

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING CHAPTER 18 “CEMETERIES” OF THE CODE OF ORDINANCES OF THE CITY OF BURLESON, BY REPEALING ARTICLE II “RULES AND REGULATIONS” AND ENACTING A NEW ARTICLE II “RULES AND REGULATIONS”; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Burleson ("City Council") seeks to protect the public safety, preserve the quality of life, and promote efficiency within the City; and

WHEREAS, it is in the best interests of the public health and welfare of the people of the City of Burleson to have orderly rules and regulations that govern the use and activities within the Burleson Memorial Cemetery; and

WHEREAS, the City Council finds that the regulations set forth in this ordinance are necessary for the purpose of promoting the health, safety and general welfare of the community; that such regulations are necessary to protect health, life and property; and that public necessity requires that such rules and regulations be adopted to preserve and enforce the health, safety and welfare and the good order and security of the City and its inhabitants; and

WHEREAS, the City Council finds this ordinance to be reasonable and necessary;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THAT:

SECTION 1.

Chapter 18 “Cemeteries” of the Code of the City of Burleson is hereby amended by repealing Article II “Rules and Regulations” and enacting a new Article II “Rules and Regulations,” the text of which shall read as follows:

“ARTICLE II. RULES AND REGULATIONS

§ 18-41 OBEYING GENERALLY.

The city reserves the right to require all persons entering a cemetery to obey all rules and regulations adopted herein. The rules and regulations may be changed without notice to any owner by the city council.

§ 18-42 ENTRY AND REMOVAL BY CITY.

The city has the authority to enter upon any space and to remove any

objectionable thing that may have been placed there contrary to the regulations of this article.

§ 18-43 PROTECTION FROM LOSS OR DAMAGE.

The city shall take reasonable precaution to protect owners and the property rights of the owners, within the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage caused by the elements, an act of God, common enemy, thieves, vandals, unavoidable accidents, whether the damage is direct or collateral, other than as herein provided.

§ 18-44 RIGHT OF ACCESS AND ALTERATION BY CITY.

The city has the right to enlarge, reduce, replat or change the boundaries or grading of the cemetery as it deems appropriate. The city reserves unto itself, and those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passage to and from other lots, and to accomplish all necessary maintenance and preservation of said lots.

§ 18-45 SALE OR TRANSFER OF SPACE.

The sale or transfer of any interment right by any space owner shall not be binding unless first approved in writing by the city. The recording fees for the sale or transfer of a space shall be as established on the city's fee schedule. This procedure is required in order that the city may at all times have a complete and accurate record of all owners of spaces.

§ 18-46 CLOSING CEMETERY.

The cemetery shall be closed from sundown to sunup. The city reserves the right to close the cemetery on a temporary basis at any time.

§ 18-47 GLASS CONTAINERS.

No glass containers of any type are allowed in the cemetery.

§ 18-48 PETS.

Pets shall not be allowed in the cemetery.

§ 18-49 INTOXICATING BEVERAGES.

The use of intoxicating beverages within the cemetery is strictly forbidden.

§ 18-50 VANDALISM.

It shall be unlawful to vandalize cemetery property, memorials, or graves at the cemetery and anyone apprehended doing so will be subject to prosecution.

§ 18-51 VEHICLES ON GROUNDS.

- (a) *Speed.* Automobiles, trucks, and other vehicles shall not be driven through the grounds at a speed greater than 15 miles per hour, and must at all times be kept on the paved roads throughout the cemetery.

- (b) *Use off established roadways.* The city reserves the right to determine when vehicles may be driven off established roadways.

§ 18-52 EXCLUDED STRUCTURES.

No structures of any kind, such as curbing, fencing, benches (memorials excluded), flagpoles, etc., shall be permitted upon any space or lot.

§ 18-53 PLANTING OF HORTICULTURE PRODUCTS.

- (a) The planting of any kind or type of horticultural product shall be prohibited without prior approval of the city. Horticultural products, when approved by the city, shall be planted at the head of the grave and shall be miniature in size whose roots will not extend beyond the dripline of the plant and not exceed 12 to 18 inches in height. Those individuals receiving permission to plant horticulture products in the cemetery shall hold the city harmless in the event the plants die or are damaged. Cut flowers or artificial flowers may be used at any time, provided that they are placed at the head of the grave.
- (b) Holders such as clay or plastic pots, wire, frames, etc., containing flowers or other decorations may be removed as soon as the flowers fade or wither and the right is reserved by the cemetery to make such removal.
- (c) Placing of potted plants, cut flowers, or baskets is permitted adjacent to the headstone only; however, to improve the appearance and to aid in maintenance, all potted plants, and flowers and baskets may be removed at the discretion of the city. Funeral designs or floral pieces will be removed from graves when they become wilted or unsightly. Persons desiring to retain the same must remove them within 72 hours. Artificial flowers may be moved 30 days after the holidays. The digging of holes for placement of plants or flowers is strictly prohibited beyond the limitations of this article.
- (d) If any tree or shrubs situated on any space shall become detrimental, unsightly, or impede access to adjacent spaces, walks, or roads, they may be pruned or removed in whole or in part as determined necessary by the city. Once a tree or shrub is removed, the city will determine if a replacement can be planted in the area where the tree or shrub was removed.

§ 18-54 INSTRUCTIONS FOR SPACE HOLDERS AND SPACE HOLDERS' RIGHTS.

- (a) Burial vaults either partially or entirely above the ground are prohibited.
- (b) A permanent type of container such as a concrete liner or burial vault is required for any interment where the casket is 36 inches in length or larger.
- (c) A maximum of two caskets will be allowed in each space. In the event

cremation is utilized, a maximum of four interments will be permitted in one space.

§ 18-55 INTERMENTS, DISINTERMENTS, AND REINTERMENTS.

- (a) Written authorization from the owner of record of a space, or his designated representative or successor interest, or other proper legal authority will be required before an interment or reinterment is allowed.
- (b) Proper authorization as required by the local government or public authority having jurisdiction in the matter must be presented to the city office at the time an interment, disinterment, or reinterment is effected. The city shall not be liable for the accuracy of the data contained in said authorization or for the identity of the person to be interred or disinterred.
- (c) All interments, disinterments, and reinterments shall be performed by a licensed funeral director, the city or its contractors, or other person as provided for by state and local laws.
- (d) Interments are allowed only in areas dedicated for grave spaces and defined on the official cemetery maps.

§ 18-56 MEMORIALS; PERMITS.

- (a) Memorial dealers or installation contractors shall abide by all rules and regulations of the cemetery.
- (b) For the protection of all space owners, any memorial dealer or installation contractor erecting or repairing memorials must be approved by the city through its parks and recreation director or designee or its designated operating manager and are subject to the installation or repair cost.
- (c) The city reserves the right to approve the size, craftsmanship, quality, and foundations of memorials placed or to be placed in the cemetery. The city reserves the right to disapprove any memorial which does not meet the requirements as defined in the rules and regulations. The city is not responsible for any expense, direct or consequential, incurred by the memorial provider and/or memorial purchaser for memorials not approved by the city.
- (d) Memorial dealers or installation contractors engaged in placing or erecting memorials or other structures are prohibited from scattering their material over adjoining spaces, or from blocking roads or walks, or from leaving their material on the grounds longer than necessary. Damage done to spaces, walks, drives, trees, shrubs, or other property shall be repaired at their expense to the satisfaction of the city.
- (e) Memorial dealers or installation contractors must contact the city or designated operating manager for instruction as to delivery to the Cemetery of memorials. The designated operating manager through

its approved contractor will complete the installation of the memorial within a reasonably scheduled period of time upon receiving delivery of the memorial. The memorial dealer or installation contractor may be request permission from the city to exceed the time frame for installation if such installation is reasonably delayed due to weather, acts of God, or when installation would endanger life or property.

- (f) Work of any nature may be stopped if proper preparations have not been made; or when work is being done in such a manner as to endanger life or property; or when there is evidence of misrepresentation; or when work is not being executed according to specifications when a request on the part of the city is disregarded; or when any person employed in the work violates any rule of the cemetery.
- (g) All interments shall have a memorial reflecting, at minimum, the full name of the deceased and the date of death within 12 months of the date of internment.
- (h) Memorials shall be installed and maintained at the expense of the owner.
- (i) The size of the memorial is to be governed according to the ratio of the area of the base of the memorial to the size of the space. The length of the base shall not exceed 75 percent of the width of the space.
- (j) Memorials shall be made of granite, marble or cast bronze installed on granite, marble, or concrete base.
- (k) Flush type and aboveground memorials are allowed in different sections of the cemetery as reflected on the map maintained by the city.
- (l) Mausoleums, structures housing a tomb or numerous tombs, are permitted in only designated areas of the cemetery.
- (m) Should an existing memorial or mausoleum become unsightly, dilapidated, or a menace to the safety of persons within the cemetery, the city shall have the right to correct the condition or to remove the same. Any expense incurred may be charged to the space owner.

§ 18-57 MEMORIAL FOUNDATIONS.

- (a) The concrete to be used for the memorial foundation shall have a minimum compression strength of 3,000 pounds per square inch.
- (b) The memorial foundation shall be two inches longer in either direction than the memorial base.
- (c) All memorial foundations must have number three rebar steel reinforcing mats.
- (d) Memorial foundations must be six inches in depth.

- (e) Memorial foundations must have six-inch rebar grid spacing for foundation mat.
- (f) Memorials up to 36 inches wide must include foundations with two 18-inch concrete (3,000 psi) piers with number three rebar steel. Memorials wider than 36 inches must include foundations with three 18-inch concrete (3000 psi) piers with number three rebar steel.
- (g) All memorial foundation installation contractors must warranty foundation for a minimum of ten years.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances of the Code of the City of Burleson, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

All rights and remedies of the City of Burleson, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of Burleson, or any other ordinances of the City, that have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance, but may be prosecuted until final disposition by the courts.

SECTION 5.

Any person convicted of violating the provisions of the Code of the City of Burleson as enacted by this Ordinance shall be guilty of a Class C misdemeanor and shall be punished by a fine not to exceed \$500. This Section does not serve to limit any other remedies available to the City of Burleson in law or equity. Each violation of this ordinance shall constitute a separate offense.

SECTION 6.

The City Secretary of the City of Burleson is hereby directed to give notice of the passage of this ordinance by causing the caption or title and penalty clause of this ordinance to be published as required by Section 36 of the Charter of the City of Burleson.

SECTION 7.

All other provisions of the Code of the City of Burleson, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law.

PASSED AND APPROVED the ____ day of _____, 20____.

First Reading: the ____ day of _____, 20____.

Final Reading: the ____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney