

ORDINANCE NO. 2023-164

**AN ORDINANCE AMENDING THE
GROUNDS REGULATIONS FOR CITY OF MADISON CEMETERIES**

WHEREAS, Section 11-47-40 of the Code of Alabama, as amended, states that all cities and towns in the state have the power to own, regulate, improve, lay out, and control town or city cemeteries and permit additions thereto; and

WHEREAS, Chapter 12, Section 1 of the *Code of Ordinances, City of Madison, Alabama*, empowers the Madison Municipal Cemeteries Committee to make recommendations to the City Council regarding cemetery ground and structure maintenance and improvements regarding all cemeteries which the City owns, operates and maintains; and

WHEREAS, Chapter 12, Section 24 (b) of the *Code of Ordinances, City of Madison, Alabama*, gives the Director of Public Works authority to maintain the grounds of cemeteries that the City owns and operates; and

WHEREAS, Chapter 12 of the *Code of Ordinances, City of Madison, Alabama*, states that the City Council may, from time to time, establish grounds regulations for cemeteries that it owns and operates; and

WHEREAS, the Madison Municipal Cemeteries Committee has made certain recommendations to the City Council for the amendment of the City's grounds regulations to the extent those recommendations do not preempt State Law or diminish the aforementioned authority of the Director of Public Works to operate and maintain City owned cemeteries.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA, that Chapter 12, Section 24 (f) is repealed and replaced to read as follows:

“(f) Restoration and Maintenance.

- (1) Alabama Code Section 13A-7-23.1, “Alabama’s Burial Act,” prohibits the removal and/or restoration of any headstone, marker, monument, funerary object and/or any other structure located within a cemetery without the issuance of a permit by the Alabama Historical Commission located at 468 S. Perry Street, Montgomery, AL 36130-0900.
- (2) Criminal liability may be imposed on persons violating Alabama Code 13A-7-23.1.
- (3) Any application for a permit from the Alabama Historical Commission to conduct the removal and/or restoration of any headstone, marker, monument, funerary

object and/or any other structure located within a City of Madison cemetery must also be forwarded to the Director of Public Works at the address of 100 Hughes Road, Madison Alabama 35758.

- (4) The copy of the application for a permit submitted to the Alabama Historic Commission shall serve as a notice to the City for any proposed changes and/or renovations proposed for City owned Cemeteries. All authority to consider and grant such a permit remains solely vested in the Alabama Historical Commission.
- (5) No cleaning materials and/or cleaning method may be used on any headstone, marker, monument, funerary object and/or any other structure within a City owned cemetery without being sanctioned by the Alabama Historic Commission guidelines for maintaining and cleaning such structures. Said guidelines are available at ahc.alabama.gov/cemeteryprogram.aspx.
- (6) Any attempts to repair stonework and/or remove a headstone, marker, monument, funerary object and/or any other structure may only be conducted with a permit from the Alabama Historical Commission and shall only be conducted in full compliance with those plans submitted to the Alabama Historic Commission in support of such permit."

BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF MADISON, ALABAMA, that Chapter 12, Section 24 (g) and Chapter 12, Section 24 (h) shall be inserted after the revised Section 24 (f) as follows:

"(g) Cemetery Event Form Requirement. All persons and/or organizations participating in any event within a City owned cemetery must complete a Cemetery Event Form and return said form to the City Clerk prior to participating in the event. Cemetery Event Forms may be found on the City of Madison website under the Public Works Department.

(h) Miscellaneous.

- (1) Parking or driving on graves is prohibited.
- (2) Scattering cremated remains anywhere within any cemetery is prohibited.
- (3) Responsibility for compliance with these regulations and for communication of the same shall inure from the original purchaser or owner of the lot to all of those who succeed him or her by assignment, sale, or inheritance."

BE IT FURTHER ORDAINED that the City Council reaffirms its commitment to enforcement of these grounds' regulations, as amended, and authorizes and directs the Mayor to enforce the same; and

BE IT FURTHER ORDAINED that if any word, clause, phrase, sentence, paragraph, or provision of this Ordinance shall be invalidated by a court of competent jurisdiction, such invalidity shall not affect any other word, clause, phrase, sentence, paragraph, or provision hereof; and

READ and ADOPTED this 23rd day of October 2023.

Ranae Bartlett, Council President
City of Madison, Alabama

ATTEST:

Lisa D. Thomas, City Clerk-Treasurer
City of Madison, Alabama

APPROVED this ___ day of October 2023.

Paul Finley, Mayor
City of Madison, Alabama