

RESOLUTION NO. 2016-004

A RESOLUTION OF THE CITY OF OCOEE, FLORIDA AMENDING RESOLUTION 2012-010 RULES AND REGULATIONS FOR OPERATION OF THE CITY CEMETERY; SPECIFICALLY AMENDING SECTION 3.1, 6.8 AND 6.9; REPEALING CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 3 of Chapter 61 of the Code of Ordinances of the City of Ocoee authorizes the City Commission of the City of Ocoee from time to time to adopt, by resolution, rules and regulations for operating the City Cemetery; and

WHEREAS, the Cemetery is a valuable asset of the City and its citizens; and

WHEREAS, the proper management and appearance of the Cemetery is a vital City function; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF OCOEE, FLORIDA:

SECTION 1. Authority. The City Commission of the City of Ocoee has the authority to adopt this Resolution pursuant to Section 3 of Chapter 61 of the Code of Ordinances of the City of Ocoee, Article VIII of the Constitution of the State of Florida, and Chapter 166, Florida Statutes.

SECTION 2. Amendment of Cemetery Rules and Regulations. The Ocoee City Cemetery Rules and Regulations, as set forth in Exhibit "A" attached hereto and, by this reference, made a part hereof are hereby adopted.

SECTION 3. Conflicts. All resolutions, parts of resolution, or acts of the City Commission of the City of Ocoee in conflict herewith are hereby repealed and rescinded.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion hereto.

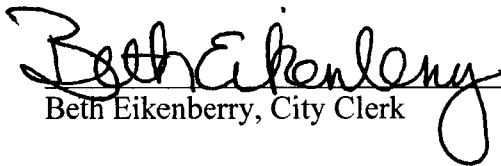
SECTION 5. Effective Date. This Resolution shall become effective immediately upon passage and adoption.

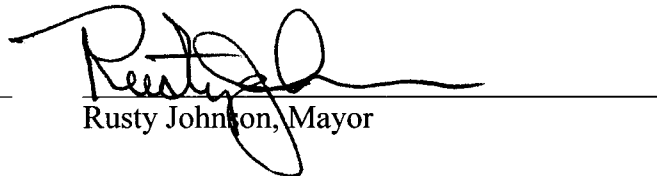
PASSED AND ADOPTED this 19th day of April, 2016.

APPROVED:

ATTEST:

CITY OF OCOEE, FLORIDA


Beth Eikenberry, City Clerk


Rusty Johnson, Mayor

(SEAL)

**FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA;
APPROVED AS TO FORM AND
LEGALITY THIS 19th DAY OF
APRIL, 2016.**

**APPROVED BY THE OCOEE CITY
COMMISSION AT A MEETING HELD
ON April 19, 2016
UNDER AGENDA ITEM NO. 5.**

SHUFFIELD, LOWMAN & WILSON

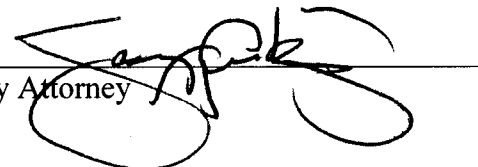
By: 
City Attorney

EXHIBIT "A"
Ocoee City Cemetery Rules and Regulations

- 1 Definitions.** The following terms have the meaning described below when used in these Rules and Regulations:
- 1.1 "Administrator" or "Cemetery Administrator" is that person described in § 61-6 of the Code of Ordinances of the City of Ocoee and having the duties described in § 61-7 of that Code. The Administrator is the person appointed to serve as the Cemetery Administrator for the purposes of implementing these Rules and Regulations.
 - 1.2 "Burial Right" means the right to use a grave space or columbarium niche for the interment, inurnment, or other disposition of human remains or cremated remains.
 - 1.3 "Casket" means a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, or fiberglass, and is typically ornamented and lined with fabric.
 - 1.4 "Cemetery" is a place dedicated to and used for the permanent interment or inurnment of human remains or cremated remains. A cemetery may include land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place for the disposition of cremated remains; or any combination of two or more of such structures or places.
 - 1.5 "City Clerk" is the person described under Article V, § C-28 of the Charter of the City of Ocoee.
 - 1.6 "City Manager" is the person described in Article IV of the Charter of the City of Ocoee and with the authority over cemetery operations described in Chapter 61 of the Code of Ordinances of the City of Ocoee.
 - 1.7 "Columbarium" is a structure or building that is substantially exposed above the ground and that is intended for the inurnment of cremated remains in individual niches.
 - 1.8 "Cremated Remains" or "Cremated Human Remains" are all the remnants of the human body recovered after the completion of the cremation process and may include the residue of any foreign materials, such as casket, bridgework, or eyeglasses, that were cremated with the human body.
 - 1.9 "Cremation" is a mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments.
 - 1.10 "Cremation Urn Vault" or "Cremation Interment Container" is an urn designed for the underground storage of cremated remains. Such an urn has a rigid outer container constructed of concrete. Cremated remains may be placed directly within the urn vault; a separate internal urn is not required.

- 1.11 "Designation" is the process of assigning the right of burial or inurnment to a person who is not the owner of a cemetery plot or the subscriber to a columbarium niche. Absent a designation, the owner of a plot or the subscriber of a niche is assumed to be the person for whom use is designated.
- 1.12 "Designee" is the person for whom a burial or inurnment right has been designated.
- 1.13 "Disinterment" is the removal of a dead human body, typically in a casket or other container, from the earth or an aboveground interment.
- 1.14 "Entombment" is the process of placing a deceased person's remains in an aboveground mausoleum.
- 1.15 "Funeral" or "Funeral Service" means the observances, services, or ceremonies held to commemorate the life of a specified deceased human being and at which the human remains are present.
- 1.16 "Grave Space" is an entire plot or a designated portion of a multiple-space plot set aside for the interment of human remains. Each grave space provides an area of ground for the burial of one casket in a vault or one cremation urn vault.
- 1.17 "Human Remains" or "Remains" is the body of a deceased human person for which a death certificate or fetal death certificate is required under State law and includes the body in any stage of decomposition. As used herein, the term will typically refer to the contents of an urn or casket.
- 1.18 "Inurnment" refers to the placement of an urn containing cremated remains above ground in a niche or below ground in a cremation urn vault.
- 1.19 "Interment" refers to the placement of a casket containing the remains of a deceased person in a grave space; a.k.a., a burial.
- 1.20 "Legally Authorized Person" or "Legally Authorized Representative" is a person defined under § 497.005(3), Florida Statutes; i.e., is authorized by an owner, subscriber, or designee to act on their behalf.
- 1.21 "Mausoleum" is a structure or building that is substantially exposed aboveground and used for the interment of human remains.
- 1.22 "Memorial Service" is a service that recognizes the life of one or more persons at a time subsequent to a funeral.
- 1.23 "Monument" is any product used to identify a gravesite or serve as a cemetery memorial of any kind, including monuments, markers, lights, mementos, and vases, which may be permanent or temporary in nature.

- 1.24 "Niche" is a compartment or cubicle for the permanent placement of an urn in a columbarium.
- 1.25 "Occupant" is an individual who has the right to have his or her remains placed in a niche or grave space.
- 1.26 "Plot" or "Burial Plot" is a rectangular area containing one or more grave spaces and is the smallest area of ownership within the Cemetery.
- 1.27 "Plot Owner" is an individual who has acquired a plot from the original or subsequent owner of the land. The plot owner is the current owner of the burial plot. Any references herein to plot owner includes any designated alternate or legally authorized person unless otherwise apparent from the wording.
- 1.28 "Resident" is a person who presently resides in the City of Ocoee.
- 1.29 "Subscriber" is an individual who has paid all fees for the reservation of a niche. Any references herein to subscriber includes any designated alternate unless otherwise apparent from the wording.
- 1.30 "Subscription" is the perpetual right to use a columbarium niche for the storage of a deceased person's cremated remains in an urn. The term applies to both the preservation of a future right of use and the actual use of a niche. Subscriptions are permanent unless terminated under one of the provisions of these Rules and Regulations.
- 1.31 "Superintendent" or "Cemetery Superintendent" is the person described by § 61-4 of the Code of Ordinances of the City of Ocoee with the powers and duties provided in § 61-5 of that Code. The Superintendent is an employee of the City.
- 1.32 "Urn" is a device or receptacle for permanently storing and encasing cremated remains in a columbarium niche. As used herein, an urn is a container into which cremated remains may be placed and closed in such a manner as to prevent leakage or spillage of the remains. A cremation urn vault serves as an urn for underground inurnment.
- 1.33 "Vault" or "Outer Burial Container" is a reinforced structure typically constructed of concrete and designed to support the weight of earth overlaying a burial site. A single casket is placed in a vault.

2 Authority.

- 2.1 The use and care of the Cemetery are subject to the management and control of the Ocoee City Commission through Chapter 61-1 of the Code of Ordinances of the City of Ocoee and these Rules and Regulations. The City Commission reserves the right to make, amend, and repeal such regulations and policies, as it deems appropriate. The City may, at any time, amend or waive any of its Cemetery Rules and Regulations upon direction of the City Manager. Waiver of any rule or regulation does not constitute a continuing waiver with respect to any situation arising thereafter.

3 Cemetery Plots

- 3.1 A plot owner has the right to inter or inurn the remains of one (1) person in a cemetery plot he or she owns. A plot consists of one grave space that may contain the remains of a single deceased person, as designated by the plot owner and as applicable and subject to the restrictions provided below. The remains of the designated person may be contained in a casket and buried in a vault below ground or entombed in a mausoleum above ground within the plot. Alternatively, the cremated remains of the designated person may be buried in a cremation urn vault or entombed in a mausoleum within the plot. The City does not supply the required vault, cremation urn vault, or mausoleum but does maintain a list of approved vaults and suppliers to inform the public. A request for a special exception to inter two urn vaults in a single, previously-owned grave space may be submitted to the Cemetery Administrator and approved by the City Manager. Each case will be considered individually.
- 3.2 Ownership of a plot may be voluntarily transferred to the City, which may reimburse the owner in an amount equal to the original purchase price, as provided in § 61-8 D of the Code of Ordinances. In the absence of acceptable proof of the actual price paid, as determined by the Administrator, the price of \$50 shall be used as the amount to be reimbursed.
- 3.3 A plot owner may designate the right to use an owned grave space by any person. Such a person, or designee, may not transfer the right of use to a third party. Right of occupancy may be demonstrated by a notarized statement executed by the plot owner granting the right for the named individual to utilize the grave space upon death. Either the owner or designee may end the right of use through a notarized document terminating the designation. Purchases made after September 30, 2012, shall require a designation at time of purchase.
- 3.4 Each plot owner may authorize another person to make or change designations or take other action in case the plot owner dies or becomes incapacitated. Such an authorization must be made in writing to the Administrator and the signature of the owner taking such action must be notarized, and may be revoked or modified by the owner in the same manner at any time. Such a person will be treated as a legally authorized representative.

- 3.5 The City permits the interment of the inurned cremated animal remains of the decedent's pet or pets with the decedent's human remains or cremated remains in a plot, provided the human remains and cremated animal remains are not intermingled and the interment with the cremated animal remains is with the authorization of the decedent or other legally authorized person acting for the decedent. For example, the cremated animal remains may be placed in an urn and the urn placed in the casket of a deceased person for burial.
- 3.6 Monuments in all sections of the cemetery must be markers, headstones, or flat ledgers and must be made of bronze, marble, or granite. A monument to a plot may be added upon the granting of a permit to do so by the Administrator following acceptance of the proposed monument and payment of the appropriate fees. In considering whether to grant the permit, the Administrator shall determine if the monument is compliant with Cemetery Rules and Regulations. Should the Administrator reject the application, the applicant may appeal the decision to the City Manager. Should the City Manager affirm the decision of the Administrator, the applicant may appeal the decision to the City Commission. All facilities, markers, and monuments installed in or on a plot are the property and responsibility of the owner, as provided in § 61-8 J of the Code of Ordinances.
- 3.7 Only the City and/or its authorized agent(s) may perform interment, inurnment, and other services related to the cemetery. A permit must be obtained from the Administrator for all such services.
- 3.8 Permission to inter or inurn the remains of a deceased person in a grave space must be secured from the Administrator at least 24 hours in advance of the anticipated date and time for such an event. Friday at noon is the cut-off time for scheduling a weekend service.
- 3.9 The City reserves the right to inspect improvements to a plot for compliance with these Rules and Regulations, conformance with other applicable laws, and consistency with any City permit granted for the improvement. Should problems be found, the plot owner or appropriate legally authorized person shall be notified of the deficiency in writing by the Administrator and given a stated period of time for corrective action to be taken. The cost to correct any issues will be the responsibility of the decedent's authorized representative. Failure to take the required corrective action within the designated period shall be treated as a code violation under the provisions of Chapter 7 of the Code of Ordinances.
- 3.10 Demonstrating proof of the right to use a grave space for the interment or inurnment of a deceased person's remains is the responsibility of the person seeking to use the space. The Administrator may determine the manner of demonstrating the right of use and accept such evidence as may be presented in order to determine whether to issue a permit to utilize a given grave space.

- 3.11 Due to incomplete records prior to the city's ownership of the cemetery, the City cannot confirm or defend the ownership of any plot or burial right. Providing evidence of plot ownership or burial right within a grave space is the responsibility of the person seeking to establish such ownership or right. The Administrator may determine the manner of demonstrating plot ownership, accept such evidence as may be offered to demonstrate ownership, and reach a determination as to ownership for the purposes of managing the Cemetery and the use of plots and grave spaces. In general, proof of ownership must be demonstrated by a deed, probated will, or notarized bill of sale.
- 3.12 Each plot owner is required to provide the City with his or her residential address at all times, as required by § 497.286, Florida Statutes. Failure to do so will result in an assumption of abandonment by the owner as provided in § 61-8H of the Code of Ordinances.

4 Columbarium Niches.

- 4.1 A columbarium niche may be used to inurn the cremated remains of a single deceased person. A subscription entitles the subscriber or a designated person to use the identified niche in perpetuity, subject to the limitations listed herein. Any subscriber obtaining more than one niche must designate at time of purchase the person(s) using each niche as provided in § 61-9 H of the Code of Ordinances. The subscription fee does not include the cost of cremation or the urn and the City has no involvement with the cremation process.
- 4.2 Each subscriber may authorize another person to make or change designations or take other actions in case the subscriber dies or becomes incapacitated. Such an action must be made in writing to the Administrator and the signature of the subscriber making the appointment must be notarized. Any such appointment may be revoked or modified by the subscriber in the same manner at any time.
- 4.3 Once a niche has been utilized for inurnment, the subscriber may seek permission from the Administrator to remove the cremated remains originally inurned and inurn a different individual upon payment of the prescribed fees. The normal fee to open a niche shall apply when the cremated remains are removed.
- 4.4 Subscriptions may be canceled by a subscriber prior to inurnment and thereby released back to the City.. Should a subscription be canceled in the manner herein described, a refund equal to the original subscription fee shall be refunded to the subscriber.
- 4.5 A subscriber may seek permission to remove the cremated remains originally inurned and cancel the subscription. Should a subscription be canceled in the manner herein described, a refund equal to the original subscription fee shall be refunded to the subscriber subject to a deduction \$200 for each year or part of a year in which the niche was used to store cremated remains. The normal fee to open a niche shall apply when the cremated remains are removed.

- 4.6 Inurnment of cremated remains in a niche requires the use of an urn. The Administrator shall approve any urn used prior to inurnment. The City does not supply the urn. The Standards section of these Rules and Regulations provides the controlling specifications for urns.
- 4.7 Each subscriber must notify the Administrator in writing of changes to his or her residential mailing address and phone number as provided in 61-8G of the Code of Ordinances.
- 4.8 No remains may be inurned in a niche except those of the subscriber or the person designated by the subscriber for that niche. A subscriber may declare or modify the designated user at any time prior to inurnment upon written application to the Administrator. A subscription cannot be sold or otherwise transferred to a third party by any subscriber; subscriptions may only be canceled.
- 4.9 Permission to inurn the remains of a deceased person must be secured from the Administrator at least 24 hours in advance of the anticipated date and time for such an event. Permission may be granted only upon filing and approval of the appropriate permit with the cemetery Administrator.
- 4.10 If corrective action is required for any unauthorized changes, the cost to correct such issues will be the responsibility of the decedent's legally authorized representative.
- 4.11 The only type of monument permitted for a niche is the plaque provided, inscribed, and installed by the City. The cost of the plaque and its inscription and installation are not included in the reservation fee for the niche. The subscriber must notify the Administrator in writing of any error in engraving the plaque within 12 months of installation. Should a change be desired in the plaque's inscription other than to correct an error, the subscriber or authorized representative of the occupant must submit an application to do so and pay the required fees.
- 4.12 The City shall endeavor to protect the cremated remains and urns during the inurnment after they are placed in the columbarium, but it shall have no responsibility for failure to do so. Should the columbarium be damaged through a natural or manmade disaster, the City will take such action as it deems appropriate to recover, identify, and protect inurned remains. Should it be impossible or impractical for the City to repair and/or replace the columbarium, as may be determined by the City, the Administrator will seek to contact the subscriber, known alternate, occupant's legally authorized representative, or known descendant to accept the cremated remains for inurnment at another location. Should no such person be found or such person not timely respond to the notification, the City may respectfully place the cremated remains in an alternative location and retain documentation of such action as a public record. In no case shall a refund of fees be made as a result of the City's inability to operate the columbarium due to damage or loss, as hereinabove described.

- 4.13 The City, while making repairs or improvements to the columbarium, may temporarily remove cremated remains. Otherwise, remains may only be removed with the written consent of both the City and the subscriber, the occupant's legally authorized representative, or when required by law or a court order.

5 Residency.

- 5.1 Residency pricing applies to the purchase of a cemetery plot or the subscription of a columbarium niche from the City when the person seeking to purchase the plot or subscription is a city resident, as defined above. A designee must be established for each plot purchase or niche subscription at the time it is acquired.
- 5.2 Residence may be established by showing a deed, utility bill, voting card, driver's license, or other records that include the name, date, and address of the person seeking to establish residency and covering the period of time for which residency is being established.
- 5.3 Residency, once established, is not affected by any subsequent relocation of the occupant. The occupant need not reside in the City at the time of death once residency has been established.

6 Standards.

- 6.1 A standard grave space for the interment of a single deceased person in a casket contained in a vault shall measure at least 42 inches wide and 96 inches long; these dimensions shall constitute the minimum allowable space for interment of a deceased person. Spaces defined prior to October 1, 2005, are not required to meet this standard. Only one person may be interred in such a space. An above-ground monument must be placed within the grave space.
- 6.2 A standard grave space for the inurnment of a single deceased person is 42 inches wide and 48 inches long; these dimensions shall constitute the minimum allowable space for inurnment of a deceased person in a plot. Only one person may be inurned in such a space. An above-ground monument must be placed within the grave space.
- 6.3 Each casket interred in the Cemetery must be enclosed in an approved underground vault or aboveground mausoleum.
- 6.4 The minimum amount of earth covering a vault or cremation urn vault is 12 inches.

- 6.5 Columbarium niches are 11.75 inches wide, 11.75 inches high, and 12.375 inches deep. Reinforcing brackets protrude into this space on the two upper corners. Urns to be placed in a columbarium niche must fit within these dimensions. Users are advised to make allowances in dimensional variation between niches given the natural materials used in niche construction. All urns must be constructed of durable materials and seal with a positive fastening mechanism. So-called “eco” biodegradable urns may not be used.
- 6.6 No tree or shrub may be planted on any plot. The only permitted permanent vegetative material is sod.
- 6.7 All monuments must be constructed bronze, granite or marble. The location of all or a portion of a monument within a grave space shall preclude the use of that space for the interment of deceased person if the resulting area of ground is less than minimum space stated above. An additional charge may be incurred if it is necessary to remove and subsequently replace a monument in order to conduct an interment or inurnment.
- 6.8 Monuments and ~~other~~ grave markers other than ledgers may not exceed twenty-five percent (25%) of the surface area of the plot on which they are located.
- 6.9 No boxes, shells, toys, glassware, sprinkling cans, receptacles, landscape lighting, trinkets, mementos, or similar articles will be permitted on any grave, lot, or tree. No decorative rocks, mulch, landscape edging, or items other than permitted monuments may be used within, on top of, or around the grave space. The City reserves the right to remove decorative landscaping items that are not permitted.
- 6.10 No person may use any form of advertisement on Cemetery grounds.
- 6.11 Flowers and other symbols of tribute may be placed upon graves. Symbols of tribute may include fresh or artificial flowers, wreaths, potted plants or baskets. Except for the funeral service, arrangements should be placed on the grave space only. The use of candles is strictly limited to funeral services and memorial services and may be prohibited due to dry conditions and for other reasons. The area surrounding graves should remain clear for maintenance. The City will remove arrangements that become wilted, faded, or unsightly.
- 6.12 The City may flag or otherwise mark and/or remove items placed within cemetery plots that are not in conformance with these regulations. Plot owners shall have 45 days from the date of such action to remove or claim their item(s), after which time the City is empowered to dispose of them as it sees fit.

7. Fees and Charges.

- 7.1 The following fees (attached tables 7.1A and 7.1B) are to be applied for services and products provided by the City.
- 7.2 Notification must be made to the Administrator no later than 12:00 noon on Friday prior to any weekend interment or inurnment desired for the immediately following Saturday or Sunday. The City does not have staff available on weekends to identify grave sites and supervise interment and inurnment activities.

8. Cemetery Hours.

The Ocoee Cemetery is open to the public during daylight hours every day of the year. Any person found on the grounds after hours without City authorization will be considered to be a trespasser and treated in the same manner as any person found in a City park after hours.

9. Conduct of Persons in the Cemetery.

- 9.1 No person shall break or injure any tree or other plant, pick any flowers, or mar any landmark, marker, or memorial, or in any way deface the grounds of the Cemetery.
- 9.2 Persons within the cemetery grounds shall use only the established avenues, walkways, and roads and are forbidden to trespass on Cemetery plots.
- 9.3 Children under 16 years of age shall not be permitted within the Cemetery or its buildings, unless accompanied by an adult.
- 9.4 No person may consume alcoholic beverages within the Cemetery or carry the same into the premises except as part of a funeral service.
- 9.5 No person shall throw rubbish or debris on walks, drives, or any part of the Cemetery grounds.
- 9.6 Pets of any kind are strictly forbidden in the Cemetery.

10. Cemetery Records.

To the extent permitted by the records available to the City, the Administrator shall keep a record of every owner and designee for each cemetery plot and cremation niche, as provided in § 61-6 of the Code of Ordinances.

EXHIBIT "B"
Schedule of Product and Service Fees

Table 7.1.A

Product or Service	Non-resident Price	Resident Price
Purchase Cemetery Plot	\$1,200	\$800
Reserve Columbarium Niche	\$1,500	\$1,000
Permit to Install Monument	\$50	\$50
Transfer burial right to another person	\$25	\$15
Record a burial right or niche reservation with Orange County Records	\$35	\$35

Table 7.1.B

Service	Fee
<i>Interment</i>	
Open and Close Adult Grave	\$890
Open and Close Urn Vault	\$370
Open and Close Infant Grave	\$370
Set-up for Service with Interment	\$195
Set-up for Service without Interment	\$230
<i>Disinterment</i>	
Open and Close Each Grave	\$890
Handling within One Cemetery	\$325
Handling between Two Cemeteries	\$520
<i>Inurnment</i>	
Open and Close Niche	\$360
Set-up for Service as Part of Inurnment	\$195
Set-up for Service without Inurnment	\$230
Engrave Niche Door Front	\$180
Modify Niche Inscription	\$260
<i>Additional Items</i>	
Extra Tent and 12 Chairs (Requires Set-up)	\$195
Surcharge for Less than 24 Hours Notice	\$260
Surcharge for Services after 3:00 pm	\$170
Surcharge for Saturday Service	\$240
Surcharge for Sunday Service	\$500
Surcharge for Holiday Service	\$675

Notes:

1. The Standard Set-up includes 15 ft. by 15 ft. tent, 12 chairs with covers, and artificial turf cover of exposed soil.
2. There may be additional charges from the contractor for the cost of removing and replacing monuments that encroach into the grave space.
3. The cost of opening and closing a grave in another cemetery is not included in the price for disinterment; the actual cost will be set by the receiving cemetery.