

TRUSTEE'S BILL

ORDINANCE NO.

NO.

5
Series of 2000

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TITLE: A BILL FOR AN ORDINANCE ADDING ARTICLE 17 TO CHAPTER 2 OF THE TOWN OF HUDSON MUNICIPAL CODE FOR THE MANAGEMENT OF THE HUDSON CEMETERY

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF HUDSON, COLORADO, THAT:

Section 1. The Town of Hudson hereby adopts Article 17 of Chapter 2 of the Town of Hudson Municipal Code, entitled "Town of Hudson Cemetery" to read as follows:

Sec. 2-211. Definitions.

For the purpose of this Article 17 of Chapter 2, the following words shall have the following meanings:

(a) *Block* shall mean a portion of the Hudson Cemetery so designated on the Official Hudson Cemetery Map that contains a various number of plots.

(b) *Board* shall mean the board of directors of the Hudson Cemetery, created pursuant to the provisions set forth below.

(c) *Cemetery* shall mean the Hudson Cemetery, also known as the Mountain View Cemetery.

(d) *Certificate of ownership* shall mean the document issued to the purchaser of a burial space that entitles the holder the right to have someone interred in that burial space according to terms set forth in the certificate.

(e) *Lot* shall mean an area in a block of the Hudson Cemetery so designated on the Official Hudson Cemetery Map, which customarily measures sixteen feet (16') by twenty feet (20') and contains eight (8) grave plots. Some lots have different dimensions and numbers of grave plots.

(f) *Official Hudson Cemetery Map* shall mean the map of the cemetery on file with the board of directors from which the location of blocks, lots and grave plots within the Hudson Cemetery are determined.

(g) *Plot* shall mean a portion of a lot normally measuring four feet (4') by ten feet (10').

(h) *Town* shall mean the Town of Hudson, Colorado.

Sec. 2-212. Creation; Membership; Term; Qualifications.

(a) Creation. There is hereby created a board of directors of the Hudson Cemetery (the "Board"). The Board shall consist of seven (7) members, all of whom shall be appointed by the board of trustees of the Town of Hudson.

(b) Members of the Board shall be appointed for a term of three (3) years.

(c) No fewer than four (4) members of the Board shall be bona fide residents of the Town. All members shall serve without compensation.

(d) Members of the Board may hold other municipal offices.

Sec. 2-213. Meetings.

(a) Meetings shall be held on at least a semiannual basis, at a time agreed upon by the members of the Board.

(b) A quorum shall consist of at least four (4) members of the Board.

Sec. 2-214. Vacancies and removal

(a) A vacancy on the Board shall exist upon the resignation, death or removal of any member, or upon the termination of the term of any member of the Board.

(b) Any vacancy on the Board shall be filled in the manner provided by section 2-212 above.

(c) Citizen members of the board may be removed by the board of trustees, after public hearing, for inefficiency, neglect of duty or malfeasance of office. Such public hearing shall be held only after the filing by the mayor or trustee of written charges and upon proper notice.

Sec. 2-215. Organization and rules

(a) The Board shall select its chairman from among the members for a term of one (1) year.

(b) The Board shall keep a record of its resolutions, transactions, findings and determinations, which shall be a public record.

(c) The Board shall adopt rules for the transaction of business. Except as otherwise provided by ordinance, the proceedings and meetings of the Board shall be governed by such rules.

Sec. 2-216. Duties and Authority

(a) The Board shall have the following duties and authority:

- (1) To be an advisory Board of the board of trustees;
 - (2) To assist and advise the board of trustees in the formulation of plans and policies to manage and maintain the records and the grounds of the Hudson Cemetery;
 - (3) To recommend regulations for the operation of the Hudson Cemetery, including, but not limited to, a method for determining the purchase price of lots and grave plots, regulations as to the size and type of monuments which will be allowed on each gravesite, and necessary documentation to be used for the sale and purchase of lots and grave plots; and
 - (4) To assist and advise the board of trustees in the budget review process for issues relating to the Hudson Cemetery.
- (b) In assisting and advising the board of trustees, the Board shall follow the following guidelines:

- (1) The Official Hudson Cemetery Map, an undated map with the notation "Burial Park, Hudson Colorado", shall be the official map of the cemetery, which shall presumptively identify the blocks, lots and grave plots within the cemetery;
- (2) The active burial list dated June 15, 1999 shall be the presumptive list of lots that are currently available for use to the family indicated on the active burial list; and
- (3) The "Complete List of Lots and Blocks in the Hudson Cemetery", without date, shall be the presumptive guide for determination of the right to use lots within the Hudson Cemetery, based on the guidelines set forth in Section 2-217 for the issuance of burial certificates.
- (4) The Board shall have the authority to accept and use gifts for the exercise of its functions.

Sec. 2-217. Determination of legitimate preexisting claims to burial spaces.

The Board will use the following criteria for determining the validity of a claim to a burial lot existing prior to the Town's acquisition of the cemetery, and will make recommendations regarding preexisting claims based on the following criteria:

- (1) Whether the claimant possesses a burial certificate from the previous owners of the Hudson Cemetery;
- (2) Whether the claimant possesses a burial map claim with a family name in the specific lot on the original burial map;

(3) Whether the lot was an undocumented gift to friends of the previous owners of the Hudson Cemetery. The Board is specifically vested with the authority to distinguish between a complete lot given to a family and a single grave plot given to an individual, and determine that the latter does not give the family a claim to all plots in the lot; and

(4) Whether the claimant can show a well defined history of continuous family burials in the lot.

Sec. 2-218. Sale of lots and plots.

(a) Ownership of the cemetery. The board of trustees of the Town shall retain ultimate control and ownership of the real and attached personal property in and of the cemetery.

(b) Sale of lots and plots. The Board shall have the power to contract for the sale of lots and grave plots, and shall issue a certificate of ownership to the purchaser of a lot or grave plot. A record of the Certificates of Ownership issued, as well as all records related to the Hudson Cemetery, shall be maintained with the Town Clerk in a book to be provided for that purpose.

(c) Certificate of ownership. The certificate of ownership shall contain a description of the lot(s) or grave plot(s) purchased, the purchase price, the date of purchase, and the name and address of the owner. The certificate will be signed by the mayor, and attested to by the Town Clerk, following a recommendation. The certificate of ownership shall state:

(1) This certificate of ownership in no way conveys title to real estate. The certificate provides the owner with the right to be interred at the burial space identified in the certificate.

(2) The ownership of the right to interment is not transferable without the approval of the Town Clerk and the reissuance of the new certificate to the new owner; except that the transfer of ownership may be effected by last will and testament or intestacy.

(3) All changes in address and ownership shall be reported to the Town Clerk.

(4) Prior to the sale of any burial space, the owner must remove all markers and monuments at the owner's expense.

(5) Interment cannot be completed until all permits required by law have been furnished to the Town Clerk.

Sec. 2-219. Maintenance of the cemetery.

Neither the Town, the board of trustees, nor the Board of Directors has the duty to maintain the cemetery.

Sec. 2-220. Police Power.

The Town is hereby vested with the police power over the land, the sold and unsold lots, and the alleys, streets and byways for the purposes stated herein, including, but not limited to, protecting the cemetery and personal property therein from damage and vandalism. The police power of the Town further includes the power to adopt and enforce ordinances, including amendments to this Article 17 of Chapter 2, necessary to the health, safety and welfare of the public.

Sec. 2-221. Damage or vandalism prohibited.

(a) It is a misdemeanor for any person or persons, in any way at any time, to disturb or injure any portion of the cemetery, any lot, any decoration, monument or other type of fixed or unfixed remembrance placed upon such lots or within such cemetery regardless of the ownership of the lots, land, or any type of property therein. Conviction of this offense is punishable by a fine of not more than nine hundred ninety-nine dollars (\$999.00) or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

(b) In the context of this chapter, disturb means an act that desecrates a grave, scatters, mars or moves the ground or earth, or any monument or decoration, or removes with intent to destroy or injure; however, this section will not apply to the necessary acts of maintenance of the lots, streets, alleys or byways.

Sec. 2-222. Littering prohibited.

It is a misdemeanor to leave litter upon the cemetery of a kind that is trash. Conviction of this offense is punishable by a fine of not more than nine hundred ninety-nine dollars (\$999.00) or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

Sec. 2-223. Alcoholic beverages prohibited.

It is a misdemeanor to consume any alcoholic beverages on the premises of the cemetery. Conviction of this offense is punishable by a fine of not more than nine hundred ninety-nine dollars (\$999.00) or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

Sec. 2-224. Entry after hours prohibited.

It is a misdemeanor to enter or remain on the grounds of the cemetery without the written permission of the mayor or the mayor's designee. Conviction of this offense is punishable by a fine of not more than nine hundred ninety-nine dollars (\$999.00) or by imprisonment in jail up to one (1) year, or both such fine and imprisonment.

Section 2. Safety Clause. The Town Board of Trustees hereby finds, determines, and declares that this ordinance is promulgated under the general police power of the Town of Hudson, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and


welfare. The Board of Trustees further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. This ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, READ IN FULL, ADOPTED AND ORDERED PUBLISHED ONCE IN FULL this 8th day of March, 2000.



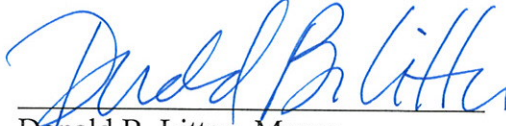
TOWN OF HUDSON, COLORADO

Donald B. Litton, Mayor

ATTEST:


Judy Larson, Town Clerk

PASSED ON SECOND AND FINAL READING this 21st day of March, 2000.




Donald B. Litton, Mayor

ATTEST:


Judy Larson, Town Clerk

APPROVED AS TO FORM:


Corey Y. Hoffmann, Town Attorney