

ORDINANCE NO. 2022-41

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE'S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, CHAPTER 78 (PARKS AND RECREATION), ARTICLE IX (CEMETERIES); CREATING DIVISION 3, CEMETERY OPERATIONS AND PROVIDING A SAVINGS/REPEALING CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, cemeteries are among the most valuable historic and cultural heritage resources;

WHEREAS, Article XI, Section 18 of the Home Rule Charter of the City of Wylie, Texas ("Wylie" or "City") and state law authorize Wylie to acquire, establish and own all property that may be useful or necessary for establishing, maintaining and operating one or more cemeteries; and

WHEREAS, Chapter 78, Article IX, Division 2, prescribes the power and duties of the Cemetery Advisory Board; and

WHEREAS, Section 78-359 Powers and Duties gives the Cemetery Advisory Board the power to establish rules of procedure for Board's operations; and

WHEREAS, the City Council finds that it is in the best interest of the citizens of Wylie to amend Chapter 78 (Parks and Recreation) of the City's Code of Ordinances, Ordinance No. 2021-17, as amended ("Code of Ordinances"), as set forth below, to promote public health, safety and welfare through establishing rules of operation for municipally owned cemeteries.

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

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: That Chapter 78 of the Code of Ordinances, City of Wylie, Texas, is hereby amended by adding Division 3. - Cemetery Operations, which shall read as follows::

"CHAPTER 78 – PARKS AND RECREATION

ARTICLE IX CEMETERIES

DIVISION 3. - CEMETERY OPERATIONS

Sec. 78-370. General.

- (a) The City of Wylie Cemetery ("cemetery") is set apart for the burial of human remains subject to the rules established in this chapter, the Code of the City of Wylie and any applicable ordinances, state or federal laws.
- (b) Burial spaces in the cemetery shall be conveyed to a purchaser by a certificate of ownership for the purpose of burial only. The rights of the purchaser are subject to such rules and ordinances as may be enacted or amended from time to time by the city council.

- (c) The rules and regulations contained herein are designed to protect the rights of all cemetery space owners. The rules as adopted have been determined to be reasonably necessary and incidental to achieve the objectives.
- (d) The four cemeteries under ownership and maintenance of the city consists of approximately 9 acres:
 - (1) Kreymer Cemetery COL-C145, located within a designated park property on the west side of Kings Ct., Avalon Addition Phase II, Blk J, Lot 7, 1.996 acres;
 - (2) Hughes Cemetery COL-C034, ABS A0688 F De La Pina Survey, Sheet 4, Tract 109, 2.0 Acres;
 - (3) Wylie Cemetery #99 COL-C011 Railroad, Blk 24, Lot Blk 24 2-6 Blk 25 1-4 Blk 26 1-4 Blk 27 1-5 & 13, 3.00 Acres;
 - (4) Wylie Cemetery #99 COL-C011ABS A0688 F De La Pina Survey, Sheet 4, Tract 101, 2.2985 Acres.
- (e) Sale by the city of cemetery spaces shall be limited to the new addition as spaces in the original section of the cemetery have been previously sold.

Sec. 78-371. Cemetery care.

- (a) The city shall provide for the continuing care, maintenance, operation, and improvements to the cemetery. In general, this shall include: maintenance of fences and walls, road maintenance, mowing, edging, pruning, landscape construction or removal of plant material, policing of the grounds, pest control, and such other maintenance as may be necessary to keep the cemetery presentable at all times.
- (b) Cemetery care does not include the purchase, erection, repair, or replacement of monuments, headstones, markers, or any other item on a space.

Sec. 78-372. Hours of operation.

The cemetery shall be open every day from sunrise to sunset.

Sec. 78-373. Purchase options.

- (a) *Standard cemetery space:*
Wylie Cemetery:
Old section (Lot of 12)-30'x20'
First new section-4'x10'
Newest section-6'x12'
Kreymer Cemetery:
Old section (Lot of 6)-12'x24'
New section-4'x12'
- (b) A Baby Land Cemetery space is three feet by five feet (3' x 5').
- (c) Purchase price of all cemetery spaces shall be established by ordinance and amended as necessary.
- (d) Interment: Only one casket will be permitted in each grave. In the event cremation is utilized, a maximum of four (4) interments will be permitted in one (1) space.

Sec. 78-374. Resale options.

The sale, transfer, or assignment of any cemetery space by any owner or purchaser shall not be binding upon the city until it has been approved by the city manager or their designee. Resale pricing of burial spaces shall not exceed the current sale price of a city burial space. Upon said approval, burial rights to the cemetery space shall be conveyed by the city through the issuance of a new certificate to the new owner or purchaser upon payment of all fees, as established by ordinance and amended as necessary.

Sec. 78-375. Cemetery records.

Records giving full data on all interments shall be kept in the Wylie Parks and Recreation Department files, and shall be made available to the public. The data is to include the section, lot, and space along with the name, age, and date of interment for each grave space occupant.

Sec. 78-376. Cemetery sexton.

- (a) The city manager or their designee shall serve as the cemetery sexton, who has the necessary authority to execute orders and to put into effect the rules and regulations prescribed by this chapter.
- (b) The cemetery sexton shall have the same powers, duties, and immunities granted by law to a police officer for the city. He/she shall maintain order and enforce the cemetery rules and regulations, federal law, state law, and municipal ordinances in the cemetery, and as near to the cemetery as necessary to protect cemetery property.
- (c) The cemetery sexton shall have such other duties and responsibilities as may be assigned by the city manager.

Sec. 78-377. Copies of chapter furnished to interested persons.

The cemetery sexton shall furnish a copy of this chapter to each person proposing to purchase a space in the cemetery. Each funeral director having charge of burials in the cemetery, and each person selling monuments, markers, or other improvements for spaces or lots in the cemetery, shall advise interested persons of the provisions of this chapter and shall see that they receive copies of this chapter.

Sec. 78-378. Requirements for grave markers and monuments.

- (a) All monuments are subject to the provisions of this chapter and specifications prepared by and kept for record in the Wylie Parks and Recreation Department. However, all monuments in the new section of the cemetery will be flush to the ground except for the family lot upright markers.
- (b) Monument dealers must notify the cemetery sexton of their intention of erecting a monument, and obtain a permit upon payment of all fees as established by ordinance and amended as necessary, before proceeding with the work. The site and excavation must be approved by the cemetery sexton so that it will not interfere with the placement of a monument on an adjoining lot. Also, allowance must be made for the future filling-in of the space to the prescribed level of cemetery spaces already established.
- (c) The cemetery sexton shall have the right to inspect all memorials before the same are placed on the foundations thereof. He/she may refuse the placing of any memorial on such a foundation if he/she finds that such memorial is not in compliance with any of the provisions of this chapter, or that the workmanship has not been done in a skillful, workmanlike manner, or that the foundation is not adequate to sustain the weight of the memorial.

- (d) The cemetery sexton reserves the right to prohibit the erection of any vault, monument, or marker that may be considered inappropriate.
- (e) No monument will be allowed on any cemetery space until the burial right for the space is paid in full.
- (f) All monuments must be fabricated of bronze, granite, marble or stone of approved quality.
- (g) All foot markers shall be placed at or below ground level.
- (h) All grave mounds shall be low, oval shaped, not exceeding twelve (12) inches in height in the center, and sloping to the edges so as to permit a mowing machine to easily pass over.
- (i) Permanent bronze, granite, or marble vases and/or urns may be placed on the monument base or die, but not on the ground. Chairs, benches, or settees are prohibited.
- (j) Permanent bronze, granite or marble vases and/or urns may be placed upon cemetery spaces provided they are attached to the sides and/or tops of permanent markers.
- (k) Funds will be allocated for grave leveling, and a provision of a small semi-permanent grave marker that notes the name, birth date, and death date on which for any plots whose family has chosen or is unable to purchase a permanent grave marker.

Sec. 78-379. Burial rights.

The cemetery sexton is authorized to execute, on behalf of the city, documents transferring burial rights in the cemetery, conveying to purchasers the right of sepulcher with the restrictions and covenants established by the Wylie City Council. Burial rights are issued for the use of the family of the purchaser and not for resale or speculation. The cemetery sexton may sell the rights only to individuals and not businesses or business entities. The intent of this restriction is to prevent the reselling of burial rights as a business. Transfer of a burial right from the family of the purchaser is restricted to sales to individuals and not corporations or business entities at a price not to exceed the current city burial space sale price. The cemetery sexton is authorized to purchase burial rights related to vacant cemetery spaces at the current price as set forth by the city for such a right.

Sec. 78-380. Cemetery responsibility.

The cemetery shall take reasonable care to protect the burial rights of cemetery space owners, but disclaims all responsibility for loss or damage caused by action of thieves, vandals, or other causes beyond its control.

Sec. 78-381. Placement of objects in the cemetery.

- (a) No objects of any kind may be placed on graves or other cemetery property except as specifically provided herein. No advertising of any sort shall be permitted within the cemetery including the posting of signs advertising the proposed sale of private burial spaces.
- (b) Fresh flowers, artificial flowers, or floral pieces placed at the gravesite at any time, or funeral designs placed at the gravesite at interment, will be removed when unsightly or wilted but in no event longer than fourteen (14) days after placement. Items desired to be retained by the family and/or visitors must be removed within seventy-two (72) hours after being placed on the gravesite.

No more than one individual container of fresh or artificial flowers may be placed or affixed on each space provided that:

- (1) Affixed flowers may be placed in containers approved by the cemetery sexton and consisting of bronze, granite or marble.

- (2) All flowers must be placed on or immediately next to the monument, or if there is no monument, at the head of the grave.
- (c) No planting of any kind shall be permitted within the new section of the cemetery.
- (d) All other planting must be done under the supervision and consent of the cemetery sexton.
- (e) The City of Wylie is not responsible for the loss of shrubs or plants whether planted by city crews or by direction of the owner of any space in the cemetery.
- (f) The City of Wylie is not responsible for any funeral design, floral piece, vegetation or other article or thing placed on any space or grave in the cemetery.
- (g) The City of Wylie reserves the right to trim, prune or remove any shrub and/or plant whenever necessary or advisable.
- (h) The City of Wylie may plant trees or shrubs on lot boundary lines.
- (i) The City of Wylie is exempt from the requirements of this section.

Sec. 78-382. Construction prohibited.

No construction of any nature or kind, such as curbing, fencing, coping, trellises, or enclosure of any kind, whether of vegetation or construction, around any cemetery space or lot, shall be permitted.

Sec. 78-383. Payment prerequisite to use.

No interment shall be permitted in any cemetery space until the purchase price of such space, and any other charges or fees associated with the cemetery space, have been paid in full.

Sec. 78-384. Interment.

An application for burial designating the location for burial, establishing ownership, or right to use the designated space, and establishing the authority of the person to control the burial on behalf of the deceased must be filed with the cemetery sexton, and a written permit issued prior to any interment upon payment of all fees as established by ordinance and amended as necessary.”

SECTION 3: Savings/Repealing Clause. All provisions of the Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 4: Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

SECTION 5: Effective Date. This Ordinance shall become effective immediately upon its adoption.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE,
TEXAS,** on this 31st day of May, 2022.

Matthew Porter, Mayor

ATTEST:

Stephanie Storm, City Secretary