



RESOLUTION

2026-22

A RESOLUTION ADOPTING A CEMETERY BURIAL RIGHTS CLAIM POLICY AND APPLICATION, AUTHORIZING THE CEMETERY SEXTON TO DETERMINE CLAIMS, AND PRESERVING THE SEPARATE TRANSFER FORM

WHEREAS, Midway City owns and operates the Midway City Cemetery; a Burial Rights Certificate grants a limited burial right and does not convey ownership of cemetery property, as provided in Midway City Code § 2.16.060(A); and

WHEREAS, the Code requires a certificate owner to name two successors in interest and specifies the order in which they succeed to the rights of a deceased owner, Midway City Code § 2.16.060(C); and

WHEREAS, the Code permits written applications by a certificate owner, a named successor after the owner's death, or legal heirs and directs the Sexton to reissue a certificate upon proof of identity, payment of required fees, and compliance with applicable standards and procedures, Midway City Code § 2.16.060(G); and

WHEREAS, when the record owner and named successors are deceased or cannot be located, the Code gives certificates precedence over conflicting testamentary instruments; calls for an affidavit of heirship and a power appointing one heir to represent all, or a certified decree of distribution, to effect a transfer; and directs the City, in the absence of that documentation, to act upon its best judgment in determining heirship and successorship, Midway City Code § 2.16.060(H)(1); and

WHEREAS, the Code directs the City to adopt policies and procedures for administrative determinations based on testamentary or similar evidence and for cemetery operations generally, Midway City Code §§ 2.16.060(H)(2), (K); and

WHEREAS, the Cemetery Sexton enforces cemetery policies and procedures subject to City Council direction, Midway City Code § 2.16.080(B); and

WHEREAS, many burial rights were acquired generations ago, historical records do not always establish later succession, and competing family claims have drawn the Sexton into disputes; the Council finds that reliable documentary proof, disclosure of interested persons, sworn certifications, and appropriate protections for the City will improve the consistency of administrative decisions; and

WHEREAS, the Code does not prescribe an appeal to the City Council from an individual burial-rights claim decision, and the Council desires to direct the Sexton to make the City's final administrative determination on each such claim; and

WHEREAS, the Council desires to adopt the Midway City Cemetery Burial Rights Claim Application attached as Exhibit A for claims arising after a recorded owner's death, while retaining the City's separate form and procedure for voluntary transfers by a living recorded owner.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF MIDWAY CITY, UTAH:

Section 1. Purpose and Authority. Under Midway City Code §§ 2.16.060(G), (H)(1)–(2), (K) and 2.16.080(B), the Council adopts the following administrative policy for claims to a Burial Rights Certificate following the death of its recorded owner. The policy implements the Code's order of succession and its direction that the City use its best judgment when the documentation specified in § 2.16.060(H)(1) is absent. It does not amend Chapter 2.16.

Section 2. Application and Proof. A person seeking recognition or reissuance of a burial right after the recorded owner's death shall submit a complete Midway City Cemetery Burial Rights Claim Application, supporting documents, and applicable fees. The claimant shall establish identity, the status of the recorded owner and named successors, a reliable chain of authority, and compliance with the Code's certificate limits and other applicable standards. Descent alone, possession of a certificate, family custom, or a prior informal assurance does not establish the claimant's authority.

Section 3. Succession and Interested Persons. The Sexton shall apply the named-successor priority in § 2.16.060(C) and the testamentary and heirship provisions in § 2.16.060(H). The claimant shall disclose known persons with an equal, superior, derivative, contingent, or disputed interest. Where the Code permits an heir to represent all heirs, the claimant may establish that authority through the affidavit of heirship and accompanying power described in § 2.16.060(H)(1). A certified decree of distribution or other controlling court order may also establish authority. The Sexton may request assignments, consents, waivers, vital records, probate documents, a family chart, or other reliable evidence reasonably needed to evaluate a claim; the Sexton shall not impose unanimous waivers when sufficient representative or exclusive authority is otherwise established.

Section 4. Best Judgment and Disputed Claims. When the documentation specified in § 2.16.060(H)(1) is absent, the Sexton shall evaluate the available evidence and exercise the City's best judgment in determining heirship and successorship. The Sexton may request further evidence, consult the City Attorney, or condition, suspend, or deny a claim if the evidence remains insufficient, materially conflicting, or unreliable. An objection alone does not decide a claim. Where a genuine dispute cannot reasonably be resolved from reliable evidence, the Sexton may require a binding court determination or other legally sufficient resolution before reissuance. Once the Code's prerequisites and applicable standards are satisfied, the Sexton shall reissue the certificate as § 2.16.060(G) directs.

Section 5. Certifications and City Reliance. The claimant shall execute the application's affidavit, certifications of completeness and authority, and its defense, indemnity, and hold-harmless undertaking, subject to applicable law. The City may rely in good faith on apparently authentic documents and sworn statements. The City need not undertake an independent genealogical investigation, open an estate, or locate unknown heirs. Approval is an

administrative determination for City records and cemetery operations; it is not a judicial adjudication of title or heirship and does not bind a court or an omitted interested person.

Section 6. Sexton's Determination; Final City Decision. The Council directs and authorizes the Cemetery Sexton to review claims under this policy and issue a written approval, conditional approval, request for additional information, suspension, or denial with a brief statement of reasons. The Sexton's written determination is final and binding on Midway City as its administrative decision. The City Council will defer individual burial-rights claim decisions to the Sexton and will not hear an administrative appeal of them. This direction does not limit the Council's authority to amend cemetery policy, the City's lawful correction of records affected by fraud, material omission, or mistake, or any remedy available in a court of competent jurisdiction.

Section 7. Adoption and Use of Claim Form. The Council adopts and incorporates the Midway City Cemetery Burial Rights Claim Application attached as Exhibit A and authorizes the Cemetery Sexton and cemetery staff to begin using it upon this Resolution's effective date for claims within Section 1. The Sexton, City Administrator, or City Recorder may make clerical or nonsubstantive changes to the form with the City Attorney's approval as to form; a substantive change to the policy or material proof requirements requires Council approval.

Section 8. Separate Transfer Form. The Claim Application serves a different purpose from the City's existing transfer form. The existing form and procedure may continue to be used as applicable for voluntary transfers executed by a living recorded owner and other transfers for which that form is appropriate under Chapter 2.16. Staff shall use the Claim Application for a post-death succession claim rather than treat it as a voluntary owner-executed transfer. Transactions under § 2.16.060(E) remain subject to its written-permission and transfer requirements.

Section 9. Construction and Effective Date. This Resolution supplements Chapter 2.16; the Code controls in the event of a conflict. It takes effect immediately upon passage and applies to claims submitted or renewed thereafter, without disturbing a previously issued certificate merely because a different form was used. Prior informal practices inconsistent with this policy are discontinued. If a provision is held invalid, the remainder continues in effect.

PASSED AND ADOPTED by the City Council of Midway City, Wasatch County, Utah this ____ day of _____, 2026.

Council Member	AYE	NAY
Andy Garland	_____	_____
Lisa Orme	_____	_____
Kevin Payne	_____	_____
Andrew Osborne	_____	_____
JC Simonsen	_____	_____

APPROVED:

Craig Simons, Mayor

ATTEST:

Brad Wilson, City Recorder

APPROVED AS TO FORM:

Corbin Gordon, City Attorney

(SEAL)

EXHIBIT A

**Midway****CEMETERY BURIAL RIGHTS CLAIM APPLICATION***(For a claim arising after the death of the recorded owner; not for a voluntary transfer by a living owner)*

IMPORTANT: Submitting this application does not establish burial rights or guarantee approval. The claimant must establish legal authority to act, either in the claimant's own right or on behalf of all persons entitled to act. The Cemetery Sexton may require additional tangible evidence and may deny an incomplete or disputed claim when authority is not established. A court order may be necessary when a dispute cannot be resolved administratively.

1. CLAIMANT INFORMATION

Full Legal Name: _____

Relationship to Recorded Owner: _____

Mailing Address: _____

City/State/ZIP: _____

Telephone: _____

Email: _____

Residency: ☐ Midway ☐ Wasatch County
☐ Non-Resident**Claimant is:** ☐ Individual ☐ Trustee
☐ Personal Representative ☐ Other**2. BURIAL RIGHT / PLOT INFORMATION****Recorded Certificate or Deed Number (if any):** _____**Burial Plot:** SECTION _____ BLOCK _____ LOT _____ PLOT/GRAVE _____ SUB-GRAVE _____☐ Single ☐ Stacked ☐ Cremation Plot ☐ Cremation Niche**Name of Original or Last Recorded Owner:** _____**Approximate Date Acquired (if known):** _____**Current Status:** ☐ Unused ☐ Partially Used ☐ Used/Status Unknown ☐ Claim is disputed or may be disputed

Existing successors named on the recorded Certificate (if known):

First Named Successor: _____ ☐ Living ☐ Deceased ☐ Cannot be locatedSecond Named Successor: _____ ☐ Living ☐ Deceased ☐ Cannot be located

PROPOSED SUCCESSORS IN INTEREST FOR NEW CERTIFICATE

If the claim is approved and a new Burial Rights Certificate is issued, list two proposed successors in interest to be named on that certificate. These designations are subject to City review and approval.

First Successor in Interest: _____

Mailing Address: _____

Telephone: _____ Email: _____

Second Successor in Interest: _____

Mailing Address: _____

Telephone: _____ Email: _____

3. BASIS OF CLAIM AND CHAIN OF LEGAL AUTHORITY

Describe, in chronological order, how the burial right passed from the recorded owner to you. Address each named successor in the existing Certificate before relying on a will or inheritance. Identify each deceased owner or successor, estate, trust, heir, assignment, waiver, probate proceeding, or court order in the chain. Attach additional pages and a family tree if necessary.

4. REQUIRED TANGIBLE PROOF OF LEGAL AUTHORITY

Attach the documents establishing your authority to act. A family relationship, obituary, genealogy record, or statement that you are the “last surviving descendant” is not, by itself, sufficient proof. If you rely on inheritance after the recorded owner and named successors have died or cannot be located, include the proof described below.

- ☐ Certified death certificate or other reliable proof of death for the recorded owner and each deceased named successor or other deceased person in the chain
- ☐ Original Burial Rights Certificate, deed, or other City-issued record, if available, including any named successor designations
- ☐ Will, trust, codicil, assignment, or other testamentary or written instrument specifically affecting the burial right
- ☐ Certified letters testamentary, letters of administration, decree of distribution, probate order, or other court order establishing authority
- ☐ If relying on heirship under § 2.16.060(H)(1): affidavit of heirship with written power appointing one heir to represent all heirs, or a certified decree of distribution
- ☐ If a named successor cannot be located: description and supporting records of diligent efforts to locate that person

- ☐ Signed and notarized consents, assignments, releases, or waivers from every other person with an equal, superior, or potential legal interest
- ☐ Family tree or descendant chart identifying all children and descendants of the recorded owner and each deceased successor
- ☐ Proof of identity of the claimant and of any person signing a consent, waiver, assignment, or representative document
- ☐ Other evidence requested by the Cemetery Sexton: _____

5. ALL PERSONS WITH A POSSIBLE INTEREST

List every known named successor, heir, or other person who may have inherited, succeeded to, or otherwise claim an interest in the burial right. Do not omit a person merely because you believe that person has no present interest. Attach additional pages if necessary.

6. CLAIMANT AFFIDAVIT AND CERTIFICATION

- ☐ 1. I have personal knowledge of the facts stated in this application, or have identified the source of any information stated on information and belief.
- ☐ 2. I have made a diligent and good-faith investigation to identify the recorded owner, each named successor in the existing Certificate, all relevant heirs and descendants, and every other person who may have a legal interest in the burial right.
- ☐ 3. The application, family information, chain of authority, and attached documents are true, correct, complete, and not misleading. I have not intentionally omitted any person, instrument, probate proceeding, dispute, or competing claim.
- ☐ 4. I am presently authorized by law to claim and exercise the burial right described in this application, either in my own right or under attached documents authorizing me to act for all persons entitled to do so. I have identified any living named successor and have not relied on a conflicting testamentary instrument to displace that successor.
- ☐ 5. No pending or threatened dispute, probate proceeding, lawsuit, or competing claim exists except as fully disclosed in this application.
- ☐ 6. I understand that the City's decision is administrative. Under Midway City Code § 2.16.060(H)(1), where the specified heirship documentation is absent, the City must exercise its best judgment concerning heirship and successorship. Its administrative decision does not adjudicate title or bind a court or an omitted interested person.

- ☐ 7. I understand that the Cemetery Sexton may require additional tangible proof, may suspend review, or may deny the claim if my authority is not established. A court determination may be necessary if legal authority remains disputed or unclear.
- ☐ 8. I understand that any approval may be rescinded or corrected if material information was false, incomplete, or omitted, subject to applicable law and the rights of persons already interred.

7. DEFENSE, INDEMNIFICATION, AND HOLD HARMLESS

☐ I have read this section and agree to the defense, indemnification, and hold harmless obligations stated below.

As a condition of the City considering and approving this claim, I agree, to the fullest extent permitted by law, to defend, indemnify, and hold harmless Midway City and its elected officials, officers, employees, agents, volunteers, and cemetery personnel from and against all claims, demands, actions, proceedings, damages, losses, liabilities, judgments, costs, and expenses, including reasonable attorney fees and litigation costs, arising out of or relating to:

- this application or the City's reliance on my statements or documents;
- any competing claim to ownership, control, use, transfer, or interment rights;
- any omission, misrepresentation, fraud, or defect in the chain of authority;
- any interment, reissuance, correction, or administrative action taken in reliance on this application; and
- any claim asserted by an heir, descendant, devisee, beneficiary, personal representative, trustee, assignee, or other interested person.

Duty to Defend. Upon written request, I will assume and diligently conduct the defense of any covered claim with counsel reasonably acceptable to the City. This obligation survives approval, denial, reissuance of a certificate, interment, and completion of the City's administrative review.

8. SIGNATURE AND NOTARIZATION

☐ I declare under criminal penalty under the law of Utah that the foregoing is true and correct. I have read and voluntarily agree to the certifications and indemnification above.

Claimant Signature: _____

Date: _____

Printed Name: _____

Capacity (if any):

Mailing Address: _____

Telephone:

State of _____)

County of _____) ss.

Subscribed and sworn to before me on _____, 20____, by
_____.

Notary Public: _____

9. CITY REVIEW - FOR OFFICIAL USE ONLY

For transfers after the effective date of Ordinance 2022-07, identify all Burial Rights Certificates currently held by the claimant and any applicable household, trust, or other concern:

Single _____ Stacked _____ Cremation Plot _____

Documentation Checklist:

- ☐ Application complete
- ☐ Identity verified
- ☐ Recorded owner confirmed from City records
- ☐ Deaths in chain sufficiently documented
- ☐ Chain of authority established
- ☐ All required legal authority documentation received
- ☐ All potential interested persons identified
- ☐ Required waivers/consents received
- ☐ No known competing claim
- ☐ Applicable certificate limits under § 2.16.060(B) checked before reissuance
- ☐ Existing named successors and their status verified against the City master file
- ☐ Residency status confirmed
- ☐ Claim fee paid in full

Written Decision Date: _____

New Certificate No. (if approved): _____

Sexton Findings / Conditions:

Midway City Cemetery Sexton: _____ Date: _____

Administrative Notice: Approval signifies only that the claimant supplied evidence sufficient for the City's administrative purposes under Midway City Code § 2.16.060 and applicable City policy. The City master file controls in the event of a clerical discrepancy with a Certificate. Pursuant to the City's adopted policy, the Cemetery Sexton's written determination of this claim is the final and binding administrative decision of Midway City; the City Council does not hear an administrative appeal of that determination. The decision is not a judicial determination of title and does not bind a court or an omitted interested person.