**CHAPTER 92: CEMETERIES**

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**§ 92.01 BURIAL AND DISINTERMENT.**

1. No person shall bury or cause to be buried any human body in any place within the town

other than in a properly established cemetery.

1. No person shall disinter the remains of any human body buried within the town without first having obtained written permission from the Health Department Director, and from the town if in a town cemetery.
2. All graves shall be opened and closed by employees of any town cemeteries or under the supervision of licensed funeral directors.
3. All graves shall be a minimum of six feet in depth.
4. A vault is required for all burials in the Elizabethtown City Cemetery.
5. For any burial, a “minimal” stone or burial marker is required, listing the name and dates

 of birth and death, within six months of burial.

(’82 Code, Ch. 5, § 1) (Ord. 2018-01 approved 3/5/18) and Ord. 2018-03 approved 5/7/18)

Penalty, see § 10.99

**§ 92.02 SALE OF LOTS; RESTRICTIONS.**

1. The town shall have the power to make contracts for the sale of lots in the public

cemeteries of the town, at prices determined by the Town Council annually.

1. The size of the lots sold shall be in accordance with the cemetery plots. Deeds for

cemetery lots shall be executed by the Mayor and attested by the Town Clerk, and no deed shall be delivered until the town has received in full the purchase price of the lot conveyed.

(’82 Code, Ch. 5, § 2) (Motion of 4-6-87) (Am. Ord. 00-7, passed 8-7-00; Am. Ord. 03-06, passed 12-1-03)

**§ 92.03 TRANSFER BY PRIVATE OWNER OF LOT.**

1. The Town of Elizabethtown is the perpetual “owner” and caretaker of the City Cemetery.
2. No deed for burial space or section in any cemetery maintained by the town may be

 transferred or assigned to any third person or party without the written consent of the town.

1. Such transfer shall not be sold for profit to exceed the original purchase price on any burial

 space or section.

(’82 Code, Ch. 5, § 3) (Ord. 2018-01 approved 3/5/18) Penalty, see § 10.99

**§ 92.04 USE, MAINTENANCE, CARE AND SPECIFICATIONS.**

1. No person shall plant trees, shrubs or any plant of any kind in any town cemetery without

 the permission of the Town Council.

1. Specifications for the foundations of monuments, tombstones and markers must meet the

 approval of the Town Council.

1. More than one adult burial per grave space shall be prohibited.
2. Existing planting in the town cemeteries which may be deemed detrimental to other

 property or operation of the cemeteries may be removed at the discretion of the Town

 Council.

1. Flowers shall be removed after the season represented has passed.

(’82 Code, Ch. 5, § 4) (Motion of 4-6-87)

**§ 92.05 SPEED LIMIT.**

No person shall drive any vehicle in any cemetery in the town at a speed of more than ten miles

per hour (’82 Code, Ch. 5, § 5) Penalty, see § 10.99

**Cross-reference:**

*Town speed limit, see § 71.03*

**§ 92.06 SALE OF MERCHANDISE IN CEMETERY PROHIBITED.**

No person shall sell or offer for sale any article of merchandise or any fruit drink or beverage or any other thing of value within the limits of cemeteries.

(’82 Code, Ch. 5, § 6) Penalty, see § 10.99

**§ 92.07 DEPOSIT OF REFUSE.**

No person shall deposit, or cause to be deposited, any filth, trash, garbage or unclean or offensive

substances in a cemetery.

 (’82 Code, Ch. 5, § 7) Penalty, see § 10.99

**§ 92.08 REMOVAL OF BUILDING MATERIALS.**

In the cemeteries that permit makers above the ground, all monument, tombstone and curb builders shall remove from the cemetery grounds any trash and unused materials.

 (’82 Code, Ch. 5, § 8) Penalty, see § 10.99

**§ 92.09 DISCHARGING FIREARMS; RIDING OR LEADING ANIMALS.**

No person, other than a peace officer in the discharge of his duties, shall:

1. Discharge firearms in the cemetery, except in authorized military ceremonies; or
2. Ride or lead any horse or other animal in a cemetery.

(’82 Code, Ch. 5, § 9) Penalty, see § 10.99

**§ 92.10 USE AS A PLAYGROUND; OFFENSIVE ACTS.**

It shall be unlawful for any person to use a cemetery, or any graveyard, as a playground, or to make loud noises of any kind therein, or to use profane or indecent language, or to commit any indecent act therein.

(’82 Code, Ch. 5, § 10) Penalty, see § 10.99

**§ 92.11 DAMAGING PROPERTY.**

It shall be unlawful for any person to damage or deface in any way whatsoever the grounds or any well, pump, building, tombstone, monument, seat, bench, chair, railing, enclosure, tree, shrub, vine, bulb, flower or other thing placed or put or growing in any cemetery, except that the owner thereof, or other person with his authority, may make changes to his own lot.

(’82 Code, Ch. 5, § 11) Penalty, see § 10.99

**§ 92.12 REMOVING MARKERS AND THE LIKE.**

No person shall remove the stakes from a burial plot, or any marker, gravestone or other monument which may have been erected at any grave, except the owner thereof, or by the authority of the owner.

(’82 Code, Ch. 5, § 12) Penalty, see § 10.99

**§ 92.13 GRAVE MARKING IN THE CEMETERY.**

A customer charge set annually by the Town Council shall be paid for the marking of graves in the city cemetery. All graves should be marked by the city employee in charge of the cemetery.

(’82 Code, Ch. 5, § 13) (Motion of 4-6-87) (Am. Ord. 03-06, passed 12-1-03) (Ord. 2018-01 approved 3/5/18)

**§ 92.14 DEFINITION OF COLUMBARIUM.**

A columbarium is a room or vault with niches for urns containing ashes of the dead.

**§ 92.15 CREMATED REMAINS.**

No area of the Elizabethtown City Cemetery is designated for the interment of cremated remains. A funeral lot or burial space may be used for the burial of cremated remains in an urn.

1. The cremated remains of two people may be interred on one burial space.
2. For any cremated remains, a “minimal” stone or burial marker is required, listing deceased name and dates of birth and death. may be interred on a burial space.
3. Grave markings should be in place within 6 months from the date interred.

**§ 10.99 GENERAL PENALTY.**

1. Whenever in this code or any ordinance of the town any act is prohibited or is made or

 declared to be unlawful, an offense or a misdemeanor, or whenever in this code or any

 ordinance the doing of any act is required or the failure to do such act is declared to be

 unlawful, where no specific penalty is provided therefor, the violation of any such

 provision of this code or other ordinance shall be punished as described therein or by a fine

 not exceeding $50 or by imprisonment for a term not exceeding 30 days.

 (Am. Ord. 94-6, passed 11-7-94)

1. A violation of this code or any ordinance shall also subject the offender to liability for a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within ten days after he has been cited for violation of this code or any ordinance. The penalty shall be issued in the form of a civil citation by any sworn police officer of the Town of Elizabethtown or the Fire Chief.
2. Any provision of this code or any ordinance may be enforced by an appropriate equitable

remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

1. Any provision of this code or any ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of such a provision of this code or an ordinance occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon, or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
2. In addition to an injunction, the court may enter an order of abatement as a part of the judgement in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the code or other ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing the order of abatement in the nature of a mechanic’s and materialmen’s lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard, and shall be conditioned on the defendant’s full compliance with the terms of the order of abatement with a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
3. The terms of this code or any ordinance may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section. The procedure herein prescribed for abatement of a nuisance shall not be deemed to be exclusive.

(’82 Code, Ch. 1, § 7) (Am. Ord. 00-5, passed 6-5-00; Am. Ord. 02-4, passed 4-8-02; Am. Ord. 03-3, passed 11-3-03)