

Bylaws of the Monte Vista Cemetery Association

Date of Adoption: April 3, 2018

ARTICLE I – GOVERNING HISTORY AND DOCUMENTS OF THE ASSOCIATION

The Monte Vista Cemetery Association Board of Directors, consisting of David O. Darnell, Ira J. Bloomfield, Robert B. Wallace, John Pickett, Lewis H. Cheney, W.R. Farrar and Richard Cadle, filed the Articles of Incorporation with the State of Colorado on March 20, 1890.

In a ruling letter dated April 23, 1942, the Monte Vista Cemetery Association was held to be exempt from Federal income tax under the provisions of section 501(a) of the Internal Revenue Code as an organization described in section 101(5), which corresponds to Section 501(c)(13) of the Internal Revenue Code of 1954.

On April 5, 1957, the Monte Vista Cemetery Association was declared a Perpetual Care Cemetery by the State of Colorado's Secretary of State, George Baker. Mr. Baker stated that since the Board of Directors did not limit their term of existence in the Articles of Incorporation, the Monte Vista Cemetery qualified as a Perpetual Cemetery.

In September of 1972, the Board of Directors, led by President L.L. Shriver, confirmed the existence of the Monte Vista Cemetery Association as a nonprofit organization.

On August 25, 1976, the Internal Revenue Service of the Department of the Treasury (document E:T:3002:JR) acknowledged receipt of an application for recognition of exemption from Federal income tax as an organization described in Section 501(c)(13) of the Internal Revenue Code, stating that it was not necessary to reapply for recognition of exemption, based on the 1942 ruling, and that therefore no action would be taken on that application.

As of the date of adoption of these Bylaws, many of the documents, records, and past Minutes of the Monte Vista Cemetery Association have been lost or are not available due to the passing of time and to former Board members having died. Some records, destroyed in a fire, will never be recovered. For this reason, the Board of Directors of the Monte Vista Cemetery Association duly authorizes these Bylaws, updating and confirming its governing documents and

affirming that the Association is in full compliance with the nonprofit provisions of Section 501(c)(13) of the U.S. Internal Revenue Code.

ARTICLE II – PURPOSE OF THE ASSOCIATION

The Monte Vista Cemetery Association (hereinafter the Association) is dedicated to the purpose of providing a dignified and beautiful final resting place for deceased persons or their cremains. Burial space ownership and burial are open to anyone who abides by the Rules and Regulations and the Bylaws of the Association.

The Association is owned and operated exclusively for the benefit of its burial space owners who hold said burial spaces for bona fide burial purposes and not for purposes of resale. In accordance with the provisions of Section 501(c)(13) and as provided in its founding and governing documents, the Association is chartered solely for the purpose of the disposal of human bodies or cremains by burial, and the maintenance of the beauty and dignity of the cemetery grounds, and does not engage in any business or activity not incident to these purposes. The Association does not operate a mortuary, but its charter does permit it to sell lots, burial spaces, monuments, markers, vaults, and flowers solely for use in the cemetery. Income from any such sales is used to maintain the cemetery as a whole.

ARTICLE III – PURPOSE OF THE BYLAWS

These Bylaws are written by the Association to guide the actions of the Board of Directors and the membership of the Association. These Bylaws can be changed or amended if necessary for the Board of Directors to continue to perform its duties in an effective manner.

The Annual Meeting or a Special Meeting called for that purpose shall be the time and place for amending the Bylaws. Once adopted by the Board of Directors, these Bylaws replace and supersede any and all previous Bylaws, whether as originally adopted or as amended thereafter.

ARTICLE IV – MEMBERSHIP

Membership in the Association shall consist of all persons who own a fully paid lot or burial space in the Cemetery. For purposes of determining membership, burial space shall be defined as an occupied or unoccupied grave space designated for the interment of a single person, in compliance with the Rules and Regulations of the Monte Vista Cemetery Association, and which is located

within the boundaries of the Monte Vista Cemetery. A lot shall be defined as a group of up to 8 platted adjacent burial spaces.

Alliving persons named on the original lot or burial space deed shall be deemed to be members and each entitled to vote at all Annual or Special Meetings of the Membership at which they are physically present, subject to the provisions herein.

Upon the death of the original owner(s) of a lot or burial space, the beneficiary(s) in the owner's Will or Trust, or if the owner dies intestate, the heirs of the deceased, as determined by Colorado law, shall determine ownership of said lot or burial space (and therefore membership in the Association attributable to said ownership) located in the Monte Vista Cemetery, unless there is a valid Court Order to the contrary.

Written notification of a change of ownership, by beneficiaries or heirs, and any written agreements between them as to ownership of an unoccupied grave space or niche, together with a copy of the Deed that confirms the change of ownership, must be delivered to the Monte Vista Cemetery Association Manager at the Cemetery office of the Association at least 24 hours before such members may vote at any Annual or Special Meeting, unless that requirement is waived by the Director.

There shall be no more than one vote allowed per burial space. If an owner owns more than one burial space, he or she shall be entitled to only one vote, regardless of the number of burial spaces owned. In the event of a disagreement regarding the ownership of a lot or burial space, the Board may decide to disallow the vote applicable to said lot or burial space.

ARTICLE V - BOARD OF DIRECTORS - MEMBERSHIP & ELECTION

The Articles of Incorporation of the Association state that there shall be seven (7) Directors. However, these Bylaws and previous Bylaws supersede such provision by providing that the Association shall be under the management of a Board of Directors consisting of six (6) members, with two Directors to be elected each year for a three (3) year term of office. Each Director shall be the owner, either through fully paid purchase, inheritance, or family relationship, of at least one burial space in the Monte Vista Cemetery. Directors who are funeral industry professionals shall be excluded from this requirement. Directors shall serve without compensation for their service on the Board. However, they may be compensated for reasonable expenses incurred as a result of their actions as Directors. No paid employee of the Association shall serve as Director.

As of March 2018, there are four Directors. Two additional Directors shall be elected at the annual meeting. In order to achieve the staggered term arrangement specified herein, the terms of the Directors shall be:

Charles Spielman and Kirk Thompson– one-year term; remainder of 2018.

Kathy Ellithorpe and Stephen Hunseker – two-year term; remainder of 2018 and all of 2019.

Two new Directors –three-year term; remainder of 2018, and all of 2019 and 2020.

A Director may be elected and serve for up to three consecutive three-year terms.

Beginning with the regularly-scheduled meeting of the Board of Directors in January, 2019, and each January thereafter, two new Directors shall be elected. Public notice of said meeting, inviting burial space owners to nominate a Director, shall be placed in the Monte Vista Journal at least one month prior to the meeting date.

At the meeting designated for Director elections, one nomination for Director shall be made by one or more burial space owners of at least one or more burial spaces in the Monte Vista Cemetery. The second nomination shall be made by the majority of the Board of Directors. Nominees shall be elected by majority vote of the Board of Directors. If no nomination is made by burial space owners as specified herein, the Board of Directors shall nominate and elect both new Board members.

If a Director dies or resigns from the Board, the remaining Directors shall promptly advertise in the Monte Vista Journal for nominations for Director. An election of a Director to fulfill the unexpired Director's term shall be held at the next regularly scheduled Board meeting not less than 30 days after placement of said advertisement. Nominations for Director may be made by at least five owners of at least five separate burial spaces in the Monte Vista Cemetery. The remaining Directors shall also nominate a candidate for Director. At the meeting designated for election of the new Director, the remaining Directors, by majority vote, elect the new Director.

Any Director, or all Directors, may be removed from the Board of Directors by presentation, at any regularly scheduled Board meeting, of a petition bearing the certified signatures of at least twenty owners of twenty separate burial spaces in the Monte Vista Cemetery. Said petition shall also designate Director(s) to replace the removed Director(s). The replacement Director(s) shall

immediately begin serving on the Board and shall fulfill the unexpired term(s) of the replaced Director(s).

ARTICLE VI – BOARD OF DIRECTORS – MEETINGS AND VOTING

The Board of Directors shall meet monthly to manage and conduct the business of the Association. In the months of February through December, the Board meeting shall be on the first Tuesday of the Month. The date of a forthcoming Board meeting may be changed by majority vote of the Directors, taken either at a Board meeting, or by phone, provided a quorum of Directors is either present at the meeting, or votes by phone.

The regularly scheduled March meeting shall be designated as the annual Membership meeting, designated for the election of two new Directors. This meeting shall be advertised in the Monte Vista Journal at least 30 days in advance of the meeting date.

In order to transact business and carry out Board duties, a quorum of the Directors must be present at the Board meeting. Quorums are as follows:

No. of Active Directors	Quorum
6	4
5	3
4	3
3	2

If there are fewer than three active Directors, the Board shall not transact business or carry out Board duties until one or more new Directors are elected, in accordance with the procedures specified herein.

To the maximum extent reasonably practicable, the Board shall transact business and carry out its duties only at regularly scheduled Board meetings. Providing that a quorum of Directors is present at such meetings, the Board shall make decisions and carry out its duties in accordance with the majority vote of the Directors present.

If, on rare occasions, circumstances arise that require Board action or decision prior to the next scheduled Board meeting, the Administrative Manager or Board President shall contact at least a quorum of active Directors and shall obtain, by recorded e-mail, approval of said Board action or decision by the majority of Directors contacted.

The March meeting of the Board shall also be designated as a Membership meeting, primarily for the purpose of obtaining Membership comments, suggestions, and concerns regarding the maintenance and operation of the cemetery. This meeting shall be advertised in the Monte Vista Journal at least 30 days in advance of the meeting date.

All meetings of the Board of Directors, including those also designated as Membership meetings, shall be open to all Members of the Association, as well as to all relatives of decedents interred in the Monte Vista Cemetery.

ARTICLE VII – BOARD OF DIRECTORS – DUTIES

The duties of the Board of Directors shall consist of the general direction of the activities necessary to the operation of the Cemetery and maintenance of the Cemetery grounds in accordance with the purpose of the Association. This shall include the general supervision of the operation and maintenance of Cemetery equipment and facilities, the overseeing of personnel, including employees, contractors, and volunteers, and the acquisition and expenditure of capital and operating funds.

In performing these duties, the Directors shall always consider the best interests of the Membership and shall faithfully conform to the reasonable requests of Members with regard to the maintenance and operation of the Cemetery.

As an integral part of its required duties as the Board of Directors, the Board shall hire an individual or corporate entity to serve as Administrative Manager of the Association, responsible for day-to-day operation of the Association, including handling of finances and keeping financial and other necessary records.

Individual Directors, acting on behalf of the Board, may also, with the agreement and approval of the Administrative Manager, undertake direct supervision of employees or volunteers, including operation and maintenance of equipment, required for, or deemed beneficial to, the maintenance and improvement of the Cemetery grounds.

ARTICLE VIII – BOARD OF DIRECTORS - OFFICERS

The officers of the Board of Directors shall consist of President, Vice President, and Secretary/Treasurer.

Within one week following the Annual Membership Meeting, or at a special meeting required by the resignation or death of an officer, the Board of Directors shall meet and, if a quorum is present, elect by majority vote the officers of the Board. Officers must be members of the Board of Directors and shall serve for one year, provided that an officer may serve sequential one-year terms if re-elected by the Board.

The President shall be responsible for setting meeting times, locations, and agendas, and for timely providing this information to Directors. The President shall also preside over meetings of the Board of Directors and at Membership meetings of the Association.

The President shall also, acting on behalf of all the Directors be responsible for the direct supervision of the Administrative Manager.

The Vice President shall be responsible for all of the aforementioned duties and responsibilities of the President in the event that the President assigns said responsibilities to the Vice President or is unable or unwilling to carry out his or her responsibilities.

The Secretary/Treasurer shall be responsible for the proper, complete recording and secure preservation of the minutes of any meeting of the Board of Directors or Membership. Said minutes shall be presented for consideration and approval by the Board of Directors at the next following meeting of the Board or Membership.

The Secretary/Treasurer shall also keep or oversee the keeping of the financial records of the Association and shall insure that all monies received and all monies paid out are properly recorded and said records are securely preserved. The Treasurer shall report to the Board the financial status of the Association at each Board meeting, or more frequently if requested by the President.

In the absence of the President or Vice President, or in the event that neither is able to perform the duties required of them, the Secretary/Treasurer shall perform said duties.

The President, Vice President, and Secretary/Treasurer shall be entitled to vote at all meetings of the Board and at meetings of the Association Members.

ARTICLE IX – BOARD OF DIRECTORS - INDEMNITY

An insurance policy shall be obtained to indemnify and protect all Directors from unfounded liability that might have been incurred as a result of their

service on the Board. The form and amount of such policy shall be at the discretion of the Board.

ARTICLE X – ADMINISTRATIVE MANAGER

An Administrative Manager shall be hired and paid, to the extent reasonably possible considering the availability of funds, by the Board of Directors to directly manage, under the supervision of the Board, the conduct of all aspects of the maintenance and operation of the Cemetery grounds and facilities.

Neither the Administrative Manager nor any member of the Administrative Manager’s staff shall be a member of the Board of Directors.

The management activities by the Administrative Manager shall include: direction of Association employees and volunteer grounds maintenance workers; operation and maintenance of Association equipment; selling of Lots and burial spaces; creating and maintaining records of the ownership of each Lot and burial space and of each and every person buried in a burial space; monitoring the maintenance of all cemetery property; receiving and disbursing Association monies in accordance with the limits set by the Board; and providing a report regarding all of the aforesaid activities to the Board each month. The Administrative Manager shall not be a member of the Board

The Administrative Manager shall compile and keep all financial records of the Association in accordance with standard accounting practice and shall prepare an annual financial report for presentation at the annual Members Meeting. In December each year the Administrative Manager shall submit the financial records for audit by an independent accounting firm. The results of this audit shall be presented in a report to the Members at the Annual Members Meeting the following January.

The Administrative Manager shall also record the minutes of each regular meeting of the Board and shall provide said minutes to the Directors at the next following meeting.

ARTICLE XI – FINANCIAL LIMITATIONS

The Association’s funds shall only be used in one or more of the following ways.

1. To pay the ordinary and necessary expenses of operating, maintaining, and improving the cemetery.
2. To buy additional Cemetery property.
3. To purchase equipment or facilities deemed necessary to the maintenance and improvement of the Cemetery.

4. To create a fund with the intention of providing a source of income for the perpetual care of the Cemetery and to provide a reasonable reserve of funds for any ordinary or necessary purpose.

No part of the funds of the Association shall be used in a manner that undeservedly benefits any Director or his or her family. However, services rendered and appropriately paid for by the Board shall be excluded from this limitation.

Buying additional Cemetery property or equipment. Payments may be made to amortize debt incurred to buy land or equipment but may not be in the nature of profit distributions. The Board of Directors shall determine that the method used to finance the purchase of any property or equipment and will establish that the purchase price was not unreasonable.

The Association, in order to remain exempt from taxes under Section 501(c)(13) of the Internal Revenue Code, shall not allow any person to have any interest in the net earnings of the Association. In addition, no property shall be transferred to the Association in exchange for an interest in the Association's assets or net earnings.

Perpetual care organization. The Monte Vista Cemetery is a Licensed Endowment Care Cemetery. This license requires that a trust fund shall be maintained with the goal of guaranteeing permanent care of the cemetery. At least fifteen per cent (15%) of all monies received by the cemetery from burial space sales shall be paid into this trust fund, as required by the State of Colorado.

As a perpetual care organization, the Association must devote funds designated for perpetual care exclusively to the perpetual care and maintenance of the Cemetery as a whole. No part of the net earnings of such funds may preferentially benefit any individual burial space owner.

Care of individual plots. The Association, in order to comply with the nonprofit provisions of the Internal Revenue Service, cannot accept funds for the perpetual care of an individual lot. Members are responsible for the individual care, maintenance, or beautification of a particular family burial lot.

Tax treatment of donations. Donations to the Association are deductible as charitable contributions on the donor's federal income tax return, to the extent allowable under the IRS code. However, a donor may not donate – and therefore may not deduct – any contribution made for the perpetual care of a particular lot or burial space. Payments made to the Association as part or all of the purchase price of a Lot or burial space, are also not deductible.

ARTICLE XII – CEMETERY POLICIES, RULES, REQUIREMENTS, PRICES, AND FEES

Promptly upon adoption of these Bylaws, the Board of Directors shall promulgate a booklet containing details of Cemetery policies, rules, requirements, prices of Lots and burial spaces, and fees charged by the Cemetery for services in connection with burials or disinterment.

The booklet shall be revised and updated as necessary by the Board, and a current version shall be furnished to any Member of the Association requesting a copy.