

Moroni City  
**Codes and Ordinances**

**Title 7 – Public Ways and Property**

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## Streets, Sidewalks and Public Ways

### Section

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### 7-1-1: Department of Streets

1. **Creation:** There is hereby created a Department of Streets, which shall have general supervision of streets, sidewalks, bridges and other public ways.
2. **Superintendent:** The Department shall be under the direction and control of the Superintendent of Streets. (1982 Code § 11-311)
3. **Powers and Duties:** The Department shall:
  - a. Have charge of the construction, maintenance and repair of streets, sidewalks, bridges, curbs, gutters, culverts, drains, waterways and other public ways. It shall have control of all waters flowing on the streets, sidewalks and public ways, whether originating from storm, flood, drainage or irrigation waters.
  - b. Keep a record of and promptly investigate all complaints of defective streets, culverts, drains, ditches, sidewalks and other public ways and, when proper, repair, replace or take such action as deemed best, and shall record the action taken on each complaint.
  - c. Enforce the provisions of this Chapter and all other ordinances relating to the maintenance and use of streets, culverts, drains, ditches, waterways, curbs, gutters, sidewalks and other public ways.

- d. Repair, or cause to be repaired, all defects coming to the Department's attention and take reasonable precautions to protect the public from injuries due to such defects pending their repair. (1982 Code § 11-312)

7-1-2: Snow Removal

1. **Failure to Remove Unlawful:** It shall be unlawful for the owner, occupant, lessee or agent of any property, abutting on a paved sidewalk, to fail to remove or have removed from such paved sidewalk, all hail; snow or sleet thereon within a reasonable time after such snow, hail or sleet has fallen. In the case of a storm between the hours of five o'clock (5:00) P.M. and six o'clock (6:00) A.M., such sidewalks shall be cleaned before nine o'clock (9:00) A.M. of the same day.
2. **Depositing in Gutter Unlawful:** It shall be unlawful for any person removing snow from the sidewalk, to deposit snow, dirt, leaves or any other material in the gutter so as to clog or prevent the free flow of water therein. (1982 Code § 11-361)

7-1-3: Obstructions in Streets

It shall be unlawful for any person owning, occupying or having control of any premises to place or permit to be placed upon or in the sidewalk, parking area, gutter or on the half of the street next to such premises:

1. **Refuse:** Any broken ware, glass, filth, rubbish, and sweepings, refuse matter, ice, snow, water, garbage, ashes, tin cans or other like substances.
2. **Building Materials:** Any wagons, lumber, wood boxes, fencing, building material, dead trees, tree stumps, merchandise or other thing which shall obstruct such public street, gutter, parking area or sidewalk, or any part thereof, or the passage over and upon the same, or any part thereof, except as expressly authorized by ordinance, without the permission of the City Council first had and obtained.
3. **Permanent or Temporary Structures:** Any permanent or temporary structure, mechanism, device, vehicle or other thing of any kind or character, except trees planted pursuant to the provisions of applicable ordinances. (1982 Code § 11-362)

7-1-4: Openings in Streets; Doors Obstructing

1. **Cellars:** It shall be unlawful for the owner or occupant of any building having a cellar which opens upon any street or sidewalk to fail to keep the door or other covering in good repair and safe for the passage of the customary traffic on the street or sidewalk. If the owner or occupant of any such building shall neglect or refuse to repair properly any such door or covering within twenty four (24) hours after notice from the Superintendent of Streets to do so, the Superintendent shall forthwith cause such repairs to be made at the expense of the owner or occupant.

2. **Doors:** It shall be unlawful for any person owning or having the control or management of any alley, road or passageway to construct or hang gates or doors to such alley, road or passageway so that the gates or doors thereto, when open, shall project outwardly more than two feet (2') over or upon the sidewalk beyond the property line. (1982 Code § 11-364)

7-1-5: Discharge of Water

It shall be unlawful for any person owning, occupying or having control of any premises to fail, refuse or neglect to prevent water from the roof or eaves of any house, building or other structure, or from any other source under the control of such person, to be discharged upon the surface of any sidewalk. (1982 Code § 11-365)

7-1-6: City Property Maintenance

It shall be the responsibility of the property owner to maintain the city park strip in front of their property including, but not limited to, the following:

- General maintenance of the property in accordance with city ordinances for weed control or beautification.

In the event that the city needs to excavate or otherwise work on the park strip in front of a property that has been landscaped or otherwise maintained, the city will make a good faith effort to notify the property owner of the work to be completed prior to beginning the work. Following the completion of the work, the city will make a good faith effort to initial restore the area to the condition it was prior to the work.

7-1-6: Sidewalk Regulations

1. **Driving or Parking:** It shall be unlawful for any person to drive or park a self-propelled vehicle or lead, drive or ride any animal upon any sidewalk, except across a sidewalk at established crossings. (1982 Code § 11-366)
2. **Businesses To Keep Clean:** It shall be unlawful for any owners or occupants of any place of business to refuse, neglect or fail to cause the sidewalk abutting thereon to be swept or cleaned each morning before the hour of nine o'clock (9:00) A.M. (1982.Code § 11-367)
3. **Placing Goods for Sale or Show:** No goods, wares or merchandise shall be placed, maintained or permitted for sale or show in or on any parking area, street or sidewalk beyond two feet (2') from the front line of the lot, without first obtaining the written approval of the City Council. Such approval shall be granted only when such sale or show shall be a promotional activity not exceeding forty eight (48) hours and when participated in by a majority of firms seeking approval in their business areas. The City

Council's written approval shall specifically provide that no goods, wares or merchandise shall be placed in such a manner as to leave less than a six foot (6') passageway for pedestrians. (1982 Code § 11-368)

4. **Placing Goods for Receipt or Delivery:** It shall be unlawful for any person to place, or suffer to be placed or kept upon any sidewalk, any goods, wares or merchandise which he may be receiving or delivering, without leaving a three foot (3') passageway upon such sidewalk. It shall be unlawful for any person receiving or delivering such goods, wares or merchandise to suffer the same to be or remain on such sidewalk for a longer period than one hour. (1982 Code § 11-369; amd. 2000 Code)
5. **Playing:** Every person who obstructs the sidewalk or street by playing any game or engaging in any activity which obstructs the free travel thereon is guilty of an infraction, subject to penalty as provided in Section 1-4-1 of this Code. (1982 Code § 11-370; amd. 2000 Code)
6. **Congregating:** It is an infraction, subject to penalty as provided in Section 1-4-1 of this Code, for any person to congregate about or upon any sidewalks, stairway, doorway, window or in front of any business or dwelling house, theater, lecture room, church or elsewhere and by so doing to obstruct or interfere with the free passage of persons entering, leaving or occupying such building or premises. (1982 Code § 11-371; amd. 2000 Code)

## Street and Sidewalk Construction

### Section

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- Changing Existing Construction 7-2-3
- Building Materials in Street; Permit 7-2-4
- Street Design 7-2-5
- Overflowing of Water 7-2-6
- Irrigation Ditches 7-2-7
- Removal of Earth 7-2-8

### 7-2-1: Permit Required; Inspection

1. **Required:** No person, either as owner, agent, servant, contractor or employee, shall construct any permanent street or sidewalk for public use without first presenting the proposed project to the Planning and Zoning Commission. Upon approval of the Planning and Zoning Commission, the City Council will review the project and grant final approval.

Any approval shall specify that the sidewalk be constructed of cement, the character and quality of the cement, the consistent parts of the mixture, and the thickness of the street or sidewalk. (1982 Code § 11-352; amd. 2000 Code)

2. **Unlawful Violation of Specifications:** It shall be unlawful to construct a street or sidewalk in violation of the specifications given by a proper City official.
3. **Inspection:** All streets and sidewalks shall be inspected by the Planning and Zoning Commission and Superintendent of Streets or their duly authorized representative. (1982 Code § 11-352)

7-2-2: Conform to Established Specifications

It shall be unlawful for any person either as owner, agent, servant, contractor or employee to construct a street or sidewalk which does not conform to specifications established by the Planning and Zoning Commission or other authorized representative of the City unless special permission to deviate from such specification is first obtained from the City Council. (1982 Code § 11-351)

7-2-3: Changing Existing Construction

It shall be unlawful for any person to construct a driveway across a sidewalk or cut or change the construction of sidewalk, curb or gutter without first making written application and obtaining from the Planning and Zoning Commission a permit to do so. The acceptance of such permit shall be deemed an agreement on the part of such person to construct said driveway in accordance with specifications furnished by the City. (1982 Code § 11-353; amd. 2000 Code)

7-2-4: Building Materials in Streets; Permit

It shall be unlawful for any person to occupy or use any portion of the public streets when erecting or repairing any building upon land abutting thereon, without first making application to and receiving from the Planning and Zoning Commission a permit for the occupation or use of such portions of streets for such periods of time and under such limitations and restrictions as may be required by the Planning and Zoning Commission. Any such permit may be revoked by the Planning and Zoning Commission at any time when the holder thereof fails to comply with any rule or regulation under which it is granted, or when, in the opinion of the City Council, the public interest requires such revocation. (1982 Code § 11-354)

7-2-5: Street Design:

1. **Definition:** A public thoroughfare, dedicated, abandoned or condemned for public use accepted by proper public authority, which affords the principal means of access to abutting property area is more than twenty four feet (24') wide.
2. **Composition:** All streets shall be graded, graveled and hard-surfaced in accordance with City specifications. Traffic regulatory, safety and street identification signs shall be erected. (Ord. 2000-4-12, 4-1 2-2000)
3. **Design:** Street designs must conform to the adopted Street Plan for the area as regards alignment and right-of-way widths. The layout of proposed streets for any development must give due consideration to the extension of the street network to abutting properties, developed or undeveloped, in order to produce a safe, effective street network in conformity with the Intent of the transportation and circulation element of the General Plan once development of the area has been completed. Insofar as possible, offset streets or jogs at intersections shall be avoided in order to bring about the best development of the area.

4. **Right of Way Specifications:** Street right of way in the City must conform to the following specifications:
  - a. Arterial roads; not less than eighty feet (80'). (Ord. 2000-4-12, 4-12-2000)
  - b. Local streets; not less than sixty feet (60'). (Ord. 2000-4-12, 4-12-2000; amd. 2000 Code)
  - c. Pedestrian walkways; not less than three feet (3').
5. **Grade:** Grades on streets shall not exceed eight percent (8%).
6. **Intersect Right Angles:** Streets shall intersect each other as nearly at right angles as topography and other limiting factors of good design will permit.
7. **Center Line Radius:** On arterial and collector streets, the center line radius and curvature shall not be less than five hundred feet (500').
8. **Dead-End Streets:** Streets shall not be designed to have one end permanently closed.
9. **Street Numbers:** Proposed streets shall bear a number (#), not a name, and any existing street to which it is in obvious alignment must have the same number (#).
10. **Block Length:** Blocks shall not be less than four hundred ninety five feet (495') in length.

7-2-6: Overflowing of Water

It shall be unlawful for any person to allow water to overflow from any ditch, canal, well or irrigation stream onto the streets, sidewalks or property of the City. (1982 Code § 11-356)

7-2-7: Irrigation Ditches

All owners or occupants of lots in the City who require water from a ditch for irrigation or other purposes shall dig ditches, erect flumes, lay pipes and install culverts, as needed, and maintain the same to convey water under sidewalks to or from their respective lots. All culverts, ditches, pipes and flumes conveying water under sidewalks shall meet such reasonable standards and specifications as may be established by the Planning and Zoning Commission. (1982 Code § 11-357)



7-2-8: Removal of Earth

No person shall dig, cut or remove any sod or earth from any street or other public place without a permit from the Planning and Zoning Commission. (1 982 Code § 11-358)

## Excavations

### Section

- Permit Requirements 7-3-1
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- Subject and Excluded Excavations 7-3-3
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- Protection of Public 7-3-5
- Relocation and Protection of Utilities 7-3-6
- Revocation or Refusal of Permit 7-3-7
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### 7-3-1: Permit Requirements

1. **Required:** It shall be unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any street or to place, deposit or leave upon any street any earth or any other excavated material obstructing or tending to interfere with the free use of the street, unless the project is deemed necessary by the Planning and Zoning Commission and City Council. (1982 Code § 11-395; amd. 2000 Code)
2. **Streets and Sidewalks:**
  - a. No person shall make any excavation in any street, land or alley or remove any pavement or other material from any street or improvement thereon without first obtaining a permit from the Planning and Zoning Commission or other authorized representative of the City.
  - b. No person shall excavate any sidewalk without first obtaining a permit from the Planning and Zoning Commission or other authorized personnel.

### 3. **Franchise; Public Utility:**

- a. Nothing contained in this Chapter shall be construed to waive the franchise required for any person by City ordinances or laws of Utah. (1982 Code 11-381)
- b. Any public utility regulated by the State or holding a franchise from the City which, in the pursuit of its calling, has frequent occasion to open or make excavations in streets, may, upon application, receive a general permit from the City to cover all excavations such utilities may make within the streets of the City. (1982 Code § 11-395)

#### 7-3-2: Bond Required

A bond will be required for all excavations within the city as per chapter 7-4-1 of this title.

#### 7-3-3: Subject and Excluded Excavations

1. **Types Subject to Provisions:** The types of excavations subject to the provisions of this Chapter are excavations for installation or repair of water lines, sewer lines, gas lines, electrical cable and conduits, telephone cable and conduits, and all other excavations for any other purpose within the street rights of way of the City or in other public places. (1982 Code § 11-383)
2. **Types Not Subject to Provisions:** The types of excavations which do not come within the scope of this Chapter are excavations of any kind in City streets in projects designed, contracted for and inspected by a contractor designated by the city or other authorized personnel of the City. (1982 Code § 11-382)

#### 7-3-4: Standards

1. **Preparation:** The pavement, sidewalk, driveway or other surface shall be cut vertically along the lines forming the trench in such a manner as to not damage the adjoining pavement or hard surfacing. An undercut bevel at the rate of one inch (1") per foot of thickness will be provided at the proposed junction between the old and new surfaces. The portion to be removed shall be broken up in a manner that will not cause damage to the pavement outside the limits of the trench. However, any pavement damaged by operations outside the limits of the trench shall be replaced. All waste material resulting from the excavation shall be removed immediately from the site of the work. (1982 Code § 11-384)
2. **Backfill:**
  - a. Materials: Materials for backfill will be of select nature. All broken concrete, peat, decomposed vegetable matter and similar materials obtained from

excavation will be removed from the site prior to beginning of backfilling. All backfill will be placed in layers not over eight inches (8") loose measure in thickness. Compaction will be obtained by mechanical rollers, mechanical tampers or similar means. Material for backfilling will have optimum moisture to ensure compaction to a degree equivalent to that of the undisturbed ground in which the trench was dug. Jetting or internal vibrating methods of compacting sand fill or similar methods of compacting sand or similar granular-free draining materials will be permitted.

- b. Density: The density (dry) of the backfill under pavements, sidewalks, curbs or other structures will be not less than that existing prior to excavation. The fill shall be restored and placed in a good condition which will prevent settling. (1982 Code § 11-385)

### 3. **Restoration of Hard Surfaces:**

- a. General: All street surfacing, curbs, gutters, sidewalks, driveways or other hard surfaces falling in the line of the excavation which must be removed in performance of the work shall be restored in kind by the excavator, unless otherwise directed by the City Council, in accordance with the specifications contained herein governing the various types of surfaces involved.
- b. Protection of Paved Surfaces: In order to avoid unnecessary damage to paved surfaces, track equipment shall use pavement pads when operating on or crossing paved surfaces.
- c. Time: In traffic lanes of paved streets, the excavator shall provide temporary gravel surfaces or cold mulch in good condition immediately after backfill has been placed, and shall complete permanent repairs on the street, sidewalk, curb, gutter, driveway and other surfaces, within five (5) days from the date of completion of the backfill, except for periods:
  - i. When permanent paving material is not available.
  - ii. When weather conditions prevent permanent replacement.
  - iii. When an extension of time is granted by the Superintendent of Streets.
- d. Temporary Repair: If temporary repair has been made on the paved Street with gravel and a permanent repair cannot be made within the time specified above due

to any of the above-mentioned conditions, then the excavator shall be required to replace the gravel with cold mulch as soon as possible. (1982 Code § 11-386)

4. Restoring Bituminous:

a. Where excavations are made in paved areas, the surface shall be replaced with a temporary gravel surface. The gravel shall be placed deep enough to provide a minimum of six inches (6") below the bottom of the bituminous or concrete surface. Normally, this will require nine inches (9") of gravel for bituminous surfaces, twelve inches (12") of gravel for concrete and concrete base for asphalt-wearing surfaces. The gravel shall be placed in the trench at the time it is backfilled. The temporary gravel surface shall be maintained by blading, sprinkling, and rolling, adding gravel, to maintain a safe, uniform surface satisfactory to the Zoning Officer until the final surface is laid. Excess material shall be removed from the premises immediately. Material for use on temporary gravel surfaces shall be obtained from sound, tough, durable gravel or rock meeting the following requirements for gradings: (1982 Code § 11-387; amd. 2000 Code)

i. Passing 1-inch sieve	100 percent
ii. Passing 3 sieve	85-100 percent
iii. No. 4 sieve	45-65 percent
iv. Passing No. 10 sieve	30-50 percent
v. Passing No. 200 sieve	5-10 percent

b. The exposed edges of existing pavement shall be primed with Type MO bituminous material. The type, grade and mixture of the asphalt to be used for street surface replacement shall be approved by the Superintendent of Streets. The thickness shall be equal to the adjacent surface thickness but not less than three inches (3"). The complete surface shall not deviate more than one-half inch (h/2 between old and new work. (1982 Code § 11-387)

5. **Concrete Surfaces:** The sub-base for concrete surfaces shall be sprinkled just before placing the concrete. Joints and surfaces shall be made to match the original surfaces. The thickness of concrete shall be equal to the adjacent concrete but in no case less than six inches (6") thick. The mixing, cement, water content, proportion, placement and curing of the concrete will be approved by the Superintendent of Streets. In no case shall the concrete have less compressive strength than three thousand (3,000) pounds per square inch at the end of twenty eight (28) days. (1982 Code § 11-388)

6. **Concrete Base, Bituminous Wearing Surfaces:** This type of surfacing shall be constructed as above described. (1982 Code § 11-389)
7. **Gravel Surfaces:** Trenches excavated through gravel-surfaced area, such as gravel roads and shoulders and unpaved driveways, shall have the gravel restored and maintained as described in subsection 5 of this Section, except that the gravel shall be a minimum of one inch (1”) more than the thickness of the existing gravel. (1982 Code § 11-390)
8. **Jetting Pipe:** Jetting pipe by means of water under pressure or compressed air is permitted only when approved by the City. (1982 Code § 11-393)

7-3-5: Protection of Public

Excavation operations shall be conducted in such a manner that a minimum amount of interference or interruption of street traffic will result. Inconvenience to residents and businesses fronting on public streets shall be minimized. Suitable, adequate and sufficient barricades shall be available and used where necessary to prevent accidents involving property or persons. Barricades must be in place until all of the excavator’s equipment is removed from site and excavation has been backfilled and proper temporary gravel surface is in place. From sunset to sunrise all barricades and excisions must be clearly outlined by acceptable warning lights, lanterns, flares and other devices. Police and Fire Departments shall be notified at least twenty four (24) hours in advance of any planned excavation requiring street closures or detour. (1982 Code § 11-391)

7-3-6: Relocation and Protection of Utilities

An excavator shall not interfere with any existing utility without the written consent of the City Council and without advance notice to the owner of the utility. If it becomes necessary to relocate an existing utility, it shall be done by its owner unless the owner otherwise directs. No utility, whether owned by the City or by a private enterprise, shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee or an expressly-written agreement is made whereby the utility owner and the excavator make other arrangements relating to such cost. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and shall do everything necessary to support, sustain and protect them under, over, along or across the work. In case any of the pipes, conduits, poles, wires or apparatus should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure), they shall be repaired by the agency or person owning them, but the utility owner shall be reimbursed for the expense of such repairs by the permittee. It is the intent of this Chapter that the permittee shall assume all liability for damage to substructures, and any resulting damage or injury to anyone because of such substructure damage and such assumption of liability shall be deemed a contractual obligation which the permittee accepts upon acceptance of an excavation permit. The City need not be made a party to any action because of this

Chapter; the permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage. (1982 Code § 11-392)

7-3-7: Revocation or Refusal of Permit

All permits shall be subject to revocation and the City may refuse to issue a permit for failure of the permittee or applicant to abide by the terms and conditions of this Chapter. (1982 Code § 11-395)

7-3-8: Exception in Emergency

Excavation permits will not be requested prior to excavation in case of emergency endangering life or property, providing the City is notified as soon as practicable and a permit is applied for upon the next regular working day following the emergency. (1982 Code § 11-395)

## Bonds

### Section

- Bond Required

7-4-1

#### 7-4-1: Bond Required

1. **Bond Required:** The developer shall be required to provide a bond, as determined by the Planning and Zoning Commission, to the City guaranteeing the completion of the project or projects the bond is stated for. When completed in accordance with the approved plan, the bond shall be released. If uncompleted at the end of two (2) years, the City will review the progress and may proceed to use the bond funds to make the improvements to the open space.
2. **Conditions:** the developer shall deposit a bond or cash deposit with the City Recorder/Clerk, payable to the City. The required bond must be:
  - a. With good and sufficient coverage.
  - b. By a surety company authorized to transact business in the State.
  - c. Satisfactory to the City Attorney in form and substance.
  - d. Conditioned upon the developer's compliance with the judgment of the planning commission for the project the bond was set for in order to secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the developed project and other work covered by the building permit for which the City, the City Council or any City officer may be made liable by reason of any accident or injury to any person or property through the fault of the developer arising out of negligence of the developer.
3. **Amount:** The amount of the bond or cash deposit shall be established by upon review of the project by the Planning and Zoning Commission and City Council and as appropriate per the project. (1982 Code § 11-394)



## Municipal Property, Use and Control

### Section

- Unlawful Use 7-5-1
- Repair after Unlawful Use 7-5-2
- Franchise; Easement 7-5-3
- Acts Exempted 7-5-4

#### 7-5-1: Unlawful Use

Unless authorized by permit or other written authorization issued by the City or unless authority is granted by provisions of this Code or other ordinance of the City now or hereafter enacted, it shall be a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to: (1982 Code 8-111; amd. 2000 Code)

1. **Property Controlled by City:** Construct, lay, excavate, erect, operate or maintain over, under, across, in or through any property owned or controlled by the City, any utility, canal, ditch, construction or building.
2. **Restricted Areas:** Enter upon any property of the City contrary to any posting or marking restricting or prohibiting use of the area.
3. **Damage to Property:** Intentionally use or perform acts upon property of the City which materially impairs, alters or damages the property. (1982 Code § 8-111)

#### 7-5-2: Repair after Unlawful Use

The City Council, in addition to any other penalty which may be imposed, may order any person who has damaged, altered or changed any property of the City to repair or restore the property to its original condition prior to the damage, alteration or change. (1982 Code § 8-1 12)

#### 7-5-3: Franchise; Easement

1. **Provisions:** The City Council may grant to any person a franchise or easement on such terms and conditions as it deems reasonable, for the purpose of entering upon, constructing, building, operating and maintaining any business or for other use of the property of the City and the provisions of Sections 7-4-1 and 7-4-2 of this Chapter shall not apply to the extent such provisions are waived, qualified or made inapplicable to the rights or privileges granted in the franchise ordinance or easement.

2. **In Writing:** Any franchise or easement granted by the City shall be in writing and any franchise or easement not in writing shall be void. (1982 Code § 8-113)

7-5-4: Acts Exempted

It shall not be a violation of this Chapter where any person uses the public property of the City in the manner or for the purpose for which such property has been made available for public use. (1982 Code § 8-114)

## Cemeteries

### Section

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### 7-6-1: City Cemetery

The burial ground of the City shall be known and designated by the name of Moroni City Cemetery. (1982 Code § 8-202)

### 7-6-2: Definitions

The following words or phrases shall have the following meanings, unless the context otherwise clearly requires:

- **Lot:** The partial lots or single graves in the City cemetery.
- **Lot Owner or Purchaser and Grave Owner or Purchaser:** The owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a deed or

burial right for a described lot or by proved and recognized descent or devise from the original owner. (1982 Code § 8-202)

7-6-3: Applicability

All cemeteries owned and/or maintained by the City or which may hereafter be acquired by the City wherever situated are hereby declared subject to the provisions of this Chapter. (1982 Code § 8-203)

7-6-4: Cemetery Sexton

1. **Created:** There is hereby created the position of Cemetery Sexton. (1982 Code § 8-211; amd. 2000 Code)
2. **Duties:** The Cemetery Sexton shall have the general supervision and administration of the City cemetery, including, but not limited to: (1982 Code § 8-212; amd. 2000 Code)
  - a. Recommending to the City Council such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery.
  - b. Subdividing the cemetery into lots and grave sites.
  - c. Maintaining a record of the location of the graves and preventing any lot from being used beyond its capacity.
  - d. Keeping in proper repair the enclosure around the cemetery and preventing Its being entered by animals and, so far as practical, preventing the destruction or defacing of any tablet or marker placed or erected therein.
  - e. Keeping a duplicate plat of the cemetery and, at the request of any person wishing to purchase any of the lots or parts of lots, pointing out any of the lots or parts of lots for sale; and upon disposal of any lots or part thereof notifying the City Recorder of such fact. The City Recorder/Clerk shall, after payment of the lot price has been received in the Treasury, Issue a certificate of burial rights which shall describe the lot or grave to which the right to burial is granted. The certificate shall be signed by the Mayor and the City Recorder/Clerk.
  - f. Opening any graves in the cemetery upon application to him being made by the City Recorder/Clerk or by any person having the right to make such application and being responsible for dosing all graves.
  - g. Removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery, but such floral pieces or displays shall not be

removed sooner than seven (7) days after original placement, except in emergency.

- h. Keeping the streets, alleys, walks and avenues in the cemetery in good order and unobstructed.
- i. Erecting a suitable marker firmly set upon the northwest corner of each lot with the number of the lot inscribed thereon and which location shall be shown on the cemetery records. (1982 Code § 8-212)

7-6-5: Burials

**1. Permits Required:**

- a. Before any deceased person is buried in the City cemetery, a permit properly issued by the registrar of the registration district in which the death occurred or, in the absence of such registrar, a permit duly issued by the State Division of Health or other authorized person shall be required by the Cemetery Sexton. After burial, the Cemetery Sexton shall endorse upon the permit a description of the location where the deceased is buried and shall enter all of the information contained in the permit in the cemetery records. (1982 Code § 8-221; amd. 2000 Code)
  - b. It shall be unlawful for any person to bury the body of a deceased person in the City cemetery without first obtaining a certificate of burial right for the lot used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right. (1982 Code § 8-222)
2. **Registration:** Before any deceased person may be buried in the City cemetery, the relatives or person having charge of the deceased shall provide the City Recorder/Clerk with a written statement which shall be filed by the City Recorder/Clerk, which statement shall contain, if known, information about the deceased regarding his or her name, when and where born, the date and cause of death, the name of the attending physician, date of burial, name of cemetery and the description of the location of the grave. (1982 Code § 8-223)

**3. Unlawful Acts:**

- a. It is an infraction, subject to penalty as provided in Section 1-4-1 of this Code, for any person to:
  - i. Disinter any body buried in any cemetery, except under the direction of the Cemetery Sexton who shall, before disinterment, require written

permission from both the County Health Officer and the owner of the lot or his or her heirs, which written authorization shall be filed and preserved in a record kept for such purposes.

ii. Disinter or remove the body of a person who has died from a contagious disease within two (2) years after the date of burial, unless the body was buried in a hermetically-sealed casket or vault and is found to be so incased at the time of disinterment.

b. It is an infraction, subject to penalty as provided In Section 1-4-1 of this Code, to inter anything other than the remains of human bodies in cemeteries.

c. It is an Infraction, subject to penalty as provided in Section 1-4-1 of this Code, to bury the body of any person within the City, except in the City cemetery or a private cemetery, unless by special permission of the City Council under such rules and regulations that it may prescribe. (1982 Code § 8-224; amd. 2000 Code)

#### 4. **Vaults:**

a. Required; Exception: Unless in writing by the Cemetery Sexton, it shall be unlawful for any person to be buried in the cemetery unless the casket shall be placed in a vault made of concrete, fiberglass, steel or brick-lined, or of such other material approved by the City Council, substantiality constructed and covered with a similar durable material. (1982 Code § 8-225; amd. 2000 Code)

b. Wood Prohibited: No wood shall be used as a permanent part of the construction of any part of the vault. (1982 Code § 8-225)

#### 7-6-6: Fees and Charges

1. **Established:** The City Council shall, from time to time by resolution, fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services to be provided. (1982 Code § 8-243)

2. **Collection:** The City Recorder/Clerk, and such other persons as the City Council may designate, are hereby authorized and required to collect in advance, prices and fees for the opening and closing of graves or other services which shall include, but not be limited to, properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal and raised monument privileges. The fees shall be such amounts as are determined by the City Council from time to time by resolution. (1982 Code § 8-241)

### 3. **Opening Graves:**

- a. No grave shall be opened in the City cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.
- b. The presentation of a receipt from the City Recorder/Clerk or person designated by the City Council when presented to the Cemetery Sexton shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the City wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the City Recorder/Clerk or authorized person may give the Cemetery Sexton authority to open graves without the presentation of a receipt from the City Recorder/Clerk or authorized person. (1982 Code § 8-242)

#### 7-6-7: Lot Sales

1. **Authority; Records:** The City Recorder/Clerk, and such other person as the City Council may designate, is hereby authorized to sell the use of lots in the City cemetery for burial purposes only and to collect all sums arising from the sale. The City Recorder/Clerk shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefore. The City Recorder/Clerk or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price and the type of maintenance services which are to be provided, e.g., perpetual care.
2. **Purchase Price, Scope of:** A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant to this Section shall not be construed to be in payment for cemetery services other than perpetual care.
3. **Services Included:** Perpetual care shall be deemed to include the filling of the grave, the placing of topsoil upon the grave, seeding the grave with grass and watering and cutting the grass. No other services are included. (1982 Code § 8-251)
4. **Improvements, Changes And Services:** No other improvements, changes or service, except perpetual care, shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the Cemetery Sexton written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the City Council. (1982 Code § 8-251; amd. 2000 Code)

**5. Resale Restrictions:**

- a. Whenever a certificate to burial rights or lots reverts to the City or becomes vested in the City for any reason, before new certificates are issued, the original certificate shall be cancelled or an assignment given and the record shall be so changed.
- b. The certificates shall be issued and signed by the Mayor and shall be attested by the City Recorder/Clerk. All lots or parts of lots, as provided in this subsection, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment. (1982 Code § 8-252; amd. 2000 Code)

7-6-8: Perpetual Care Lot

1. **Scope Of Care:** The essential perpetual care that the City agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to, mowing of all lots and graves at reasonable intervals, re-sodding, seeding and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the City. (1982 Code § 8-262)
2. **Contracting for Care:**
  - a. No grave shall be hereafter opened in the cemetery of this City until perpetual care upon the lot where the grave is to be opened shall have been contracted for with the City, or perpetual care thereon paid. Should it be the desire of any person to have a grave opened and the body interred therein and perpetual care shall not have been previously contracted for or paid in full for the lot therein, the person may either pay the full purchase price for perpetual care or enter into a contract wherein payment shall be agreed. (1982 Code § 8-261)
  - b. The installment contract for perpetual care of, or purchase of a lot with perpetual care, shall provide for collection by the City in event of a default and such collection shall be by civil action, and the defendant therein shall pay cost of collection, together with reasonable attorney fees to the City, and shall also pay interest at the rate of eight percent (8%) per annum upon the past due installments. All installments shall immediately become due upon the default of any of the installments; provided, however, that when perpetual care for any lot in the City cemetery or portion thereof, has not been paid for a period of ten (10)



years, then, and in such an event, the unused portion of the lot shall thereafter escheat to the City, and the title thereof shall revert to the City, which shall thereafter have the right, option and privilege to sell and dispose of unused cemetery property, as is in this Chapter provided, upon condition that the City shall thereafter maintain perpetually without cost of fee the portion of the lot occupied by a grave or graves prior to the date when the remaining property escheated to the City.

- c. The City shall have the power to fix, by resolution, a fee from any person now **owning a cemetery lot** or portion thereof for the annual maintenance and care thereof. The fee shall continue to be paid until such time as a further or additional interment shall be made on the lot, at which time the provisions of this subsection relating to perpetual care and maintenance and to payment of fees and costs pertaining thereto shall take effect and apply. (1982 Code § 8-261; amd. 2000 Code)

### 3. **Fund Created; Use:**

- a. There hereby is established a Perpetual Care Fund according to the laws of the State and this Chapter. All funds received from the sale of perpetual care services shall be placed in a special Perpetual Care Fund, invested in compliance with the laws of the State and used for the purposes herein provided.
- b. The income from the Perpetual Care Fund shall be used to pay the upkeep and development of the cemetery. The City may borrow from the Fund from time to time, but any funds borrowed shall be repaid to the Fund with interest thereon at the prevailing rate paid by the City to borrow funds from commercial lenders.
- c. If the City borrows from the Fund, it shall pay into a fund for the operation of the cemeteries the interest accrued upon money annually. Should it be found that the interest returned upon the Perpetual Care Funds shall be more than is required to pay for the operation and upkeep of the City cemetery, then the surplus shall be added to the principal amount of the Perpetual Care Fund herein created, and shall be so handled until changed by resolution to provide for the use of such accumulated interest. (1982 Code § 8-271)

### 4. **Duties of Officials:**

- a. Treasurer: It shall be the duty of the City Treasurer to keep an accurate record of the Perpetual Care Trust Fund account, including investments, to see that the

principal portion thereof is properly invested in accordance with resolutions of the City Council and the laws of the State, and to advise the Mayor when funds are available for investment in the amount of one thousand dollars (\$1 ,000.OO) or more. The Mayor shall advise the City Council of the availability of such funds. (1982 Code § 8-272)

- b. City Council: It shall be the duty of the City Council, when funds are available for investment, to direct by resolution all purchases of securities for the Perpetual Care Fund or to name a suitable trustee for such investment. (1982 Code § 8-273)
5. **Investment Income**: All income from investments held in the Perpetual Care Fund shall be quarterly credited to the Cemetery Maintenance Fund for use in providing the perpetual care as required herein. (1982 Code § 8-274)

7-6-9: Indigents

1. The City Council may by resolution designate a portion of the City cemetery to the burial of indigents. Whenever it is made to appear to the Mayor by proof submitted to him by the City Recorder/Clerk that any person who has died does not have an estate sufficient to pay the purchase price of a lot in the cemetery, and that the nearest relative or representative of such deceased person desires to have the body of such deceased interred in the cemetery, the Mayor may grant burial space for such deceased person at the request made to him by the City Recorder/Clerk. (1982 Code § 8-291)
2. The Mayor shall communicate his decision to both the City Recorder/Clerk and the Cemetery Sexton. The Mayor shall give report of his decision, whether affirmative or negative, to the City Council at its next regular meeting. All strangers without funds or other persons who may die in the City may be granted the privilege granted herein. (1982 Code § 8-291; amd. 2000 Code)

7-6-10: Rules and Regulations

1. **Authority to Regulate; Procedure:**
  - a. The City Council may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.
  - b. The Mayor may, from time to time as the City Council deems necessary, direct and publish a booklet of rules and regulations for the convenience of the purchasers of lots in the City cemetery. Such rules and regulations shall constitute a part of the terms and conditions under which owners and users may utilize the

cemetery and shall form a supplement to this Chapter after they have been adopted as official by resolution of the City Council.

- c. Any changes in the rules and regulations shall be adopted by the City Council before such changes shall be official. (1982 Code § 8-237)
2. **Lots Sold:** Every lot sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as are found necessary for the protection of lot owners, the remains of the dead and the preservation of the cemetery. (1982 Code § 8-227; amd. 2000 Code)
3. **Traffic Control:**
  - a. The provisions of the City traffic ordinances relative to the operation of vehicles and conduct of pedestrians shall be in effect in the cemetery, except as herein otherwise modified by this Chapter.
  - b. It shall be unlawful for any person to ride or drive within the City cemetery at a speed greater than fifteen (15) miles per hour. (1982 Code 8-230)
4. **Children:** Children under the age of ten (10) years shall not be allowed in cemeteries unless accompanied by their parents or other adults, except for the purposes of attending authorized funerals or, in the company of adults, placing flowers on the grave of a deceased relative or friend, or performing any other customary evidence of respect in accordance with their religious principles. (1982 Code § 8-231)
5. **Animals:** No animal shall be allowed in any cemetery, except in the confines of a vehicle and must be at all times retained within the confines of said vehicle while the vehicle remains in the cemetery. (1982 Code § 8-232)
6. **Decorum:** Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons. (1982 Code § 8-233)
7. **Errors in Opening Graves:** Under no circumstances will the City assume responsibilities for errors in opening graves when orders are given by telephone. (1982 Code § 8-229)

7-6-11: Care and Maintenance; Right to Enter

The City reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in its cemeteries. (1982 Code § 8-228)

1. **Injury to Property:**

- a. It is a Class B misdemeanor, subject to penalty as provided in Section 1-4-1 of this Code, for any person to tie or attempt to tie any horse, animal or motor vehicle to any monument, gravestone, tablet, marker, tree, shrub, fence or enclosure on the premises of the cemetery for the purpose of injuring, defacing or attempting the removal of same.
  - b. It shall be an infraction, subject to penalty as provided in Section 1-4-1 of this Code, for any person to injure, deface, break, destroy or remove any headstone, tombstone, monument, tree, shrub or any other property in the cemetery. (1982 Code § 8-234; amd. 2000 Code)
2. **Landscaping by Private Persons:** Except as provided in the rules and regulations of the City Council, it shall be unlawful for any person to erect or maintain any fence, corner post, coping or boundary of any kind, to plant any vegetation upon any lot or lots, street, alley or walkway in the cemetery or to grade the ground or land thereof. The Cemetery Sexton shall, whenever required, furnish the true lines of any lots according to official survey, shall prevent and prohibit any markings of the same except by official landmarks, and shall prevent and prohibit any grading thereof that might destroy or interfere with the general slope of the land. (1982 Code § 8-235; amd. 2000 Code)
3. **Placement of Markers:** It shall be unlawful for any person to erect, place or cause to be placed any marker or monument on any lot in cemetery in violation of the rules and regulations promulgated by the City Council regarding the placement, construction and design of all such markers. (1982 Code § 8-236)