

## Chapter 9-15

### CEMETERIES AND MAUSOLEUMS

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#### Section 9-15-01 DEFINITIONS

For the purposes of this chapter, the following terms, phrases, words, and derivations thereof used in this chapter shall have the meanings given herein. When consistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words used throughout this chapter, but not defined herein, shall have their plain, ordinary, and common meaning.

#### BLOCK:

The word "block" shall mean a portion of a cemetery embracing two (2) or more lots.

**CEMETERY:**

The word "cemetery" shall mean a place set apart for the burial of the dead, and includes not only the lots for interring or depositing said bodies but also includes avenues, walks and grounds for shrubbery, trees and ornamental purposes.

**COLUMBARIUM:**

The word "columbarium" shall mean a vault or other structure with recesses or niches in the walls to receive the ashes of the dead.

**CREMATE:**

The word "cremate" shall mean the reduction of the body of a deceased person to cremated remains in a crematorium.

**CREMATED REMAINS:**

The term "cremated remains" shall mean human remains after cremation in a crematorium.

**CREMATORIUM:**

The word "crematorium" shall mean a building containing the furnace for cremating remains and may include a columbarium.

**CRYPT:**

The word "crypt" shall mean a vault or chamber for the reception of dead human bodies.

**ENTOMB:**

The word "entomb" shall mean the deposit of a dead human body in a grave, or crypt.

**GRAVE:**

The word "grave" shall mean an excavation made in the earth to receive, or in which to place or deposit a dead human body.

**GRAVESTONE:**

The word "gravestone" shall mean a stone or marker with an inscription placed, installed or erected near the grave.

**HEADSTONE:**

The word "headstone" shall mean a gravestone which has been erected at the head of grave.

**INTER:**

The word "inter" shall mean the act of depositing the remains of a dead human body in a grave, tomb, crypt, columbarium, mausoleum or urn.

**INURNMENT:**

The word "inurnment" shall mean the act of placing ashes in an urn.

**LOT:**

The word "lot" shall mean part of a cemetery intended for the interment of the dead and embraces the grounds for a single grave.

**MARKER:**

The word "marker" shall mean any type of memorial placed on or affixed to a crypt, grave,

mausoleum, niche, lot, or tomb to identify the remains contained therein, to identify the proprietor of the certificate of license to inter therein, or to identify the name of the then-living person whose remains are intended to be interred in that lot at some time in the future.

**MAUSOLEUM:**

The word "mausoleum" shall mean a tomb of monumental and architectural structure.

**MEMORIAL:**

The word "memorial" shall mean anything intended to preserve the memory of a person.

**MONUMENT:**

The word "monument" shall mean a stone, a building or such other type of structure that is erected and maintained to preserve the memory of some person or persons.

**NICHE:**

The word "niche" shall mean a hollowed space or recess built into a wall where a cinerary urn is to be set.

**PLOT:**

The word "plot" shall mean a piece of ground in a cemetery within Boise City.

**PROPRIETOR:**

The word "proprietor" shall mean the current or last known owner, or the person, party, or other entity in possession, of a certificate of license to inter in a burial lot in a municipal cemetery within Boise City. The "proprietor" of a certificate of license to inter in a burial lot possesses a right to fee simple determinable in the cemetery lot, subject to escheat or reversion to Boise City pursuant to this chapter.

**SEXTON:**

The word "sexton" shall refer to the Director of the Department of Parks and Recreation, or his or her designee.

**TOMB:**

The word "tomb" shall mean a vault or chamber partially or entirely above the ground for the reception of dead human bodies.

(6803, Amended, 02/15/2011; 6018, Amended, 10/24/2000)

**Section 9-15-02 CERTIFICATE OF LICENSE TO INTER REQUIRED**

It shall be unlawful to inter, place or deposit the remains of a dead human body in a columbarium, crypt, grave, niche, lot, tomb, vault, or other burial place in a cemetery or mausoleum owned, operated or under the management and control of Boise City without first purchasing a certificate of license to inter executed by the sexton and the Mayor, and countersigned by the Boise City Clerk, specifying the person to whom the said certificate of license to inter is issued as the proprietor of the certificate of license to inter in a columbarium, crypt, grave, lot, mausoleum, niche, tomb, vault, or other burial space. Such certificates of license to inter shall vest in the proprietor and, his or her heirs or assigns, a license in fee simple determinable, subject to reversion or escheat to Boise City pursuant to this chapter, solely to inter human remains in said columbarium, crypt, grave, lot, mausoleum, niche, tomb, vault, or other burial space.

(6803, Amended, 02/15/2011; 2915; 11/18/1968)

**Section 9-15-03            MAPS**

Cemetery lands, or such parts thereof as may from time to time be required, shall be surveyed and subdivided into sections, blocks, lots, plots or other subdivisions as may be necessary to accurately describe, number and record the sale, issuance, conveyance, and transfer of certificates of license to inter. A detailed map or plat showing all the sections, blocks, lots, plots or other subdivisions together with such avenues, paths, alleys and walks designated and numbered as may be proper, shall be filed of record with the Sexton after such map or plat has received the acceptance and approval of the City Council and have been certified to by the City Engineer. All sales, issuances, conveyances or transfers certificate of license to inter shall be by reference to said map or plat.

Mausoleums or columbariums owned, operated or under the management and control of Boise City shall be particularly and accurately described, designated and organized by divisions, sections, rows and niches, or in any other manner as may be proper by which to keep a record of such crypt, vault or niche. The detailed drawings, plans and specifications shall be filed of record with the Sexton after such drawings, plans and specifications have received the acceptance and approval of the City Council and have been certified by the City Engineer. All sales, issuances, conveyances or transfers of certificates of license to inter shall be by reference to said drawings, plans and specifications.

(6803, Amended, 02/15/2011)

**Section 9-15-04            APPLICATION FOR LICENSE**

Any person desiring to purchase a certificate of license to inter shall make application to the sexton, who shall procure for such person the certificate of license to inter executed by the sexton and the Mayor, and countersigned by the Boise City Clerk under the seal of Boise City, specifying the person to whom the certificate of license to inter is issued. The columbarium, crypt, grave, lot, mausoleum, niche, tomb, vault, or other burial space shall be described upon said certificate of license to inter and shall be exempt from execution. No certificate of license to inter shall be issued until the price therefor is fully paid.

(6803, Amended, 02/15/2011; 3608; 10/07/194)

**Section 9-15-05            RECORDS**

The Sexton and the City Clerk shall keep a record in numerical order, with an alphabetical index, of all certificates of license to inter, transfers, issuances, orders and permits required by this chapter. The record herein required to be kept shall include, in addition to other information deemed necessary by the sexton, the name of the proprietor, the amount paid for the certificate of license to inter, the date the certificate of license to inter was issued, the lot, crypt, niche or other burial space identified in the certificate of license to inter, the portion of any lot occupied and the portion vacated by, the transfer or disinterment of any body or cremated remains, and the place from which and to which said body or cremated remains were removed, and the persons to whom each certificates of license to inter is transferred or assigned, together with the date of such transfer or assignment. The required record shall also include the name, age and sex of the deceased, the date of death, the name of the undertaker employed and the date of burial.

(6803, Amended, 02/15/2011)

**Section 9-15-06            INTERMENT**

The certificate of license to inter shall consist solely of the right to inter human remains therein. No columbarium, crypt, grave, lot, mausoleum, niche, tomb, vault or other burial space shall be used for any other purpose and shall not be divided into smaller portions. Interments shall be restricted to the proprietor designated on the license of interment and to his or her spouse and heirs, and no transfer or assignment of any certificate of license to inter shall be valid and effective until the consent of Boise City has been endorsed thereon and the same has been recorded by the Boise City Clerk and sexton upon and

within the appropriate books and records. No proprietor of a certificate of license to inter shall allow any interments to be made for a remuneration  
(6803, Amended, 02/15/2011; 2915; 11-18-1968)

**Section 9-15-07 CHARGES; CITY NOT LIABLE**

All charges for interments, disinterments and removals and other cemetery services must be made at the time and in the manner as fixed by the Parks and Recreation Commission and as ratified and approved by the City Council. The mortician, heirs of the decedent, or other representatives or agents of the decedent must secure all permits or authorizations for interments, disinterments, removals, and other cemetery services prior to the act of burial or removal. Boise City shall not be responsible for obtaining the certificate of license to inter, nor for the identity of the person sought to be interred; and Boise City shall not be responsible for any damage to a casket, burial case, or urn in making an interments, disinterments or removals.  
(6803, Amended, 02/15/2011; 3608; 10/07/1974)

**Section 9-15-08 ERRORS; CORRECTIONS**

In the event an error shall occur involving the interment of the remains of any person, the City reserves, and shall have, the right to remove and reinter the remains in such other property of equal value and similar location as may be substituted and conveyed in lieu of the mistaken property. The City further shall have the right to correct any errors made by placing an improper inscription, including an incorrect date or name, either on the memorial or on the container for cremated remains.

**Section 9-15-09 LANDSCAPING; IMPROVEMENTS**

- A. Unless otherwise expressly provided by this chapter, Boise City shall be solely responsible for each of the following within every cemetery:
  - 1. Grading;
  - 2. Landscaping;
  - 3. Improvements;
  - 4. General care and supervision;
  - 5. Planting, trimming, cutting, or removing trees, shrubs, or herbage; and
  - 6. Opening and closing graves.
  
- B. Every interment, disinterment, removal, or transfer shall be made by Boise City, or with the prior express written consent and approval of Boise City.
  
- C. The sexton shall have charge of the grounds and buildings within every cemetery.  
(6803, Amended, 02/15/2011)

**Section 9-15-10 SEXTON APPROVAL REQUIRED**

It shall be unlawful and punishable as a misdemeanor for any person to erect, build or place any monument, marker, headstone, gravestone, tree, shrub, memorial, flower or any other ornament without first obtaining the approval and consent of the sexton. The sexton shall prepare or cause to be prepared and poured the foundations for all gravestones, headstones, memorials, monuments or tombstones in the cemetery at charges to be fixed by the Parks and Recreation Commission and ratified and approved by the City Council.  
(6803, Amended, 02/15/2011)

**Section 9-15-11 VAULTS**

- A. All caskets laid in graves opened in the cemetery shall be placed either in a concrete, plastic or

metal vault, or in a reinforced concrete box or liner, in accordance with specifications for such vaults or liners as shall be fixed by the Parks and Recreation Commission.

- B. The vault requirements set forth in the previous section shall not apply to the burial of cremated remains. Rules and regulations pertaining to the burial of cremated remains shall be prescribed and promulgated by the Parks and Recreation Commission pursuant to the provisions of this chapter.

(6803, Amended, 02/15/2011; 6018, Amended, 10/24/2000)

### **Section 9-15-12            PARKS AND RECREATION COMMISSION TO GOVERN**

No cemetery, columbarium, crematorium, mausoleum or other burial or interment grounds shall be established or maintained except as authorized by statute, ordinance or by rule and regulation of the Parks and Recreation Commission.

### **Section 9-15-13            POWERS; DUTIES**

- A. For the purpose of the orderly and efficient administration, maintenance, operation, management, control, supervision, use and regulation of all cemeteries, columbariums, crematoriums, mausoleums or any other place of burial or interment owned, operated or under the management and control of Boise City, the Parks and Recreation Commission shall make, promulgate and publish such rules and regulations as the Parks and Recreation Commission may deem necessary for carrying out the provisions of this chapter. Such rules and regulations shall have the force and effect of ordinance.

- B. Without limiting the generality of the foregoing provisions, the Parks and Recreation Commission shall be empowered, and it is made their duty, to:

1. Fix the following fees and charges, subject to the approval and ratification of the City Council:
  - a. Burial or interment permits fee;
  - b. Fee for opening and closing graves;
  - c. Fee for disinterment and removal of the remains of dead human bodies;
  - d. Sexton's fees;
  - e. Fee for enclosing and the installation of caskets; and
  - f. Fee for the installation or removal of monuments, gravestones, headstones, memorials and urns;
  - g. Fee for the transfer of a certificate of license to inter;
2. Prescribe and promulgate rules and regulations regarding:
  - a. The advance notice and time required for interment or burial of the remains of a dead human body;
  - b. The form and content of certificates of license to inter;
  - c. The plans, specifications, and design of monuments, gravestones, headstones, memorials and urns;
  - d. The planting and removal of trees, shrubbery and flowers, located within any cemetery;
  - e. The placing of ornaments and other articles upon, within or affixed to any columbarium, crypt, grave, lot, mausoleum, niche, tomb, vault, or other burial space;
  - f. The inscriptions and nameplates for crypts, niches, tombs, urns and vaults;
  - g. The specifications for containers of remains in niches;
  - h. The forms and records to be kept;
  - i. The specifications for vaults, boxes, and liners into which caskets may be placed;

- j. and  
The burial of cremated remains.

C. All fees, rules and regulations previously adopted by the Parks and Recreation Commission and approved or ratified by the City Council, if required, that are now in effect are by this chapter reaffirmed, reratified and reapproved and shall remain in full force and effect until amended, altered or repealed.

(6803, Amended, 02/15/2011)

#### **Section 9-15-14 PERPETUAL CARE FUND**

There is hereby created a Perpetual Care Fund to which sixty percent (60%) of all moneys received by Boise City from the issuance or transfer of certificates of license to inter and any and all other moneys received for perpetual care shall be deposited. The moneys apportioned and received by said Fund shall be kept separate and apart from all other moneys of Boise City and shall be held in trust forever, dedicated to the purpose of perpetual care, and invested as provided by law. The net income of the principal of such investments of the moneys of said Fund shall be expended in such manner as will be most advantageous to Boise City, but the disbursements and expenditures from said Fund shall be limited absolutely to the net income of the principal received from the investment of said Fund to the care, reconstruction, repair and maintenance of only those portions of the cemetery grounds, mausoleums and columbariums under the management, ownership and control of Boise City.

All moneys received for perpetual care and all property derived by gift, devise, bequest or otherwise for the purpose of perpetual care shall be held in custody by the Treasurer; and such moneys and the proceeds of any gift, devise, bequest or otherwise, or the rents, issues and profits of such gifts, devises and bequests, shall be invested as directed by the City Council; and such instruments of investments shall be deposited by the Boise City Treasurer and kept by him in a safety deposit vault of a designated Boise City depository. It is hereby made the duty of the Boise City Treasurer to include in each and every report required by law to be made to the City Council a statement setting forth in particular the securities acquired and held by him, as herein provided, together with a statement of income and the disbursements and expenditures incurred for perpetual care of the lots, plots, columbariums, niches, sepulchers, tombs or vaults for which perpetual care has been paid.

All moneys, bonds, securities, devises, gifts and bequests heretofore held in trust funds known and designated as the Perpetual Care and Improvement Fund and the Mausoleum Perpetual Care Fund are hereby transferred to and made a part of the Perpetual Care Fund established and created by this Chapter.

(6803, Amended, 02/5/2011)

#### **Section 9-15-15 CEMETERY FUND**

There is hereby created a Cemetery Fund to which forty percent (40%) of all moneys received from the issuance or transfer of certificates of license to inter shall be deposited and apportioned. Said Fund shall be maintained for the general improvement, maintenance, repair and care of the cemeteries or for the purchase and acquisition of additional grounds for cemetery purposes and shall not be used for any other purpose.

All moneys, bonds, and securities now and heretofore held in funds known as the Cemetery Fund and Mausoleum Fund are hereby transferred and made a part of the Cemetery Fund established and created by this Chapter.

(6803, Amended, 02/15/2011; 2915, 11/18/1968)

**Section 9-15-16 CEMETERY ACCOUNT TO BE KEPT**

The Sexton and the Department of Finance and Administration shall keep a Cemetery Account in which all moneys received or disbursed for the operation, maintenance, administration and care of a cemetery, columbarium or mausoleum or any other place for the burial or interment of the remains of a dead human body shall be entered, and they shall report to the City Council and account for the record of receipts, payments and disbursements.

(6803, Amended, 02/18/2011; 3608, 10/07/1974)

**Section 9-15-17(Rep. by Ord. 3608, 10/07/1974)**

**Section 9-15-18 MORRIS HILL CEMETERY**

So much of the land on the south side of Boise River purchased by the City from William H. Ridenbaugh and Lavinia T. Morris by deed, as appears on record in Book 9 of Deeds, at page 127, in the Recorder's office of Ada County, Idaho, as has not heretofore been purchased by the County of Ada and the Roman Catholic Archbishop of Oregon, is hereby established and set apart for the burial of the dead, and shall be known as Morris Hill Cemetery.

(2915, 11/18/1968)

**Section 9-15-19 ELKS' REST**

A. All of Section B of Morris Hill Cemetery filed in the office of the Clerk and/or Sexton is hereby set aside and dedicated forever as a burial ground for the members of the Capital City Lodge No. 310 of the Benevolent and Protective Order of Elks, their families and friends, and is to be known as Elks' Rest.

(3608, 10/07/1974)

B. While said ground as described above shall remain under the control and management of the City, and lots and blocks therein sold by the City in the same manner and under the same rules and regulations as other lots and blocks in the Cemetery, there shall never be any lots or blocks sold in that portion of said Cemetery hereafter to be known as Elks' Rest to other than members of the Benevolent and Protective Order of Elks, their families and friends, upon the approval and recommendation of the Trustees of Capital City Lodge No. 310 of the Benevolent and Protective Order of Elks. Said Benevolent and Protective Order of Elks may improve and beautify said ground as long as they comply with the provisions of this Chapter and all rules and regulations approved and ratified by the Council.

(2915, 11/18/1968)

**Section 9-15-20 WOODLAWN**

Blocks, 1, 2, 3, 4, 5, 6, 7 except lots 5 and 6 of Block 7, 8, 11, 12 except lots 7 and 8 of Block 12, 13, 14, 15, 16, 17 except lots 7 of Block 17, 18 except lots 5, 6 and 7 of Block 18, 20 except lots 5 and 6 of Block 20, 21, 22 except lot 2 of Block 22, 23, 24 except lots 7 and 8 of Block 24, 25, 26, 29, 30 except lot 2 of Block 30, 31 except lots 5 and 6 of Block 31, 32, 33, 34 except lot 7 of Block 34, 35 except 4, 5, 6, 7 and 8 of Block 35, 37 except lots 3, 4, 5, 6 and 7 of Block 37, 38 except lot 2 of Block 38, 39 except lot 4 of Block 39, 40 except lots 2, 5, 6, 7 and 8 of Block 40, 41 except lots 6 and 7 of Block 41, and 42 except lots 3, 4, 5, 6, 7 and 8 of Block 42; of Section D, according to the revised maps, plans and surveys of Morris Hill Cemetery, are hereby set aside and dedicated forever as a burial ground for the use of members of the Woodmen of the World Lodge, their families and their friends, and are to be known as Woodlawn. While said ground herein described shall remain under the control and management of the City, and lots and blocks therein sold by the City in the same manner and under the same rules and regulations as other lots and blocks in said Cemetery, there shall never be any lots or blocks sold in that

portion of the Cemetery hereinafter to be known as Woodlawn, to other than members of the Woodmen of the World Lodge, upon the approval and recommendation of the Trustees of said Woodmen of the World Lodge. The Woodmen of the World Lodge may improve and beautify said grounds as long as they comply with provisions of this Chapter and all rules and regulations approved and ratified by the Council.  
(3984, 4//04/1977)

**Section 9-15-21            MODERN WOODMEN**

A.        All of that portion of section E, according to the revised maps, plans and surveys of Morris Hill Cemetery, commencing with block 121 to 128 and 149 to 156, inclusive, is hereby set aside and dedicated forever as a burial ground for the use of the members of the Modern Woodmen of America, their families and friends. While the grounds herein described shall remain under the control and management of the City and lots and blocks therein sold by the City in the same manner and under the same rules and regulations as other lots and blocks in said Cemetery, there shall never be any lots or blocks sold in that portion of the Cemetery, to other than members of the Modern Woodmen of America upon the approval and recommendations of the Trustees of said Modern Woodmen of America. The Modern Woodmen of America may improve and beautify said grounds as long as they comply with the provisions of this Chapter and all rules and regulations approved and ratified by the Council.  
(2915; 11/18/1968)

B.        The City shall be obligated to keep up and maintain the blocks retained by the Modern Woodmen of America as described and enumerated in this Section.  
(2915; 11/18/1968)

**Section 9-15-22            SILENT CAMP**

There is hereby set apart and dedicated as a burial ground and site for soldiers' monuments Blocks 1 to 63, inclusive, of Morris Hill Cemetery for the veteran soldiers of the United States and of the National Guard of Idaho, and shall be known as Silent Camp. This dedication is made free of cost to the veteran soldiers and the Idaho National Guard, except that the Division of Veteran Services of the Department of Health and Welfare of the State of Idaho shall pay to the Cemetery Fund the annual sum as set forth by Park Board resolution, so long as required by the City for the care and preservation of Silent Camp, and shall pay the usual fee for filling and digging graves; provided, that the remains of the veteran soldiers now in the U.S. Military Cemetery at Boise Barracks may be removed and reburied under one contract by either National, State or local authority, at the expense of such authority, and in a manner satisfactory to the City. The Division of Veteran Services of the Department of Health and Welfare of the State of Idaho and the cemetery committee of Phil Sheridan Post No. 4, Grand Army of the Republic, may improve and beautify said grounds as long as they comply with provisions of this Chapter and all rules and regulations approved and ratified by the Council.

**Section 9-15-23            FIELD OF HONOR**

There is hereby set apart and dedicated in Morris Hill Cemetery as established by the Board of Park Commissioners a burial ground for soldiers designated as "Fields of Honor". This dedication is made to war veterans.

**Section 9-15-24            INDIGENT DEAD**

In accordance with that certain agreement made and entered into on January 7, 1932, by and between Ada County and Boise City, the following described portion of Morris Hill Cemetery is hereby dedicated and set aside as a burial ground for the indigent dead of Ada County. Property herein describe

shall remain under the control and management of the City, the City shall supervise and direct all burials and places thereof within the property herein described, and all burials and interments shall be subject to the provisions of this Chapter and all rules and regulations approved and ratified by the Council. Ada County shall pay the usual burial fee and fee for opening and closing graves for the burial of any indigent dead. The property hereby set aside and dedicated for the indigent dead is described as follows:

Beginning at the Northeast corner of the West half of the Southwest quarter of Section 9, Township 3 North, Range 2 East of the Boise Meridian, Idaho, and thence West 280 feet; thence South 330 feet; thence East 280 feet; and thence North 330 feet to the place of beginning, containing 2.121 acres, more or less.

(3608; 10/07/1974)

**Section 9-15-25 ST. JOHN'S CEMETERY**

Pursuant to Resolution No.735, passed and approved January 12, 1935, and that certain agreement made and entered into on January 21, 1935, by and between Boise City and the Roman Catholic Diocese of Boise, that portion of Morris Hill Cemetery now known, and previously known, as St. John's Cemetery shall be used and devoted exclusively to those persons affiliated with the Catholic Church. All the terms and conditions of said Resolution No. 735 and said agreement of January 21, 1935, are hereby ratified and approved and by such ratification and approval incorporated herein by reference. The property deeded to the City pursuant to the terms and conditions of the aforesaid Resolution and agreement is described as follows:

Commencing at a point 330 feet South of the Northwest corner of the West half of the Southwest quarter of Section 9, Township 3 North of Range 2 East of the Boise Meridian, Idaho, and thence West 660 feet; thence South 528 feet; thence East 660 feet; and thence North 528 feet to the place of beginning.

**Section 9-15-26 CONGREGATION BETH ISRAEL**

Pursuant to the terms and conditions of that certain agreement made and entered into on July 1, 1932, by and between Congregation Beth Israel and Boise City, there is hereby dedicated, set apart and reserved for the exclusive burial of the membership dead of Congregation Beth Israel the below described property. The City shall have the exclusive control and management of the property herein described, shall supervise and direct all burials of the membership dead and shall designate the place of burial within the herein described property and shall charge the regular rate for opening and closing graves. The City shall not charge any member of Congregation Beth Israel for a burial lot within the property herein described, which is as follows:

Beginning at the southeast corner of St. John's Cemetery and thence west 246.4 feet; thence south 132 feet; thence east 246.4 feet; and thence north 132 feet to the place of beginning.

**Section 9-15-27 PIONEER CEMETERY**

Pursuant to the Corporation Warranty Deed executed by Boise Lodge No. 2 of Ancient Free and Accepted Masons under date of May 28, 1920, there is hereby set apart and dedicated as a public cemetery known as Pioneer Cemetery the following described property:

\*See Historical Note at end of Chapter.

Commencing at the northeast corner of the northwest quarter of the southwest quarter of Section 11, Township 3 north, Range 2 east of the Boise Meridian, Idaho, and running thence west 7 chains and 7 links; thence south 7 chains and 7 links; thence east 7 chains and 7 links; thence north 7 chains and 7 links

to the place of beginning.

**Section 9-15-28 ISLAMIC CENTER OF BOISE**

Pursuant to Resolution No. 13457, passed and approved July 18, 1995, and that certain agreement made and entered into on July 19, 1995, by and between Boise City and the Islamic Center of Boise, the below described portion of Morris Hill Cemetery shall be used by and devoted exclusively to those persons affiliated with the Islamic Center of Boise. All the terms and conditions of said Resolution No. 13457 and said agreement of July 19, 1995, are hereby ratified and approved and by such ratification and approval incorporated herein by reference. The property deeded to the City pursuant to the terms and conditions of the aforesaid Resolution and agreement is described as follows:

Section S, Blocks 187 through 194 and Blocks 227 through 230.  
(5651, Amended, 08/15/1995)

**Section 9-15-29 VIOLATION**

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor. It shall further be unlawful and punishable as a misdemeanor for any person to remove or carry away or break, deface, destroy or otherwise injure any monument, tombstone, tree, shrub, plant, vase, railing, gate, headstone, gravestone or other adornment or property, article or thing belonging to or placed on or erected within a cemetery, columbarium or mausoleum or other place of burial or interment of the remains of a dead human body.

(5651, Amended, 08/15/95; 2915, 11/18/1968)

**Section 9-15-30 TRANSFER FEE**

It shall be the duty of the sexton, to collect a fee whenever any certificate of license to inter is transferred. Such fee may be paid by either the donor or donee of the certificate of license to inter and will be deposited in the Cemetery Account as provided in Section 9-15-16, Boise City Code. The amount of such fee shall be established by the Parks and Recreation Commission, subject to the approval and ratification of the City Council.

(6803, Amended, 02/15/2011; 3975, 03/14/1977)

**HISTORICAL NOTE**

NOTE: The following is a copy of the provisions of an agreement between Boise City and bishop of the Roman Catholic Diocese of Boise, Idaho, pertaining to the St. John's cemetery, which adjoins Morris Hill Cemetery, providing for the deeding of said cemetery to Boise City subject to restrictions and reservations as follows:

1. That the second party will execute or cause to be executed a proper deed of conveyance to the city of said cemetery as now platted, said deed of conveyance to contain as part thereof the following reservations and restrictions:
  - a. This deed is made subject to all the rights of those persons who have purchased rights to burial therein, and to all leases or deed to lot owners executed by grantor heretofore.
  - b. The premises hereby conveyed shall be used only for the purpose of a cemetery for the burial of the dead.
  - c. The said city shall have the power, subject to restrictions contained herein and in the contract between the parties, to make all needful rules and regulations governing the sale of lots, the improvements, development, and management of the same, which said rules and regulations, including the price for which burial lots therein are to be sold, shall conform as nearly as possible to the rules

- established by the said city for its other cemeteries.
- d. It is the intention of the parties that this tract and cemetery shall be devoted exclusively to the use of those persons affiliated with the Catholic church, and to effectuate this purpose the city agrees that it will provide by proper rules or regulations that each application for burial permit in this cemetery shall be accompanied by an approval in writing of a regularly appointed and acting pastor of the city of Boise attached to the Roman Catholic Diocese of Boise, and said city shall have no authority to permit any burial or grant any burial application or to make any rule or regulation authorizing any such burial without such certificate of approval.
  - e. The grantor reserves the right to erect at such place or places near the entrance to this cemetery a marker or markers with proper inscriptions showing the name of the cemetery, the form of all such markers to be subject to the approval of Boise City. The grantor also reserves the right to erect a large cross or crosses, statues, chapel, and to conduct any public services according to the customs and ceremonies of the Roman Catholic Church.
  - f. That the grantor shall designate on the plat of said cemetery the lot or lots that have been heretofore reserved for the burial of Catholic priests and Catholic nuns, and the city shall provide by rule or regulation that no burial permit shall be issued for such lots without the approval in writing by the then acting Catholic bishop of the diocese of Boise, and the city will have no authority to permit any burial within such lots without such written approval.
  - g. That second party shall designate and reserve not to exceed fifty single graves in the portion or section of said cemetery heretofore set apart for single graves, for the burial of indigent Catholics; provided, however, that if after burial the cost of such lots or any portion thereof shall be collected by the second party from any source, payment therefor shall be made to said city.
  - h. No ordinance, rule, or regulation shall ever be made governing the use of this cemetery that forbids the use of Catholic services, symbols, emblems, or inscriptions, or that permits the use of any other therein.
  - i. Boise City will not sell or permit the use of the alleys or walks in said cemetery for burial purposes, except to adjoining lot owners.
  - j. In case of any dispute over the construction of any of the terms hereof involving the right of any person in this cemetery, or any matter of church tenets, dogma, custom or policy, the Catholic bishop of the diocese of Boise shall decide.
  - k. The grantor reserves the right to grant or refuse permission for the exhuming of any body after burial.
2. That the name of said cemetery shall be and remain "St. John's Catholic Cemetery".
  3. That upon the execution of the deed of conveyance herein provided, the second party will furnish to the city, plats and other records showing all the graves, names of owners, persons buried therein, and such other data as second party may possess in regard thereto, which said records shall thereafter become the property of the city, to be held in custody by said city.
  4. That subject to the reservations and restrictions herein contained, to be recited in the deed of conveyance from second party of the city, and which shall always be held to restrict the power of the city in reference thereto, the city agrees that it will make all needful rules and regulations governing the use of this cemetery, which said rules and regulations shall be as far as possible the same as are provided for all other cemeteries owned by the city, and the city will sell the remaining lots therein and expend the money derived therefrom as provided by law for its other cemeteries, and will give to this cemetery

perpetual care, upkeep, and attention of the same general character as are given to all other cemeteries owned by the city, the intention of this agreement being that subject to the restrictions herein agreed upon this cemetery shall be handled and cared for exactly the same as all other cemeteries owned by the city, and shall forever be and remain a place for burial for Catholics exclusively and in accordance with the prescribed usages of that church.

Hist. Sections 1,2,3 and 4 of Resolution No. 735.  
(6803, Amended, 02/15/2011; 5651, Enacted, 08/15/1995)

**Section 9-15-31 PENALTY**

Unless specifically provided otherwise, every person who pleads or is found guilty of a misdemeanor violation of this chapter shall be subject to punishment consisting of a fine of not more than one thousand dollars (\$1000.00), imprisonment in the county jail not to exceed six (6) months, or both such fine and imprisonment.  
(6803, Added, 02/15/2011)

**Section 9-15-32 CEMETERY PLOTS DEEMED ABANDONED; NOTICE REQUIREMENTS**

- A. Unless the presumption of abandonment is rebutted pursuant to this section, upon completion of the notice requirements contained herein, the ownership of or license to inter in a cemetery burial lot shall be deemed abandoned, the condition precedent to the possibility of reverter expressed herein shall be deemed to have occurred, and ownership of or the certificate of license to inter in that cemetery burial lot shall escheat or revert to Boise City.
- B. The proprietor of a certificate of license to inter shall notify the sexton in writing of a change of the proprietor's mailing address within ninety (90) days of such change.
- C. There exists a presumption that a cemetery burial lot is abandoned when such cemetery burial lot remains unused for seventy-five (75) years from most recent valid and effective assignment, acquisition, or transfer of the certificate of license to inter therein, unless any one (1) or more of the following rebutting conditions exist:
  - 1. A proprietor of certificates of license to inter in multiple abutting or contiguous cemetery burial lots has used one (1) or more of such lots for the interment of a dead human body, with the date of the last interment marking the beginning of a new seventy-five (75) year period; or
  - 2. A marker or memorial exists on or is attached thereto; or
  - 3. A marker or memorial that identifies or references the lot identified on the certificate of license to inter that is subject to reversion exists on or is attached to an abutting or contiguous lot that is held by the same proprietor, person, party, family or other entity as the lot identified on the certificate of license to inter that is subject to reversion; or
  - 4. A proprietor of a certificate of license to inter in a cemetery lot, his or her heirs or assigns, or any next of kin mails, by Certified Mail with return receipt requested, or hand-delivers, or appears to personally assert proof of status as the proprietor of the certificate of license to inter to the sexton or his designee within ninety (90) days of the date of the last publication of the "Notice of Intent to Deem Cemetery Burial Lot Abandoned" pursuant to this section; or
  - 5. Any fact, circumstance, or other evidence exists which, taken alone or as a whole, would cause a reasonable person to conclude it is more likely than not that the proprietor is entitled to maintain his or her right to interment.

- D. Notice of Intent to Deem Cemetery Burial Lot Abandoned
1. Upon a determination by the sexton that ownership rights or a license to interment in a cemetery burial lot may be abandoned, and prior to a determination of abandonment, the sexton shall:
    - a. Send a “Notice of Intent to Deem Cemetery Burial Lot Abandoned” to the last known proprietor, his or her known heirs or assigns, and any known next of kin, by Certified Mail with return receipt requested, to the last known address of the last known proprietor;
    - b. Publish a “Notice of Intent to Deem Cemetery Burial Lot Abandoned” for three (3) consecutive weeks in the newspaper of general circulation in Ada County; and
    - c. Publish a “Notice of Intent to Deem Cemetery Burial Lot Abandoned” for three (3) consecutive weeks in the newspaper of general circulation in the county in which the last known address of the last known proprietor is located. The requirements of subsections (b) and (c) herein may be fulfilled with a single three (3) week publication if the last known address of the last known proprietor is within Ada County.
  2. The “Notice of Intent to Deem Cemetery Burial Lot Abandoned” shall include, at a minimum, the following information:
    - a. The name of the last known proprietor;
    - b. The description of the lot(s) subject to a finding of abandonment;
    - c. Certification that the proprietor’s certificate of license to inter in the lot has not been used for the purpose of interment in the lot for seventy-five (75) years from the date of its acquisition or most recent transfer, whichever occurred last in time;
    - d. Certification that the proprietor’s certificate of license to inter in the lot is not held in common ownership with any certificate of license to inter in an abutting or contiguous cemetery burial lot, pursuant to subsection C.1., above;
    - e. Certification that no marker or memorial exists on or is attached to the lot subject to reversion, and that no marker or memorial that identifies or references the lot subject to reversion exists on or is attached to an abutting or contiguous lot, pursuant to subsection C.2. and 3., above; and
    - f. A statement indicating the intention of the sexton to deem abandoned the proprietor’s certificate of license to inter in a lot unless a proper claim is made within ninety (90) days of the date of the last publication of the “Notice of Intent to Deem Cemetery Burial lot Abandoned” pursuant to subsections D.1.b. and c., above.
- E. If, within twenty-five (25) years following a determination of abandonment of a proprietor’s certificate of license to inter, the proprietor or his or her heirs or assigns proves to the sexton or to a court of competent jurisdiction that he or she would be entitled to the proprietor’s rights if those rights had not escheated or reverted to Boise City as provided by this chapter, the sexton shall, at no cost, convey to that person a certificate of license to inter in an equivalent or similar cemetery burial lot within Boise City. If no certificate of license to inter in an equivalent or similar cemetery burial lot is desired, the proprietor or his or her heirs or assigns may recover the value paid to Boise City upon the sale of the proprietor’s certificate of license to inter that was deemed abandoned, less an administrative fee not to exceed one hundred fifty dollars (\$150.00).
- F. The sexton shall make available cemetery burial lots equal to five percent (5%) of the number of cemetery burial lots deemed abandoned under this section for the use of any person who was the owner of a cemetery burial lot or the proprietor of a certificate of license to inter that was deemed

abandoned under this section and who has the right to obtain a certificate of license to inter in an equivalent or similar cemetery burial lot pursuant to subsection E., above.

- G. Reversion or escheat of a proprietor's certificate of license to inter represents a possibility of reverter in Boise City, and shall apply retroactively to all owners' and/or proprietors' rights to any burial lot previously purchased or transferred within any cemetery in Boise City.

(6803, Added, 02/15/2011)