

RULES AND REGULATIONS GOVERNING SOLDIERS' REST CEMETERIES



ESTABLISHED BY THE BOARD OF COMMISSIONERS
BROWN COUNTY, MINNESOTA
JANUARY 2009

Change 1: 19 January 2010

19 JANUARY 2010

BROWN COUNTY
VETERANS SERVICE OFFICE
NEW ULM, MN 56073

RULES AND REGULATIONS GOVERNING
SOLDIERS' REST CEMETERIES
1 JANUARY 2009

CHANGE 1 – 19 JANUARY 2010

1. REASON FOR ISSUE: To incorporate changes made to this policy by the Brown County Board of Commissioners on 19 January 2010.

2. SUMMARY OF CHANGES: The following changes have been made and are noted by a bold vertical line (¶) in the left margin:

Paragraph Number -Item	Page Number	Change
Index	3	Changed "Topic" to "Paragraph"
Index	3	Added new paragraph 2.3
1.0 Preface	4	Added "375.38"
1.0 Preface	4	Changed "approved" to "reviewed"
Minnesota Law Governing Soldiers Rest-2.3	4	Added new paragraph 2.3: Statute 375.38 Violation A Misdemeanor
3.0 Board of Commissioners Statement	5	Added "375.38"
Residency Requirements-5.1	5	Removed text: "or as determined by the Brown County Board of Commissioners."
Residency Exception-5.2	5	Removed text: "or as determined by the Brown County Board of Commissioners, may receive a burial plot."

3. RESPONSIBLE OFFICE: The Brown County Veterans Service Officer is delegated the authority by the Brown County Board of Commissioners to serve as the primary point of responsibility concerning these rules and regulations. Any questions regarding these rules and regulations should be directed to the Brown County Veterans Service Office.

4. COPIES OF THIS REGULATION: Copies of these rules and regulations may be obtained free of charge from the Brown County Veterans Service Office, Brown County Courthouse, New Ulm, MN, 56073. (507) 233-6636.

Index of 2009 Soldiers Rest Rules and Regulations

<u>Paragraph</u>	<u>Page</u>
1.0 Preface.....	4
2.0 Minnesota Law Governing Soldiers Rest	4
2.1 Statute 375.36 May Buy and Keep Up Part of Cemetery As Soldiers’ Rest	4
2.2 Statute 375.37 Soldiers’ Rest Used Only For Veterans and Spouses	4
2.3 Statute 375.38 Viloation A Misdemeanor	4
3.0 Board of Commissioners Statement.....	5
4.0 Office of Primary Responsibility	5
5.0 Rules	5
5.1 Residency Requirement	5
5.2 Residency Exception.....	5
5.3 Plot Defined	5
5.4 Plot Reservation	5
5.5 Pre-Registration/Plot Application.....	5
5.6 Plot Assignment.....	6
5.6.1 Remarriage of Spouse.....	6
5.6.2 Remarriage of Veteran.....	6
5.7 Determination of Veterans Eligibility.....	6
5.8 Documents Required.....	6
5.9 Veteran Defined	6
5.10 Active Service Defined.....	7
5.11 Minimum Active Military Service Requirements.....	7
5.11.1 Prior to September 7, 1980	7
5.11.2 After September 7, 1980.....	7
5.11.3 National Guard & Reservists	7
5.11.4 Merchant Marines	7
5.12 Military Members Who Die On Active Duty	7
6.0 Persons Not Eligible	7
7.0 Cremains	8
8.0 Funeral Directors Responsibilities.....	8
9.0 Plot Maintenance	8
10.0 Rule Review	9
11.0 Definitions (Veteran, Active Duty, Active Duty for Training)	9
Pre-Registration/Plot Application.....	Attached

1.0 Preface.

These rules and regulations update the January 8, 1946 rules and regulations governing veteran and spouse interments in Brown County Minnesota Soldiers' Rest Cemeteries.

These rules and regulations strictly follow Minnesota State Statutes 375.36, 375.37, and 375.38. These rules and regulations use the U.S. Department of Veterans Affairs National Cemetery Regulations as a guide to determine veteran's character of service eligibility.

These rules and regulations have been reviewed by the Brown County Veterans Council Committee in charge of Soldiers' Rest, New Ulm City Cemetery Commission, Home Cemetery Board, Springfield City Cemetery Board, and Brown County funeral directors.

2.0 Minnesota Law Governing Soldiers Rest.

- 2.1 Statute 375.36
MAY BUY AND KEEP UP PART OF CEMETERY AS SOLDIERS' REST.
Subdivision 1. County powers; soldiers' rest.

A county board may purchase a plot of ground in any duly organized cemetery lying, in whole or part, in the county, or in a contiguous county, to be designated and used exclusively as a soldiers' rest. The county may appropriate money for its cost, embellishment, and upkeep, and for the opening and the closing of plots in it.

- 2.2 Statute 375.37
SOLDIERS' REST USED ONLY FOR VETERANS AND SPOUSES.

Any plot of ground secured and designated as a "soldiers' rest" shall be used exclusively for the interment of deceased veterans, as defined in section 197.447, and spouses of veterans without charge for space in it.

- 2.3 Statute 375.38
375.38 VIOLATION A MISDEMEANOR.

A person who inters or causes to be interred a body, or makes a charge for a burial lot in a soldiers' rest, except as provided by section 375.37, is guilty of a misdemeanor

3.0 Board of Commissioners Statement.

Plots are purchased in the New Ulm City Cemetery, Home Cemetery in Sleepy Eye, and the Springfield Cemetery for residents of Brown County as provided by Minnesota Statutes 375.36, 375.37, 375.38, and 197.447. The plots are provided at no cost for the interment of eligible deceased Veterans of the Armed Forces of the United States, and their deceased spouses.

4.0 Office of Primary Responsibility.

The Brown County Veterans Service Officer shall serve as the primary point of responsibility concerning these rules and regulations. The Service Officer shall act as a liaison between all concerned parties.

5.0 Rules.

5.1 Residency Requirement.

Eligible Veterans must be a resident in Brown County at the time of death to receive a burial plot. Proof of residency may be required at the time of application for burial. Acceptable proof includes Brown County Property Tax Statements, Current Property Rental Agreement, or Current Utility Bill.

5.2 Residency Exception.

Eligible Brown County Veteran Residents, who were forced to leave their Brown County residence for required skilled medical care at a medical facility, assisted living center, group home, hospital, or nursing home that is outside of the borders of Brown County, may receive a burial plot.

5.3 Plot Defined.

A plot for the purpose of these rules is defined as the location where a single deceased person is buried.

5.4 Plot Reservations.

Plot reservations are not permitted. Choice as to plot location is not permitted.

5.5 Pre-Registration/Plot Application.

Veterans may complete the Pre-Registration/Plot Application at anytime. This pre-registration will ensure eligibility requirements are met, and required documentation is on file. This pre-registration does not guarantee the applicant a plot, see Plot Assignment. A Plot Application form is required at the time of death if a previous Pre-Registration has not been completed or is not on file.

5.6 Plot Assignment.

Plots are assigned upon the first death (veteran or spouse). If married and requested on the application the adjacent plot is reserved for the surviving spouse. Surviving spouses who re-marry must make a written election to continue the original plot reservation or forfeit their reserved plot.

5.6.1 Remarriage of a Spouse after Veteran Burial.

The Spouse acknowledges by signature on the Pre-Registration/Plot Application at the time of their Veteran-spouses death stating that regardless of whether he/she remarries he/she will be buried with his/her deceased Veteran-spouse or he/she will forfeit the reserved plot. If the plot is forfeited, the removal of any pre-placed headstone marker will be at the expense of the spouse.

5.6.2 Remarriage of a Veteran after Spouse Burial.

The Veteran acknowledges by signature on the Pre-Registration/Plot Application that regardless of whether or not he/she remarries, he/she will be buried in the plot reserved for him/her at the time of his/her spouses death. If the Veteran elects not to be buried in the reserved plot the Veteran must have the deceased spouse's remains and any headstone marker removed at private expense.

5.7 Determination of Veteran Eligibility.

The Brown County Board of Commissioners delegates to the Brown County Veterans Service Officer or his/her assigned representative to determine eligibility as established in these rules.

5.8 Documents Required.

Presentation of an original or certified copy of the honorable discharge of the deceased veteran is required in all cases. The last service of the deceased veteran must have been under honorable conditions. Acceptable honorable discharges include: Honorable, and General Under Honorable Conditions.

5.9 Veteran Defined.

The term "Veteran" means: A person who served in the United States active military, naval, or air service for a period of at least 181 consecutive days, and was discharged or released there from under conditions other than dishonorable. (See Minimum Active Military Service Requirements)

5.10 Active Service Defined.

The terms “Active Military, Naval, or Air Service” means full-time service; it does not include Active Duty for Training or Inactive Duty Training.

5.11 Minimum Active Military Service Requirements (Must Meet At Least One).

5.11.1 Veterans who began their military service *prior to September 7, 1980* must serve on Active Duty for a period of at least 181 consecutive days.

5.11.2 Veterans who began their military service *after September 7, 1980 (enlisted) and October 16, 1981 (officer)* must serve on Active Duty for a minimum of 24 consecutive months.

5.11.3 National Guard and Reservists must complete the full period of active duty (does not include active duty for training) for which they are called to active duty.

5.11.3 United States Merchant Seamen Who Served on Blockships in Support of Operation Mulberry and American Merchant Marines in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945 are considered to have performed Active Military Service.

5.12 Military Members Who Die On Active Duty.

Military members who die while serving on active duty must have been a resident of Brown County upon their enlistment or officer appointment into the Armed Forces of the United States to receive a plot.

6.0 Persons Not Eligible.

6.1 A person whose last separation from the Armed Forces of the United States was under dishonorable conditions or whose character of service results in a bar to veterans benefits.

6.2 A person whose only service is active duty for training or inactive duty training in the Armed Forces of the United States, the National Guard or Reserve Component.

6.3 A former spouse of an eligible veteran whose marriage to that veteran has been terminated by annulment or divorce.

6.4 Any eligible veteran or spouse found guilty of a Federal capital crime, or a State capital crime, and sentenced to death or life imprisonment without parole.

6.5 Any eligible veteran convicted of subversive activities after September 1, 1959, shall have no right to burial from and after the date of commission of such offense, based on periods of active military service commencing before the date of the commission of such offense, nor shall the veterans spouse be entitled to burial on account of such an individual. Eligibility will be reinstated if the President of the United States grants a pardon.

7.0 Cremains.

7.1 Cremation plots or columbaria will be used when available.

7.2 If cremation plots are not available and both Veteran and Spouse intend to be cremated, burial of both cremains will be allowed in a single full burial plot as allowed by governing cemetery rules and regulations.

7.3 If the first to pass is cremated and the remaining spouse elects non-cremation, two full burial plots will be utilized unless the governing cemetery rules allow a single cremain and a full casket to be placed in a single plot.

8.0 Funeral Director Responsibilities.

8.1 Funeral Directors are cautioned not to make definite arrangements for burial in Soldiers Rest until it has been determined that the deceased is eligible. Questions concerning eligibility not addressed in these rules must be directed to the Brown County Veterans Service Officer.

8.2 Will assist applicants in completing the Pre-Registration/Plot Application and will forward all required documents the Brown County Veterans Service Office.

8.3 Will make all arrangements with cemetery officials and military/veteran's honor guards.

8.4 Interments will not be conducted on Memorial Day or Veterans Day.

9.0 Plot Maintenance.

9.1 Normal plot maintenance fees will apply.

9.2 Opening and closing the plot shall be at private expense.

9.3 The U.S. Government furnished headstones are the only authorized marker. This marker is furnished free of charge for the veteran and may be obtained through the U.S. Department of Veterans Affairs upon application at the Brown County Veterans Service Office. Embellishments such as ceramic photos or symbols of any kind are not permitted to be placed on or around the government marker.

- 9.4 Spouses must obtain their own marker at their own expense. It must be in the same likeness as the veterans.
- 9.5 When authorized by specific cemetery rules, spouses may have their name, birth, and death date placed on the Government provided marker.
- 9.6 Placement of all headstone markers is at private expense.
- 9.7 Plant stands are authorized.
- 9.8 Damaged headstones or markers will not be replaced by the U.S. Government or Brown County.
- 10.0 Review of these rules.

These rules will be reviewed bi-annually by the Brown County Veterans Council Committee in charge of Soldiers' Rest Rules. Recommendations to continue, or update will be made to the Brown County Board of Commissioners by the Office of Primary Responsibility during the month of December to be effective on the 1st of January of the following year.

11.0 Definitions:

11.1 Veteran Defined by Minnesota Statute 197.447 (2006):

The word "veteran" as used in Minnesota Statutes, except in sections 136F.28, 196.21, and 243.251, means a citizen of the United States or a resident alien who has been separated under honorable conditions from any branch of the armed forces of the United States after having served on active duty for 181 consecutive days or by reason of disability incurred while serving on active duty, or who has met the minimum active duty requirement as defined by Code of Federal Regulations, title 38, section 3.12a, or who has active military service certified under section 401, Public Law 95-202. The active military service must be certified by the United States secretary of defense as active military service and a discharge under honorable conditions must be issued by the secretary.

11.2 Active Duty Defined by United States Code Service, Title 38, Section 101-21 (2008):

- (A) full-time duty in the Armed Forces, other than active duty for training;
- (B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits" or (iii) at any time, for the purposes of chapter 13 of this title [38 USCS 1301 et seq.];
- (C) full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one

of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title [38 USCS 1301 et seq.];

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

11.3 Active Duty for Training Defined by United States Code Service, Title 38, Section 101-22 (2008):

(A) full-time duty in the Armed Forces performed by Reserves for training purposes;

(B) full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to "full military benefits", or (iii) at any time, for the purposes of chapter 13 of this title [38 USCS 1301 et seq.];

(C) in the case of members of the National Guard or Air National Guard of any State, full-time duty under section 316, 502, 503, 504, or 505 of title 32 [32 USCS 316, 502, 503, 504, or 505], or the prior corresponding provisions of law; and

(D) duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 [10 USCS 2101 et seq.] for a period of not less than four weeks and which must be completed by the member before the member is commissioned; and

(E) authorized travel to or from such duty.