

RESOLUTION NO. 31-2022 OF THE CITY OF LAKE WORTH BEACH, FLORIDA, ADOPTING AMENDMENTS TO THE CITY OF LAKE WORTH BEACH MUNICIPAL CEMETERY RULES AND REGULATIONS; AND PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach ("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; and

WHEREAS, over a decade or more ago, the City adopted "The City of Lake Worth Municipal Cemetery Rules and Regulations" (the "Cemetery Rules"); however, the Cemetery Rules require revisions to adequately reflect the way the City currently operates and manages its cemeteries, current laws, and the amended Cemetery Ordinance (Chapter 10 of the Code of Ordinances); and

WHEREAS, the proposed amendments to the Cemetery Rules are attached hereto as **Exhibit A** and are incorporated herein by this reference; and

WHEREAS, the City Commission finds that the amendments to "The City of Lake Worth Municipal Cemetery Rules and Regulations" serve a valid public purpose.

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

Section 1. The foregoing recitals and findings are incorporated into the Resolution as true statements.

Section 2. The City Commission of the City of Lake Worth Beach, Florida, hereby approves and adopts the amended "City of Lake Worth Beach Municipal Cemetery Rules and Regulations" in the form attached hereto as **Exhibit A**.

Section 3. All resolutions or parts of resolutions in conflict herewith are repealed to the extent of such conflict.

Section 4. Should any section or provision of this resolution or portion hereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the remainder of this resolution.

Section 5. This Resolution shall become effective immediately upon its passage.

The passage of this Resolution 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 Kimberly Stokes	AYE
Commissioner Reinaldo Diaz	AYE

The Mayor thereupon declared this resolution duly passed and adopted on the 3rd day of May, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____

Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk



Exhibit A

**THE CITY OF LAKE WORTH BEACH MUNICIPAL CEMETERY
RULES AND REGULATIONS**

[Last updated May 3, 2022]

1. **General.**

- (a) It is the intent of this document to establish uniform rules and regulations for the purchase, use and maintenance of cemetery spaces in the City of Lake Worth Beach's municipal cemeteries, Pinecrest Cemetery and I. A. Banks Memorial Park, and to prescribe procedures for the administration of the cemetery which comply with the City of Lake Worth Beach (the "City") City charter and code of ordinances.
- (b) It is the intent of the city commission to delegate authority to the office of the city clerk and the public works department to administer these rules and regulations.
- (c) It is the intent of the city commission that these rules and regulations shall apply to every burial space in the cemetery whether said space is a grave, niche, or other unless specifically exempted herein.

2. **Definitions.**

The following words, terms and phrases, when used in this document, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (a) *Disinterment* means the removal of the cremains or remains of a deceased human body in earth burial or aboveground burial.
- (b) *Full burial* means a burial with a casket and grave liner.
- (c) *Interment* means the permanent disposition of the cremains or remains of a deceased human body in earth burial or aboveground burial.
- (d) *Monument* means any marker, memorial, gravestone, headstone, footstone, statue or the like placed upon or in any plot for the purpose of identification or in memory of the interred.
- (e) *Owner* means any person, firm, partnership, company or corporation who has purchased a plot in a municipal cemetery or the heirs, personal representatives or successors of the owners.
- (f) *Resident* means any person living within the corporate limits of the City of Lake Worth Beach.

3. **Rights reserved by the City.**

- (a) The City reserves and shall have the right to refuse admission to its municipal cemeteries and to refuse the use of any of the cemeteries' facilities at any time to any person whom the City may deem to be in violation of one or more of the provisions of this article.
- (b) The City reserves and shall have the right to enlarge, reduce, re-plat or change the boundaries or grading of any or all sections of its cemeteries including the right to modify and change the locations of or remove or re-grade roads, drives, walks, or any part thereof.
- (c) The City reserves and shall have the right to lay, maintain and operate, or alter or change water lines for irrigation systems, gutters for drainage and the like and reserves an easement along all plot lines for utility purposes as needed.
- (d) The city commission reserves and shall have the right to use cemetery property not sold to individual plot owners for any public purpose that serves the best interests of the City.
- (e) The City reserves to itself, and to those lawfully using the privileges and facilities of the cemeteries, a perpetual right of ingress and egress over plots for the purpose of passage to and from other plots.
- (f) The City reserves and shall have the right to correct any error that may be made by it in the description, transfer or conveyance of any plot, either by cancelling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the city clerk office or public works department, or, at the sole discretion of the city manager, by refunding the amount of money paid on account of said purchase.
- (g) The City reserves and shall have the right to correct any error that may be made by it in making interments, disinterments, or removals. In the event such error shall involve the interment of the remains of any person, the City reserves and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.
- (h) The City reserves and shall have the right to prohibit, modify or remove any monument, structure, object, improvement or adornment from any plot which may have been placed therein in violation of the rules, or which may be considered discriminatory in nature, or injurious to the plot, adjoining plots or to the cemetery in general.
- (i) Copies of up to date rules and regulations shall be kept on file in the public works department.
- (j) The city commission hereby recognizes that cases may arise in which strict enforcement of the provisions of these rules and regulations may impose unnecessary hardships. Therefore, the city commission delegates authority to the city manager to make exceptions to the provisions of these rules and regulations

upon a finding by the city manager that an exception is necessary to prevent hardship.

4. Care of cemeteries; limitation of liability; responsibilities of City and public.

- (a) The City shall endeavor at all times to provide general maintenance and care to its municipal cemeteries.
- (b) The City shall not be liable, and disclaims all responsibility, for loss or damage to monuments, property, other improvements, or rights of plot owners arising from causes beyond its reasonable control including, but not limited to, damage caused by the elements, acts of God, thieves, vandals, or unavoidable accidents, whether the damage be direct or collateral.
- (c) In cases of disinterment, cemetery staff shall exercise reasonable care in performing a removal, but assumes no liability for damage to any casket, burial case, vault / outer box or urn incurred in the removal process.
- (d) No interment or disinterment shall be allowed except by the consent of the city and the written consent of a legally authorized person of the plot in question. A legally authorized person shall be defined as set forth in Section 497.005(43), Florida Statutes, as amended from time to time. Any lawful authority with jurisdiction and a proper court order may disinter any body or cremains in the cemetery in accordance with such order.
- (e) The perpetual care of the cemetery is assumed by the taxpayers of the City and includes the cutting and irrigation of the grass at reasonable intervals, the raking and cleaning of the grounds, the pruning of shrubs, trees and other plants installed by the City, and the maintenance of pathways and roadways. Perpetual care by the City shall in no case mean the maintenance, repair or replacement of any monument or other improvement, placed or erected upon a plot; nor the doing of special or unusual work in the cemeteries, including work caused by impoverishment of soil (which causes the sinking of monuments and other improvements); nor does it mean the reconstruction of any work, monument, or other improvement in any section or portion of a cemetery damaged by the elements, age, an act of God, thieves, vandals, or unavoidable accidents, whether the damage be direct or collateral.
- (f) 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 or after the Preservation Work, whether the damage be direct or collateral.
- (g) The City reserves the right to prevent the removal of or the right to remove any erection, enclosure, monument, tree, shrub, plant, or any other improvement which is shall consider injurious to the immediate locality or prejudicial to the general good appearance of the grounds or which it finds to prevent or impede the

maintenance of the cemetery or to present an otherwise dangerous conditions or as otherwise in violation of these rules and regulations.

5. **Plot sales; price; acquired rights, deeds, address of owner.**

- (a) *Price.* The City shall charge prices for the sale of municipal cemetery plots and associated fees in accordance with the prices established in the City's comprehensive Schedule of Fees, as amended from time to time (hereinafter "Fee Schedule").
- (b) *Acquired rights.* No ownership or burial rights shall be acquired by the recipient until the cost of the plot is fully paid and a deed is issued.
- (c) *Payment prior to interment.* No interment shall occur unless the costs of the plot and other applicable fees have been paid in full.
- (d) *Compensation of workers.* No money or other compensation shall be paid to any person in the employ of the City for personal services or attention other than the salaries and wages paid by the City.
- (e) *Plot deeds.* The city manager, and the city clerk, or their respective designees are hereby authorized to execute plot deeds to the purchasers of municipal cemetery plots, which conveyances shall be valid for all purposes as the act and deed of the City when fully executed by the city. No deed shall be executed and issued until the cost of the plot has been paid in full. All deeds shall bear a description of the plot sold and the name and address of the owner. All deeds are hereby declared to incorporate and shall be subject to all rules, regulations and ordinances of the city and all amendments thereto. The city clerk shall retain a copy of the executed deed.
- (f) *Address of plot owner.* It shall be the continuing duty of the plot owner to keep the City informed as to his or her current mailing address where notices are to be sent. Notices or other correspondence mailed to the address on file with the City as provided by the plot owner shall constitute actual delivery and notification. It shall be the duty of the plot owner to keep himself or herself informed of any changes in the rules, regulations, ordinances or laws governing the operation of the cemeteries.

6. **Burials; scheduling; installation, removal of monuments.**

- (a) *Notice of burial.* No grave opening will be started without the application for and issuance of an interment permit. No interment shall be permitted where the purchase price thereof and the fee for interment have not been paid in full. Upon the City's issuance of the interment permit, the City requires seventy-two (72) working hours for the grave opening.
- (b) *Number of interments per plot.* Up to five (5) cremains and a full burial may be interred in a plot. If cremains are interred prior to a full burial, those cremains must be disinterred prior to the full burial. A disinterment fee shall be paid for each cremains disinterred. In the event there has been no written order by the owner filed with the City designating those whom he or she authorizes to be interred therein, the cremains of the following family members of the owner may be interred

in such plot in the order of need without the consent of any person claiming any interest therein. The City may require an affidavit be completed by the requesting person.

- 1) spouse of the owner;
- 2) grandparents and their spouses;
- 3) parents and their spouses;
- 4) brothers and sisters and their spouses;
- 5) lineal descendants and their spouses; and
- 6) domestic partner of the owner, as defined by current City policy.

(c) *Schedule of opening and closing graves.*

- 1) Regular hours. Just as with City parks, cemetery hours are from dawn to dusk. Interments shall be scheduled between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding City-observed holidays. Interments scheduled to occur between 3:00 p.m. and 5:00 p.m. or anytime on weekends, excluding City-observed holidays, shall require an additional fee. No interments or disinterments shall be permitted on Thanksgiving Day, Christmas day, or Easter Sunday.
- 2) Delayed Service. Services commencing 31 minutes or later beyond the scheduled interment/disinterment time shall be subject to the operational cost per the City's Schedule of Fees for staff on standby. Companies performing the installation of vaults or any other service shall provide a forty-eight (48) hour notification to cemetery staff and provide a specific installation / service time. Delays shall be subject to the operational cost per the City's Schedule of Fees for staff on standby.
- 3) Sundays. At the sole discretion of the City, where an interment is requested to be scheduled on a Sunday, excluding City-observed holidays, Christmas day, and Easter Sunday, interments shall be scheduled between the hours of 10:00 a.m. and 3:00 p.m. Interments requested on a Sunday shall require an additional fee.
- 4) Disinterments shall be scheduled between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding City-observed holidays.
- 5) All internments and disinternments shall be scheduled through the City Clerk's Office.

(d) *Installation of monuments.* In accordance with section 497.278(2), Fla. Stat., to verify that a monument is installed on the proper grave, the person or company installing the monument shall contact the City's cemetery staff two (2) business days prior to the installation. Upon proper notification, the City shall mark the grave where the monument is to be installed and shall inspect the installation when completed.

- (e) *Removal of monument.* Any monument which has been set in violation of the rules and regulations established by ordinance or these rules and regulations, as amended from time to time, shall be removed by the company who installed the monument. It shall be the responsibility of that company to reset the monument in accordance with the established rules and regulations and ordinances at no cost to the City. When removing or installing a monument, the company shall exercise all possible care to protect other monuments, water lines, and other cemetery fixtures and improvements and shall be held liable for any damage incurred.
- (f) *Vaults / Outer Box.* Every earth interment, including cremated remains, shall be enclosed in an encasement or container constructed of concrete, concrete and steel, stone, or other suitable material used to encapsulate the casket, cremains, or other burial container in order to maintain the shape and integrity of the plot.

7. **Sale or transfer of plots; family burial plot; re-subdivision.**

- (a) **Reconveyance to City.** No plot or any interest therein shall be sold, transferred, assigned or conveyed in any manner (collectively, “transferred”) by the owner except as set forth herein. Transfers of any plot in the Pinecrest Cemetery or the I. A. Banks Memorial Park, or any interest therein, shall be accomplished by the owner first reconveying the plot to the City. **The City shall pay the owner for the reconveyed plot in accordance with the prices established in the Fee Schedule.** The City shall issue a new deed to the plot to the person to whom the plot is intended to be transferred and the transferee shall pay for the price of the plot in accordance with the Schedule of Fees. No transfer of any plot or any interest therein shall be valid unless the provisions of this section are complied with.
- (b) *Persons to be interred.* In the event there has been no written order by the owner filed with the City designating those whom he authorizes to be interred therein, the following family members of such owner may be interred in such plot (without the need for a transfer of ownership) in the order of need without the consent of any person claiming any interest therein. The City may require an affidavit be completed by the requesting person.
 - 1) spouse of the owner;
 - 2) grandparents and their spouses;
 - 3) parents and their spouses;
 - 4) brothers and sisters and their spouses;
 - 5) lineal descendants and their spouses; and
 - 6) domestic partner of the owner, as defined by current City policy.

However, if the family member is not a resident of the City as defined herein, then the additional price for a non-resident must be paid. The City may request documentation of the identity and residential address of the person for whom the plot is being purchased to establish that the person is a resident.

A person who purchased a plot as a non-resident and who later becomes a resident is not entitled to a refund of any portion of the purchase price paid therefor.

If an individual legally inherits the plot and wishes the City to issue a new deed to the plot in his or her name, he or she shall be responsible for the payment of a deed transfer fee as established in the Fee Schedule.

- (c) *Plots purchased for non-family member.* If a plot is purchased for a non-family member, such non-family member shall be considered the owner of the plot for purposes of determining who may be interred therein.
- (d) *Re-subdivision prohibited.* The re-subdivision of any plot in any manner is prohibited.

8. Technical specifications; veterans' plots.

(a) *Technical specifications.*

- (1) All plot enclosures of any kind whatever are hereby prohibited.
- (2) Cornerstones properly numbered and set flush with the surface of the ground shall be allowed.
- (3) No brickwork shall be allowed above the ground level in any portion of the cemetery.
- (4) No mounds are permitted over any grave.
- (5) The grade of all plots shall be determined by the City.
- (6) A space of not less than eighteen (18) inches shall be reserved on sides of abutting plots so that the graves shall not be contiguous.
- (7) Plot owners may erect any proper monuments thereon, subject at all times and in all respects to the approval of the city through its cemetery staff. Headstones shall be placed on a solid foundation of masonry. Footstones more than six (6) inches above the ground shall also be placed upon a solid foundation of masonry; provide, however, that I. A. Banks Memorial Park and sections 7 through 24 and H, J, K, P, R, S, T, U, V, W, X, Y, Z AND AA of Pinecrest Cemetery are hereby designated as memorial type burial grounds, requiring all markers to be of flush type.
- (8) No mausoleum shall be built without the permission of the City and all parts of mausoleums aboveground shall be of marble, granite, cut stone, cement stone or blocks and shall be of such strength, construction and character as may be approved by the City.
- (9) Concrete or metal vaults, or high impact plastic vaults, subject to the City's approval, will be required on all interments in Pinecrest Cemetery and I. A. Banks Memorial Park.

(b) *Veterans' plots.*

- (1) Sections "I" and "V", Pinecrest Cemetery, and Section 1, I. A. Banks Memorial Park, are 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.

(2) A flat marker, not exceeding twenty-four (24) inches long and twelve (12) inches wide, may be placed at the head of a veteran's grave

9. **Plants, shrubs, flowers, trees and grass; grave decorations.**

- (a) Permanent planting, maintenance and removal of grasses, shrubs, trees, flowers, etc., shall be done only by the City.
- (b) The City's cemetery staff, or designees, are authorized to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind (collectively, "plants") and any other grave decorations from a cemetery as soon as, in the sole judgment of staff, they become unsightly, dangerous, detrimental or diseased or when they interfere with the normal maintenance of the cemetery. Notice of such removal shall not be required.
- (c) The City shall not be liable for plants or herbage of any kind or other grave decorations damaged by the elements, thieves, vandals, or by other causes beyond its control. All such items shall be placed on a grave site at the owner's sole risk and the City shall not be responsible for any loss of the same by any cause whatsoever.
- (d) The following grave decorations are not permitted: fencing/borders, statues, glass objects/vases, metal objects (e.g., decorative garden stakes, etc.), rocks, permanent plantings, permanent structures other than an approved monument; oversized decorations (e.g., large crosses, large plaques, etc.), and any other objects that may pose a danger or safety hazard to the cemetery's maintenance machines, staff, visitors or structures.
- (e) Any plants, as described above, or any other grave decoration of any kind will be removed by the City, without liability, when they violate cemetery rules and regulations, any City ordinance, or other law. Notice of such violation or removal shall not be required.

10. **Personal Conduct within City Cemeteries.**

- (a) Children under the age of thirteen (13) shall not be permitted within the cemetery unless accompanied by an adult.
- (b) Loitering within a City cemetery is strictly prohibited.
- (c) No person shall be permitted to bring food or drinks on the cemetery grounds.
- (d) Littering within a City cemetery is strictly prohibited.
- (e) Peddling of flowers / plants or soliciting the sale of any item is strictly prohibited within the cemetery grounds.

- (f) No signs or notices of advertisement of any kind shall be allowed in the cemetery unless placed by the City. Pets shall not be allowed on the cemetery grounds except in the case of service animals utilized to assist disabled patrons.
 - (g) Pets shall not be allowed on the cemetery grounds except in the case of service animals utilized to assist disabled patrons.
 - (h) Pinecrest Cemetery - No person shall operate any motor vehicle in excess of ten (10) miles per hour within the cemetery.
 - (i) I.A. Banks Memorial Park – No person shall operate any motor vehicle within the cemetery.
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