

**TOWN OF BUENA VISTA, COLORADO**  
**ORDINANCE NO. 3**  
**(SERIES OF 2011)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,**  
**ADDING A NEW ARTICLE VII TO CHAPTER 11 OF THE BUENA**  
**VISTA MUNICIPAL CODE ESTABLISHING RULES AND**  
**REGULATIONS FOR THE MT. OLIVET CEMETERY**

WHEREAS, the Town is the owner of the Mt. Olivet Cemetery in Buena Vista;

WHEREAS, the Board of Trustees desires to adopt Rules and Regulations for the Mt. Olivet Cemetery and penalties for violations thereof via this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, THAT:**

Section 1. Chapter 11 of the Buena Vista Municipal Code is hereby amended by the addition of a new Article VII to provide as follows:

**ARTICLE VII**

**Cemetery Rules and Regulations**

**Section 11-130. Designation and Definitions.**

(a) Designation: The property and all additions that may hereafter be made thereto, now known as the Mt. Olivet Cemetery (hereafter referred to as "the Cemetery"), is designated the town cemetery of Buena Vista and is set apart and shall be maintained forever for the burial of deceased persons. Nothing in this Article shall be deemed to supersede any covenant or restriction placed on a cemetery plot, including those covenants placed on Blocks 45 through 87 by Town of Buena Vista Ordinance 7, Series 1990.

(b) Definitions:

(1) "Double Burials": The stacking, or placement of one interment atop or above another.

(2) "Indigent": Lacking sufficient assets, credit, or other means to provide for payment of the burial fee established by the Town. The financial means of the deceased's immediate family shall be taken into consideration when determining whether a deceased individual is indigent.

(3) "Immediate Family": Parents, siblings, spouse and children only.

- (4) "Occupied Burial Space":
- a. An unmarked or temporary burial space which contains or shows evidence of containing any interred remains; and
  - b. A burial space that has a permanent marker.

(5) "Plot Size": A standard 5' x 10' long space for casket.

(6) "Resident":

a. An individual who resided in the Town for five consecutive years immediately prior to death;

b. An individual who resided in the Town for five consecutive years prior to residing outside the Town for the specific purpose of receiving care for health problems leading to death;

c. A member of the immediate family of a Resident;

d. A member of the immediate family of an individual already buried in the Cemetery; or

e. A person designated as a resident by resolution of the Town Board.

(7) "Residing": The act of living within the Town limits of the Town of Buena Vista a minimum of 9 months of a 12 month period as evidenced by a minimum of two of the following:

a. Payment of Town water and sewer billings;

b. Records of the Colorado Motor Vehicle Department (driver's license);

c. Records of the Chaffee County Clerk and Recorder (license plates), or voter registration; or

d. A copy of current lease.

(8) "Town": The Town of Buena Vista, a municipal Corporation in the State of Colorado, being the owner and administrator of the Cemetery.

(9) "Unoccupied Burial Space": A burial space, which does not contain, or is not known to contain any interred remains.

**Section 11-131. Cemetery Supervision.**

The Town Administrator, shall designate and supervise an appropriate person or persons to maintain the grounds of the Cemetery in good condition, attend to the trimming of vegetation, see to the enforcement of rules of this Article as they apply to the care and upkeep of the Cemetery, and make such improvements as the Board of Trustees may direct.

**Section 11-132. General Maintenance Fee.**

From the date of adoption of this Article, burial rights in all Cemetery plots must be granted via an interment agreement by the procedures outlined herein. Revenue received by the Town from the granting of interment rights shall be placed in the Town General Fund and used for the historic preservation, general care, and maintenance of the Cemetery.

**Section 11-133. Granting and Recording of Burial Rights.**

(a) All applications for burial plots in the Cemetery shall be made at the office of the Town Clerk, who is hereby authorized to grant interment rights for such plots on behalf of the Town. The Town Clerk shall exhibit the plat of the Cemetery plots and a schedule of prices of plots therein. The applicant shall submit the following information:

(1) Name, most recent address and phone number of the person (or persons, in the case of multiple cremain interments) to be named on the Interment Agreement owner of the burial rights;

(2) Name, address, and phone number of representative, if person to be named on Interment Agreement is being so represented; and

(3) Plot identification.

(b) Upon presentation to the Town Clerk of the above-listed information and any payment due for the sale of a plot to any person, the Town Clerk shall cause an interment agreement to be executed to the named Grantee of such plot, containing a description of the plot and signed by the Town Clerk. Burial rights for a plot shall only be granted to one person. The burial rights transferred shall be limited to the right of interment. All other property rights remain with the Town.

(c) Burial rights shall be sold by the Town Clerk for cash or certified funds payments only under the regulations and conditions as provided by the Town Board of Trustees and for prices as adopted by Resolution in the Town's fee schedule.

(1) The Town of Buena Vista has the right to refuse sale of plots to non-residents if, at any time, it is determined that the number of plots are limited and shall be reserved for residents.

(2) For persons proven to be "indigent" at their time of death, the burial plot fee may be waived by the Town Clerk.

(d) The Town Clerk shall keep an accurate, easily retrievable, and secure record of all transactions regarding the Cemetery showing the names of the Grantee and the number of the plot for which burial rights have been granted, in a book or database provided by the Town for that purpose.

(e) Interment rights that are granted prior to death to a Resident shall be honored if Grantee is no longer a Resident at time of death.

#### **Section 11-134. Burial Procedures.**

(a) No interment or disinterment shall occur within the Cemetery without a permit lawfully issued by the appropriate agency in the location of death.

(b) No burial shall take place until the Town Clerk has received payment in full for the burial plot and an interment agreement has been executed.

(c) The Town Clerk must receive notification at least seventy-two (72) hours before all burials; provided that if shorter notice must be provided for religious or other reasonable purposes, this advance notification requirement may be waived. The minimum period for such notification shall not include Saturday, Sunday or Town holidays and the notice period shall begin at 8:00 a.m. on any workday.

(d) After notifying the Town Clerk and payment of required fees, the representative of the deceased shall set a burial time and submit an Application for Burial.

(e) A minimum of two hours shall be allowed between two separate burials on the same day.

(f) The Town will provide no services related to the placement of the remains, including placing of the monument or landscaping.

(g) Notice upon application for burial shall be given to the Town Clerk of the intention to bury the remains of any person who dies of a contagious disease, so the proper time can be appointed and suitable arrangements made for the safety of the public health and the Cemetery employees.

**Section 11-135. Fees for Interments and Disinterments.**

The fee as set by Resolution shall be collected for disinterments of caskets from the Cemetery and for disinterment of cremains. These fees are for administrative tasks, the Town will not participate in the process of disinterment except to ensure that proper approvals and documentation is in place.

**Section 11-136. Transfer of Burial rights.**

(a) No burial rights for a cemetery plot or plots shall be transferred by a Grantee as named on a duly executed Interment Agreement without such transfer first having been recorded with the Town Clerk and a fee having been paid in full. The Town may, at its sole discretion, refuse to recognize and honor any such transfer unless and until it is first recorded with the Town Clerk and the fee paid. An applicant for transfer of an Interment Agreement must submit a notarized document authorizing such transfer by the existing Grantee, or, if Grantee is deceased, evidence of death, evidence of interment elsewhere, and documentation that the applicant is authorized to receive the transfer. No utilization of a Cemetery plot shall be made until compliance with this section has been effected.

(b) Any person or the legally authorized representative of a deceased person wishing to resell burial rights for a cemetery plot to the Town may do so, in which case the Town shall pay no more than the price which the Town charged at the time of issuance of the Interment Agreement, subject to availability of funds for such repurchase.

(c) Nothing in this section shall be construed to permit the sale or conveyance of any Cemetery plot or plots, which have been used for interment.

**Section 11-137. Caskets and Monuments.**

(a) The top of all crypts and vaults must be a minimum of 3 feet below ground level.

(b) No mausoleums shall be permitted.

(c) All tombstones and grave markers ("monuments") placed on plots in the Cemetery must meet the following requirements:

(1) Monuments shall be made of stone, synthetic stone, concrete or other industry standard material. Brass plaques may be used.

(2) Monuments shall contain at minimum the name of the deceased, the date of birth, and the date of death.

(3) Monuments shall be permanently placed in the ground. Monuments are limited to one (1) upright and four (4) flat markers per burial plot. Veteran markers are exempt from this limit.

**Section 11-138. Miscellaneous Burial Regulations.**

(a) Only one (1) casket with a maximum of eight (8) cremains above the casket is permitted per plot.

(b) No double burial of caskets is permitted.

(c) Only burials in strict compliance with these Rules are permitted.

(d) If burial rights for a plot are purchased, but not used after a period of 100 years, the burial rights shall terminate.

**Section 11-139. Disinterments and Opening of Graves.**

No disinterment shall be allowed without permission of the State of Colorado in accordance with its statutes and regulations and without the permission of the Town Board and the owner of the burial rights for the plot or owner's descendants. If the consent of the owner cannot be obtained, an order of the Court in accordance with Colorado law is required. No disinterment shall be made except by qualified contractors. Disinterment shall be allowed only upon payment in full of the fees outlined in the Town fee schedule. The time of disinterment will be designated by the Town Clerk. No liability shall accrue to the Town for damages incurred during the disinterment including, but not limited to, damage to liners, caskets or monuments.

**Section 11-140. Maintenance and Care of Plots and Graves.**

(a) The Town Clerk shall manage the operation of the Cemetery in coordination with the Town Administrator.

(b) The Cemetery shall be operated in such a manner so as to procure a natural and pleasant effect, to protect and preserve the historic character, and to ensure proper drainage of the grounds, the grade of all plots and graves in the Cemetery.

(c) All fences, railings, concrete blocks or other enclosures around plots and graves, including trellises and headboards of every type and description, shall be submitted for approval to the Town Clerk. Any fences, railings, curbs or other enclosures around plots and graves shall be maintained by the heirs of the deceased. Concrete footers are prohibited. If such constructions are not maintained, fees for the care of same may be assessed to the heirs of the deceased. If no responsible party can be contacted and be responsive, the Town may remove the constructions. Such constructions deemed historically valuable may be maintained by the Town at its sole discretion.

(d) All foundations and monuments placed in the Cemetery shall be set by a licensed memorial company or grave headstone company.

(e) The planting of trees and shrubs on a gravesite as permanent landscaping shall be submitted for approval by the Town Clerk.

(f) Chairs, settees, unauthorized grave covers, toys or any articles that are not in keeping with the purpose of this Article are prohibited. Paper boxes and other unsightly articles shall not be placed in the Cemetery.

#### **Section 11-141. Obtaining of Plot Location.**

The location and identity of plots in the Cemetery may be obtained from the Town Clerk at any time during regular Town business hours.

#### **Section 11-142. Operation of Vehicles.**

Riding or driving faster than 5 MPH is prohibited in the Cemetery and only allowed in designated areas. No driving or riding shall be allowed on plots, lawns or walks. This section also applies to bicycles but not wheelchairs required for handicapped access. No other means of transportation is allowed. All persons driving or riding in the Cemetery shall be held responsible for any damage done by them, their vehicles, or by any animals in their charge. Vehicles shall not be turned around in any avenues, but shall be driven forward following roadways. Parking shall be in designated areas only.

#### **Section 11-143. Fraternal Society Plots.**

No fraternal society shall establish a new group of plots except by applying for special permission from the Town Board. Fraternal society plots (including fences, gates, monuments and vegetation) shall be maintained and cared for by the society. If a society demonstrates neglect of its plot, an annual fee shall be levied for the care of said plot. A fraternal society may request relief from the maintenance requirement from the Town Administrator.

**Section 11-144. Animal Control.**

Persons bringing animals to the Cemetery shall maintain control over them at all times. Owners are prohibited from permitting their animals from defiling any gravesite.



**Section 11-145. Visiting Hours.**

Cemetery visiting hours shall be from dawn to dusk. No one shall be allowed in the Cemetery except during visiting hours.

**Section 11-146. Enforcement and Surveillance.**

The Town of Buena Vista Police Department shall have the authority to enforce all rules and regulations pertaining to the Town Cemetery and the authority to enforce the law and apprehend lawbreakers in the Cemetery.

**Section 11-147. Presumed Rights and Certificates of Ownership.**

The Town recognizes that there are persons who have undocumented presumptions of rights to a burial plot in the Cemetery, whether they be residents or non-residents. The Town intends to identify those parties to the best of their ability as time goes by, adjudicate the specific circumstances, and establish any rights approved by the Town Clerk by the issuance of an Interment Agreement.

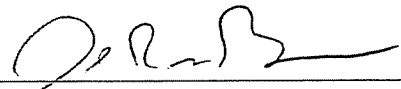
**Section 11-148. Disclaimer on Sale of Plots.**

Since the Town has not controlled burials in the Cemetery from its inception, and, since no consistent and complete records exist as to persons buried and at what location, all grants of burial rights are contingent upon the excavation of the burial site. In those cases where a previous burial is unearthed, the owner of the plot will have the option of selling it back to the Town or locating another plot.

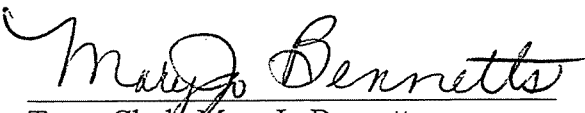
**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED** this 8th day of February, 2011.

**THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.**

TOWN OF BUENA VISTA, COLORADO

By:   
Mayor, Joel Benson

ATTEST:

  
Town Clerk, Mary Jo Bennetts

(SEAL)