnel, shall be prohibited.

(3) The Town Council may, by resolution, provide for rules and regulations concerning the use of the park facilities. (Ord. 2006-769 §1)

**Secs. 11-88—11-100. Reserved.**

**ARTICLE VI**

**Cemetery**

**Sec. 11-101. Ordinance accepting cemetery land not affected by Code.**

Nothing in this Code or the ordinance adopting this Code shall affect Ordinance No. 120, Section 1, passed on April 1, 1957, accepting and concerning Elwell Cemetery and renaming it *Johnstown*

*Cemetery*; and such ordinance is hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. (Prior code 10-16)

**Sec. 11-102. Definition.**

Wherever the term *cemetery* is used in this Article, it shall refer to the Johnstown Cemetery. (Prior code 10-17)

**Sec. 11-103. Penalty and liability for damage.**

Any person violating any provision of this Article shall be deemed guilty of an offense and upon conviction thereof shall be penalized as provided in Section 1-62. All persons doing damage to property or graves in and about the cemetery shall be liable to the Town and to the owners of the property damaged for such damage. (Prior code 10-18)

**Sec. 11-104. Perpetual care by Town.**

The Town shall undertake perpetual care upon all grave spaces sold by it, and upon all family lots procured before April 1, 1957, provided that the perpetual care assessments have been paid. This care includes maintenance of lawn with seasonal watering. (Prior code 10-19)

**Sec. 11-105. Management and control by Town.**

The Town undertakes full management and control acting through its Board of Trustees, its Cemetery Committee and more directly, its Town Clerk and its Cemetery Superintendent. (Prior code 10-20)

**Sec. 11-106. Cemetery Superintendent generally.**

There is hereby created the position of Superintendent of Cemeteries, referred to herein as the Cemetery Superintendent. It shall be the duty of the Cemetery Superintendent to supervise the digging of graves and setting of monuments, markers and corner stones and generally to supervise the cemetery, though not himself or herself to do the manual labor except as instructed so to do by the Board of Trustees. The Cemetery Superintendent shall properly care for and protect all trees, flowers, plants, shrubs and grass growing in the cemetery and keep the driveways and walks in good condition and free from weeds and protect all cemetery property. He or she shall promptly report all infractions and violations of this Article, and of the rules and regulations made pursuant hereto, to the chairman of the Cemetery Committee. The Cemetery Superintendent shall be at the cemetery ready to give information and render assistance to lot owners and visitors during such times as shall be proscribed by the Cemetery Committee and when so arranged by appointment, and he or she shall receive such compensation and be under such rules as shall be prescribed by the Board of Trustees, on the recommendation of the Cemetery Committee. The Cemetery Superintendent may make reasonable charges for special surveys and other work connected with the placement of monuments and vaults. He or she is empowered to enforce the provisions of this Article. The Cemetery Superintendent shall be responsible to his or her successor for all property belonging to the Town in his or her custody or under his or her control on the termination of his or her employment. (Prior code 10-21)

**Sec. 11-107. Fund allocations and disbursements.**

(a) All cemetery funds shall be classified as follows: Cemetery Perpetual Care Fund and the General Fund.

(b) Fifteen percent (15%) of the monies and proceeds derived from the sale of lots and grave spaces shall be deposited and carried in the Cemetery Perpetual Care Fund.

(c) All monies and proceeds derived from the sale of all grave spaces, other than those applied pursuant to Section 11-110, and all other revenue derived from the operation of the cemetery from any source whatever and the earnings received from investment of Perpetual Care Funds shall be deposited and carried in the General Fund.

(d) The Cemetery Perpetual Care Fund and the entire principal thereof shall be safely and perpetually kept and invested. It shall be invested in such securities as under state law are approved for investment of municipal funds and as shall be approved by the Board of Trustees. The income may be used for cemetery maintenance. The principal can only be used as declared necessary by the Board of Trustees for major improvements or maintenance of the cemetery.

(e) All disbursements made for or on account of the cemetery shall be paid out of the General Fund. (Prior code 10-22; Ord. 477, 1992)

**Sec. 11-108. Records, receipt of funds and burial orders.**

(a) The Town Clerk shall keep all records of the cemetery in the Town Hall and shall be furnished with suitable books and blanks for that purpose. The Town Clerk shall keep in his or her office a map of the cemetery.

(b) No orders shall be issued until the following information is furnished the Town Clerk:

- (1) Name, age, sex and the place of death of the deceased;
- (2) The lot and block number upon which burial is to be made;
- (3) The undertaker in charge of the body;
- (4) The time of burial; and
- (5) The size of the grave.

(c) The Town Clerk shall, upon proper payments and showing, issue a burial order addressed to the Cemetery Superintendent setting forth the grave lot and burial block upon which burial is to be made. After each burial, the Cemetery Superintendent shall make a written report to the Town Clerk setting forth in detail the date of the burial and the location of the grave. It shall be the duty of the Town Clerk upon receipt of such report to revise, bring to date and keep current the cemetery plat book. The burial order shall be delivered to the Cemetery Superintendent at least eight (8) hours before the burial.

(d) The Town Clerk shall receive all required payments to the cemetery and to its employees and collect all payments and assessments coming due in connection with the cemetery.

(e) An appointed member of the Cemetery Committee shall keep in a separate place the duplicate permanent record book and the duplicate book of cemetery blocks, lots and grave spaces. (Prior code 10-23)

**Sec. 11-109. Town Clerk to receive application for purchase or transfer of lots or grave spaces.**

The Town Clerk shall receive all applications for purchase or transfer of lots or grave spaces. (Prior code 10-24)

**Sec. 11-110. Transfer of lots and burial spaces; deeds.**

No cemetery lot or burial space shall be sold, transferred or conveyed by any owner without consent to transfer being first had from the Town Clerk, and no such transfer or conveyance shall be made unless all assessments and charges against the lot or burial space are paid in full. In case of such sales, transfers or conveyances, the following procedure only shall be followed: The owner shall surrender to the Town the deed or other evidence of title then held by him or her to lot or burial space or, in case it is shown by affidavit that such deed or evidence of title is lost, the owner shall execute and deliver to the Town a quitclaim deed to the lot or burial space. The owner shall then name in writing the person to whom such transfer is to be made, and a new deed or evidence of title shall then be executed by the Mayor and delivered to the person or persons designated. Upon any such transfer, permanent record thereof shall be made and kept by the Town Clerk. Those portions of such lot or burial space upon which burials are made or are contemplated to immediately be made shall be paid for in full before such burial. (Prior code 10-25)

**Sec. 11-111. Grave spaces and charges.**

Each grave space purchased in the cemetery shall be four (4) feet by ten (10) feet. It shall be kept green in season and have perpetual care, and no grave space therein shall be sold without provision for perpetual care. The price with perpetual care for a grave space shall be determined by resident and nonresident status of the Town. A *resident* is hereby defined as a person living within the Town or within the Weld County School District RE-5J boundaries. *Resident* shall also include a former resident of at least twenty (20) years. A nonresident may purchase a grave space at the resident rate if the space is intended for the use of a deceased resident. The price with perpetual care shall be eight hundred dollars (\$800.00) per grave space for a resident and one thousand four hundred fifty dollars (\$1,450.00) for a nonresident per grave space. This price includes the cost of opening and closing. Grave openings on weekends and holidays will be an additional five hundred dollars (\$500.00). The Town Council may amend such fees and costs by resolution. (Prior code 10-26; Ord. 500, 1995; Ord. 2004-725 §1; Ord. 2004-727 §1)

**Sec. 11-112. Assessments for perpetual care on lots sold before April 1, 1957; prescribed.**

There is hereby levied on all lots and burial spaces in the cemetery which have been sold before April 1, 1957, without provision and payment for perpetual care, an assessment of sixty cents (\$0.60) per square foot on all lots and grave spaces of other sizes, which charge is and shall be for perpetual care and shall be due and payable from and after April 1, 1957. (Prior code 10-27)

**Sec. 11-113. Assessments for perpetual care on lots sold before April 1, 1957; charge for default in payment.**

There hereby is levied on all lots and burial spaces in the cemetery which have been sold before April 1, 1957, without provision and payment for perpetual care and upon which the perpetual care assessment provided by Section 11-112 is not paid, an annual assessment of two cents (\$0.02) per square foot for the maintenance and improvement of the cemetery, which assessment shall be due and payable on or before May 31 of each year from and after April 1, 1957, so long as the assessment made and provided in Section 11-112 herein remains in default. (Prior code 10-28)

**Sec. 11-114. Assessments for perpetual care before April 1, 1957.**

On lots or burial spaces in the cemetery sold before April 1, 1957, there is an annual charge of two cents (\$0.02) per square foot to cover the current expenses of perpetual care. (Prior code 10-29)

**Sec. 11-115. Cost of grave openings.**

For grave sites not subject to the terms of Section 11-111, a standard charge of two hundred fifty dollars (\$250.00) shall apply to resident and nonresident grave openings on weekdays and five hundred dollars (\$500.00) on Saturdays. The standard charges as stated within this Section shall apply to all openings of graves in the cemetery, whether for infant, adult or indigent and welfare cases, except as provided in Section 11-127. The Town Council may amend such fees and costs by resolution. (Prior code 10-30; Ord. 464, 1991; Ord. 500, 1995; Ord. 2004-725 §1)

**Sec. 11-116. Payment of grave space and contracts.**

At the time of the selection of a grave space that is to be on contract, a payment of at least one-half ( $\frac{1}{2}$ ) of the total fee is due at the time of selection of grave space. The grave space can be placed on contract with the payment option of the purchaser. The grave space must be paid in full at the time of use or within a five (5) year period, whichever first occurs; otherwise, the contract shall be terminated and the deposit forfeited. (Prior code 10-31)

**Sec. 11-117. Revision of prices and assessments.**

The price of lots, grave spaces, perpetual care and assessments may be raised or lowered at the discretion of the Town Council on the recommendation of the Cemetery Committee. (Prior code 10-32)

**Sec. 11-118. Applications for lots, deeds and spaces.**

Application for deeds to cemetery lots and spaces and for licenses in the single section shall be made to the Town Clerk. The Town Clerk is empowered to collect and is designated as the officer to whom all payments for the same, as well all assessments coming due in connection with the cemetery, shall be made. He or she shall report all defaults, deficiencies and nonperformances on the part of any persons in connection with unpaid cemetery accounts to the Town Council for action. Such reports shall be made semiannually. (Prior code 10-33)

**Sec. 11-119. Depth of opening.**

A minimum depth of five (5) feet is established for all grave openings in the cemetery, other than for urn ashes, or for individual ground-level mausoleums. (Prior code 10-34)

**Sec. 11-120. Urn ashes.**

(a) Interment of urn ashes in the cemetery is authorized in grave spaces of less than full size which are now in existence.

(b) Grave spaces shall not be sold or divided in one-half (1/2) for the purpose of creating an area for two (2) interment spaces for urns.

(c) Interment of urn ashes in the cemetery, except as stated in paragraphs (a) and (b), shall require a full-sized grave space.

(d) Interment of urn ashes in the cemetery requires, in each case, a concrete container with concrete lid, all having a minimum thickness of four (4) inches and an overall covering of six (6) inches or more of soil.

(e) Designated urn spaces within the cemetery shall consist of an area two (2) feet by four (4) feet. The price with perpetual care for a grave space shall be determined by resident and nonresident status of the Town. A *resident* is hereby defined as a person living within the Town or within the Weld County School District RE-5J boundaries. *Resident* shall also include a former resident of at least twenty (20) years. A nonresident may purchase a grave space at the resident rate if the space is intended for the use of a deceased resident. The price with perpetual care shall be two hundred fifty dollars (\$250.00) per grave space for a resident and five hundred dollars (\$500.00) for a nonresident per grave space. This price includes the cost of opening and closing. Grave openings on weekends and holidays will be an additional two hundred dollars (\$200.00). The Town Council may amend such fees and costs by resolution.

(f) For urn sites not subject to the terms of Subsection (e) above, a standard charge of one hundred fifty dollars (\$150.00) shall apply to resident and nonresident openings on weekdays and two hundred dollars (\$200.00) on Saturdays and holidays. The Town Council may amend such fees and costs by resolution.

(g) Only flat markers will be allowed within the designated urn interment area. (Prior code 10-35; Ord. 464, 1991; Ord. 500, 1995; Ord. 2004-725 §1; Ord. 2004-727 §1)

**Sec. 11-121. Grave liners.**

Wooden outer boxes or grave liners are hereby outlawed due to rapid deterioration and settling under the watering conditions of perpetual care. All graves shall be provided with a concrete box liner having two (2) inches minimum thickness of wall, with a matching concrete lid or slab covering. This is a minimum requirement and does not preclude the use of concrete sealed vaults of the inverted type, nor does it preclude vaults made of other material such as fiberglass, when such is of comparable strength and durability. These provisions do not apply to spaces purchased prior to 1966. (Prior code 10-36)

**Sec. 11-122. Unused space redeemable.**

Unoccupied portions of lots in the cemetery purchased prior to 1957 may be surrendered and credit obtained to apply on perpetual care assessment for the occupied or reserved portions. A credit allowance of ten dollars (\$10.00) is made for each grave space, ten (10) feet by four (4) feet in area, surrendered by quitclaim deed. The same shall apply on perpetual care assessment of sixty cents (\$0.60) per square foot. (Prior code 10-37)

**Sec. 11-123. Refusal of further applications for unpaid assessments.**

In cases where assessments for perpetual care on cemetery spaces have not been paid, application for burial permits on the unoccupied portions of the ground will be refused until assessments have been paid along with current charges. (Prior code 10-38)

**Sec. 11-124. Repossession of abandoned ground.**

As provided by law, unoccupied portions of ground in the cemetery abandoned over the years, with the purchasers' whereabouts being unknown, may be repossessed by the cemetery. This is exemplified by fifty-two (52) names which were published in 1958 giving notice that failure to make claims within a five (5) year period or make payment on assessments would result in forfeiture and surrender of all unoccupied portions of the space originally purchased. (Prior code 10-39)

**Sec. 11-125. Deeds and titles.**

Perpetual care certificates shall be issued for ground purchased from Elwell Cemetery prior to 1957 if and when the perpetual care assessments are paid. Deeds are issued only in the event of transfer to others following relinquishment by quitclaim deed to the cemetery. (Prior code 10-40)

**Sec. 11-126. Indigent and welfare cases.**

Welfare payment for burial spaces in the cemetery is made available for indigents and welfare cases and is restricted in location to Block No. 4, only, in the southeast corner of the cemetery. The charge for grave opening must be paid along with other burial expenses. (Prior code 10-41)

**Sec. 11-127. Infant graves at reduced price.**

Small area graves are provided for the burial of infants in the southwest corner of the cemetery with perpetual care. A two (2) foot by five (5) foot space shall cost one hundred dollars (\$100.00) for a resident and two hundred dollars (\$200.00) for a nonresident and shall include the charge for the opening and closing of grave space. (Prior code 10-42)

**Sec. 11-128. Opening and closing of graves.**

The opening and closing of graves in the cemetery shall be done by Town employees under the direction of the Cemetery Superintendent. A notice of eight (8) working hours or more must be given to ensure the proper preparation of the grave, including requests for Saturday openings. (Prior code 10-43)

**Sec. 11-129. Mausoleums.**

The use of individual mausoleums or ground-level concrete vaults as approved by the State Board of Health has been approved by the cemetery, and reservation for them is made in the three (3) blocks of Nos. 61, 62 and 63. Placements of such must be closely supervised and provided with a six (6) inch concrete apron all around exactly at ground level, the purpose being to occupy the full width of each grave space, thus, facilitating the mowing of lawn with perpetual care. (Prior code 10-44)

**Sec. 11-130. Headstones and monuments.**

Arrangements for the placement of headstones and monuments in the cemetery must be approved by the Cemetery Superintendent and installed under his or her supervision. A submerged concrete foundation shall be placed upon firm soil and have overall dimensions eight (8) inches greater than dimensions of the base of the stone. Homemade markers or wooden crosses are outlawed. (Prior code 10-45)

**Sec. 11-131. Two-party headstone identifying two (2) grave sites.**

Concerning the placement of a two (2) party headstone of such design as to identify two (2) grave sites, the Town finds it necessary and requires the full payment of both grave sites prior to the installation of such a headstone. (Prior code 10-45.1)

**Sec. 11-132. Footstones.**

(a) The purpose of this Section is to clarify the responsibility of the person or persons desiring to install footstones used with a family headstone at the cemetery.

(b) The placement of footstones of such design as to identify single spaces used with a family headstone within a family plot shall be permissible only in the following areas:

- (1) Along the six (6) foot walkways; and
- (2) Along the roadways. (Prior code 10-45.2)

**Sec. 11-133. Shrubs and flowers.**

(a) The planting of small shrubs and flowers in the cemetery must be sharply curtailed and done only with the approval of the Cemetery Superintendent. In general, a narrow strip of annual flowers is permitted on the grave side of a monument. Where the monument is a double one, roses may be placed at each end.

(b) It becomes the responsibility of the owner to properly care for such plantings; and in the case of flagrant neglect, the Cemetery Superintendent is authorized to remove them. (Prior code 10-46)

**Sec. 11-134. Trees and large shrubs.**

(a) The planting of trees and large shrubs in or on open grassed areas in the cemetery is outlawed, except when given special approval by the Cemetery Committee and the Cemetery Superintendent.

(b) Replacement of trees and shrubs is allowed when approved by the Cemetery Superintendent. (Prior code 10-47)

**Sec. 11-135. For sale signs and advertisements.**

Signs indicating a lot or vault for sale in the cemetery are forbidden. No advertisement signs or cards of monument dealers or funeral directors will be permitted in the cemetery. (Prior code 10-48)

**Sec. 11-136. Outside workmen.**

A written order from the lot holder or his or her representative is required along with the approval of the Cemetery Superintendent for any outside workmen to enter the cemetery. This applies to both erecting or removing anything from a lot or space. The Cemetery Superintendent's approval can be withdrawn when character or work is deemed unsatisfactory or rules of the cemetery are disregarded. (Prior code 10-49)

**Sec. 11-137. Control of improvements.**

The Town reserves to itself the right to fully control the matters of the setting of monuments and the planting of trees, shrubbery and flowers in the cemetery. All title and ownership of trees, shrubbery and other plantings shall be and remain with the Town, which shall have the right to remove or transplant the same. (Prior code 10-50)

**Sec. 11-138. Certain conditions prohibited.**

Enclosures of any kind, curbing or coping around the lot or grave, ornaments, chairs, settees, vases, glass jars, artificial flowers, flowers, toys, watering cans or other articles that may be considered objectionable by the administrative authorities are prohibited in the cemetery, and the right to remove the same without notice to the lot owner is reserved. Objects of wood of any kind are prohibited; and no gravel, brick, stone, cement or other kind of artificial walkway will be allowed upon any lot. (Prior code 10-51)

**Sec. 11-139. Containers for flowers.**

Permanent receptacles for flowers in the cemetery must be made of metal or stone and must be sunk below the level of the ground so as not to interfere with the mowing of the lawn nor appear unsightly when not in use. (Prior code 10-52)

**Sec. 11-140. Heavy loads entering grounds.**

The Cemetery Superintendent shall be consulted before any heavy loads enter the cemetery grounds. All materials must be moved along the pathways of the cemetery or over planks laid for the immediate service. (Prior code 10-53)

**Sec. 11-141. Funeral tributes.**

Forty-eight (48) hours' time is allowed for funeral designs and floral pieces, following a burial in the cemetery, before disturbance by cemetery employees. Close relatives must recover any desired memento or tribute during that time. (Prior code 10-54)

**Sec. 11-142. Changes in rules authorized.**

The Town Council, acting under the law or through its Cemetery Committee, can at any time amend or expand this set of cemetery rules and regulations. (Prior code 10-55)

**Sec. 11-143. Disinterment charges.**

The Town charges for processing a request for disinterment shall be seven hundred fifty dollars (\$750.00). The request must be presented to the Town Clerk in accordance with state law. The party making application shall be solely responsible for providing the personnel and equipment and all costs relating to the disinterment. (Prior code 10-56; Ord. 500, 1995; Ord. 2004-725 §1)

**Secs. 11-144—11-150. Reserved.**