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ORDINANCE 2022–05 AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 10 “CEMETERIES,” TO UPDATE AND STREAMLINE THE ORDINANCE; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the “City”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City has adopted Chapter 10 “Cemeteries” to address how the City’s municipal cemeteries operate; and

WHEREAS, Chapter 10 has not been updated since 2013 and requires streamlining to remove language that is more appropriately set forth in the City’s Municipal Cemetery Rules and Regulations; and

WHEREAS, the City Commission has reviewed the recommended amendments and has determined that they serve a valid public purpose and are in the best interest of the public health, safety and general welfare of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA that:

Section 1. Recitals. The foregoing recitals are hereby affirmed and ratified.

Section 2. Chapter 10 “CEMETERIES” shall be amended to read as follows:

Sec. 10-1. – Municipal cemeteries; veterans’ plots; perpetual care~~Pinecrest Cemetery; I. A. Banks Memorial Park.~~

(a) Municipal cemeteries. The city owns and operates the following two municipal cemeteries: “Pinecrest Cemetery,” located at 1724 12th Avenue South, Lake Worth Beach and “I. A. Banks Memorial Park” (formerly known as “Osborne Cemetery”), located at 1515 Wingfield Street, Lake Worth Beach.

(b) Veterans’ plots. Sections “I” and “V”, Pinecrest Cemetery, and Section 1, I. A. Banks Memorial Park, are hereby designated as plots for the interment of deceased veterans. Eligibility for interment in the veterans’ plots shall be limited to veterans who meet eligibility requirements for burial in a national cemetery.

1 (c) The city shall be solely responsible for the perpetual care and maintenance
2 of its cemeteries.

3 **Sec. 10-2. Applicable laws; rules and regulations; establishment of fees.****Florida**
4 **Statutes; definitions**

5 (a) *Florida Statutes.* The provisions of F.S. ch. 497 do not apply to municipal
6 cemeteries except for F.S. §§ 497.276(1), 497.152(1)(d), 497.164, 497.2765, 497.278,
7 497.280, and 497.284.

8 (b) Rules and regulations. The maintenance and operation of the city's
9 municipal cemeteries shall be pursuant to rules and regulations adopted from time to time
10 by resolution of the city commission.

11 (c) Fees. From time to time, the city commission shall, by resolution, establish
12 the fees to be charged for the sale of plots, permits, burials, perpetual care and
13 maintenance, and other services.

14

15 ~~*Definitions.* The following words, terms and phrases, when used in this section, shall~~
16 ~~have the meanings ascribed to them herein except where the context clearly indicates a~~
17 ~~different meaning.~~

18 ~~(1) *Immediate family* means spouse, child, parent, grandparent,~~
19 ~~grandchild, brother, sister, mother-in-law and father-in-law.~~

20 ~~(2) *Mausoleum* means a structure or building that is exposed above the~~
21 ~~ground and that is intended to be used for the entombment of human~~
22 ~~remains.~~

23 ~~(3) *Monument* means any product used for identifying a grave site and~~
24 ~~cemetery memorials of all types, including monuments, markers,~~
25 ~~statues, vases, headstones, footstones, and the like.~~

26 ~~(4) *Owner* means any person, firm or corporation who has purchased a~~
27 ~~plot or interment rights in a municipal cemetery or the heir, personal~~
28 ~~representative or successors of the owner.~~

29 ~~(5) *Vault* means an enclosure into which a casket is placed and includes,~~
30 ~~but is not limited to outer burial cases made of concrete, steel,~~
31 ~~fiberglass, or copper.~~

32 **Sec. 10-3. Authority of city commission.**

1 ~~The city commission may from time to time, layout, alter or close such avenues, drives or~~
2 ~~walks and make such rules and regulations for the government and improvement of~~
3 ~~Pinecrest Cemetery and I. A. Banks Memorial Park as they may deem requisite and~~
4 ~~proper in order to secure and promote their general objects and benefits.~~

5 ~~Rules and regulations of the city commission shall be adopted by resolution. The city~~
6 ~~commission reserves and shall have the right to use cemetery property, not sold to~~
7 ~~individual plot owners, for any public purpose that the commission determines is in the~~
8 ~~best interest of the city.~~

9 **Sec. 10-34. Plot deeds; permits**~~Establishment of prices, fees; delegation of~~
10 **authority; veterans plots; interments per plot.**

11 (a) ~~The city commission shall from time to time, by resolution, fix the prices to~~
12 ~~be charged for the sale of plots and the terms and conditions of such sales,~~
13 ~~and provide for the conveyance of such lots; and shall fix the schedule of~~
14 ~~fees to be charged for permits, burials and other services.~~

15 (b) ~~Plot deeds.~~ The city commission hereby delegates the authority to sell plots
16 to the city manager and the city clerk or their respective designees. The
17 city manager or designee and the city clerk or designee shall have full power
18 and authority to issue a deed for the sale of a plot in the cemeteries. The
19 deed shall be in a form approved by the city attorney. Documents
20 authorizing the sale shall be executed by the mayor and the city clerk.

21 (b) Interment permits. To protect the grounds herein described and to protect
22 the improved portions and plots therein from injury, all interments shall be
23 made by the city at the expense of the owners, under the jurisdiction and
24 control of the city. All interments shall require a permit from the office of the
25 city clerk.

26 (c) ~~Sections "I" and "V", Pinecrest Cemetery, and Section 1, I. A. Banks~~
27 ~~Memorial Park, are hereby designated as plots for the interment of~~
28 ~~deceased veterans. Eligibility for interment in the veterans' plots shall be~~
29 ~~limited to veterans who meet eligibility requirements for burial in a national~~
30 ~~cemetery. A flat marker, not exceeding twenty-four (24) inches long and~~
31 ~~twelve (12) inches wide, may be placed at the head of a veteran's grave.~~

1 ~~(d) Up to five (5) cremains and a full burial may be interred in a single plot. Only~~
2 ~~the plot owner's family members, as defined in the rules and regulations,~~
3 ~~may be interred in the owner's plot.~~

4 ~~**Sec. 10-5. Interment for remuneration; transfer, assignment, conveyance by owner;**~~
5 ~~**disinterment.**~~

6 ~~The city commission shall from time to time, by resolution, fix the terms and~~
7 ~~conditions and method of transfer of plot and interment rights. An owner shall not allow~~
8 ~~interments made in his or her plot for remuneration, nor shall any transfer, assignment,~~
9 ~~or conveyance of any plot so owned, or of any interest therein, be valid without the owner~~
10 ~~thereof first having complied with the terms and conditions regarding transfer of plots that~~
11 ~~may from time to time be in effect. No transfer, assignment or conveyance of any plot or~~
12 ~~of any interest therein can be made after an actual interment in it, except with the consent~~
13 ~~of the city and the city cannot grant such consent until after the body first therein interred~~
14 ~~shall be lawfully removed therefrom. No disinterment shall be allowed except by the~~
15 ~~consent of the city, and further with the written consent or order of the owner of the plot~~
16 ~~in question. Any lawfully constituted authority may, however, with proper court order,~~
17 ~~disinter any body so buried in the cemetery for the purpose of investigating crime or for~~
18 ~~some other lawful purpose.~~

19 ~~**Sec. 10-6. Rights reserved to city.**~~

20 ~~The city reserves to itself the right of preventing the removal or the right to remove~~
21 ~~any erection, enclosure, monument, monument inscription, tree or shrub, or any other~~
22 ~~improvement which it shall consider injurious to the immediate locality or prejudicial to the~~
23 ~~general good appearance of the grounds or which it finds to prevent or impede the~~
24 ~~maintenance of the cemetery or to present an otherwise dangerous condition or as~~
25 ~~otherwise set forth in the rules and regulations.~~

26 ~~**Sec. 10-7. Plot restrictions as to enclosures, corner stones, mounds, etc.; workmen**~~
27 ~~**under control of city.**~~

28 ~~All plot enclosures of any kind whatever are hereby prohibited. Cornerstones~~
29 ~~properly numbered and set flush with the surface of the ground shall be allowed. No~~
30 ~~brickwork shall be allowed above the ground level in any portion of the cemetery. No~~
31 ~~mounds are permitted over any grave. The grade of all plots shall be determined by the~~
32 ~~city. A space of not less than eighteen (18) inches shall be reserved on sides of abutting~~

1 ~~plots so that the graves shall not be contiguous. All workmen employed in the construction~~
2 ~~of vaults, erection of monuments, or other work, shall be subject to and under the control~~
3 ~~and direction of the city.~~

4 **~~Sec. 10-8. Compensation of workmen.~~**

5 ~~No money or other compensation shall be paid to any person in the employ of the~~
6 ~~city for personal services or attention other than the salaries and wages paid by the city.~~

7 **~~Sec. 10-9. Interment permits.~~**

8 ~~To protect the grounds herein described, and especially to protect the improved~~
9 ~~portions and plots therein from injury, all interments shall be made by the city at the~~
10 ~~expense of the owners, under the jurisdiction and control of the city. All interments shall~~
11 ~~require a permit from the city clerk or designee.~~

12 **~~Sec. 10-10. Monuments, vaults.~~**

13 ~~(a) Plot owners may erect any proper monuments thereon, subject at all times~~
14 ~~and in all respects to the approval of the city through its cemetery staff.~~
15 ~~Headstones shall be placed on a solid foundation of masonry. Footstones~~
16 ~~more than six (6) inches above the ground shall also be placed upon a solid~~
17 ~~foundation of masonry; provided, however, that I. A. Banks Memorial Park~~
18 ~~and sections 7 through 24 and H, J, K, P, R, S, T, U, V, W, X, Y, Z and AA~~
19 ~~of Pinecrest Cemetery are hereby designated as memorial type burial~~
20 ~~grounds, requiring all markers to be of flush type.~~

21 ~~(b) No mausoleum shall be built without the written permission of the city and~~
22 ~~all parts of mausoleums aboveground shall be of marble, granite, cut stone,~~
23 ~~cement stone or blocks; and shall be of such strength, construction and~~
24 ~~character as may be approved by the city.~~

25 ~~(c) Concrete or metal vaults, or high impact plastic vaults, subject to the city's~~
26 ~~approval, will be required on all interments in Pinecrest Cemetery and I. A.~~
27 ~~Banks Memorial Park.~~

28 **~~Sec. 10-11. "For sale" signs.~~**

29 ~~No sign or other device indicating that a plot or vault is for sale shall be permitted~~
30 ~~in or on the grounds above described.~~

31 **~~Sec. 10-12. Execution, form of deeds.~~**

32 ~~The mayor of the city and the clerk thereof shall have full power and authority to~~
33 ~~issue a deed for the sale of a plot in the cemeteries, when the provisions of this chapter~~

1 have been complied with by the purchaser thereof, and they have complied in all respects
2 with the rules and regulations established by the city. The deed to be made, executed,
3 and delivered in each such case shall be in a form approved by the city attorney.

4 **Sec. 10-13. Payments prerequisite to deed or interment.**

5 No purchaser shall be entitled to a deed to any plot until all accounts relating
6 thereto and due the city are paid and no owner of any plot, or any interest therein, shall
7 have the right to bury in his or her plot without first having paid any and all arrearages
8 due the city therefor or for anything relating thereto, including the fees for opening and
9 closing a grave.

10 **Sec. 10-14. Perpetual care; damages.**

11 (a) — *Perpetual care.* The city shall be solely responsible for the perpetual care
12 and maintenance of its cemeteries. All assets heretofore owned by or
13 credited to the account of Pinecrest Cemetery be and they are hereby
14 transferred to the city and made a part of its General Fund; and those funds
15 or accounts or contributions thereto that may hereafter accrue from the
16 operation of such cemeteries shall be credited to the General Fund of the
17 City of Lake Worth Beach. [11] This chapter shall constitute a contract with all
18 persons owning plots in said cemeteries whereby the city guarantees the
19 perpetual care and maintenance of same as specified herein. The perpetual
20 care and maintenance of the municipal cemeteries includes the cutting and
21 irrigation of the grass at reasonable intervals, the raking and cleaning of the
22 grounds, the pruning of shrubs, trees and other plants installed by the city,
23 and the maintenance of pathways and roadways.

24 (b) — *Perpetual care does not include.* Perpetual care and maintenance shall in
25 no case mean the maintenance, repair or replacement of any monument,
26 as defined herein, or other improvement placed or erected upon a gravesite;
27 nor the doing of any special or unusual work in the cemeteries, including,
28 but not limited to, work caused by the impoverishment of soil which can
29 cause the sinking or sagging of monuments or other improvements; nor
30 does it mean the cleaning or reconstruction of any monument or
31 improvement damaged due to normal deterioration caused by age or

~~damage by the elements, an act of God, thieves, vandals, or unavoidable accidents.~~

~~(c) Damages. The city shall not be liable and disclaims all responsibility from loss or damage to monuments, property, or other improvements arising from causes beyond its reasonable control, including, but not limited to damage caused by the elements, age, an act of God, thieves, vandals or unavoidable accidents, whether the damage be direct or collateral. If the city, in its sole discretion, determines to brace, support, fix or otherwise preserve a monument or other improvement that has been compromised by causes beyond its reasonable control (“Preservation Work”), the city shall not be liable and disclaims all responsibility from any loss or damage caused to the monument or other improvement during the Preservation Work, whether the damage be direct or collateral, except for damages or loss directly caused by the city’s negligence.~~

Section 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 4. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. Codification. The sections of the ordinance may be made a part of the City Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

Section 6. Effective Date. This ordinance shall take effect ten days after its adoption.

The passage of this ordinance was moved by Commissioner Malega, seconded by Commissioner Stokes, and upon being put to a vote, the vote was as follows:

Mayor Betty Resch	AYE
Vice Mayor Christopher McVoy	AYE
Commissioner Sarah Malega	AYE
Commissioner Kim Stokes	AYE

1 Commissioner Reinaldo Diaz AYE
2

3 The Mayor thereupon declared this ordinance duly passed on first reading on the
4 5th of April 2022.
5

6 The passage of this ordinance on second reading was moved by Commissioner
7 _____, seconded by Commissioner _____, and upon being put to a vote, the
8 vote was as follows:
9

- 10 Mayor Betty Resch
- 11 Vice Mayor Christopher McVoy
- 12 Commissioner Sarah Malega
- 13 Commissioner Kim Stokes
- 14 Commissioner Reinaldo Diaz

15
16
17 The Mayor thereupon declared this ordinance duly passed on the _____ day of
18 _____, 2022.

19 LAKE WORTH BEACH CITY COMMISSION
20

21
22 By: _____
23 Betty Resch, Mayor

24 ATTEST:
25
26
27 _____
28 Melissa Ann Coyne, City Clerk
29