

ORDINANCE NO. 2017-02

AN ORDINANCE AMENDING CHAPTER 15, "FAIRVIEW CEMETERY", TO THE CODE OF ORDINANCES OF THE CITY OF BASTROP, TEXAS; IN ACCORDANCE WITH EXISTING STATUTORY REQUIREMENTS; REPEALING ALL CONFLICTING ORDINANCES; CONTAINING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

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**WHEREAS**, the City of Bastrop, Texas, a Home Rule municipality incorporated and operating under the Laws of the State of Texas, is the permanent trustee for the perpetual care of lots and graves in the Fairview Cemetery, and

**WHEREAS**, the City of Bastrop has authority to adopt rules and regulations governing operations of the cemetery, and

**WHEREAS**, the Fairview Cemetery Advisory Board met on October 19, 2016, to review and approve changes to Chapter 15 "Fairview Cemetery" of the code of ordinances of the City of Bastrop; and

**WHEREAS**, the Bastrop City Council has determined that the changes approved by the Fairview Cemetery Advisory Board on October 19, 2016, are in the best interest of the City and its citizens and should be adopted.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, THAT:**

**PART 1.** That the following Sections of Chapter 15 "Fairview Cemetery" of the code of ordinances of the City of Bastrop be amended to read as follows:

**Sec. 15.01.002 - City as permanent trustee for perpetual care and creation of cemetery advisory board.**

- (a) *No changes.*
- (b) *No changes.*
- (2) *No changes.*
- (3) *No changes.*

(4) The role of the Advisory Board shall be to recommend rules to the City Council, as are necessary, concerning the use, care, control, management, restriction, and protection of the Fairview Cemetery. Any matter relating to the Fairview Cemetery shall be referred to the Bastrop Cemetery Advisory Board for their consideration and recommendation before the action is taken by the City Council, however, the Advisory Board's role shall be advisory only.

**Sec. 15.01.008 Management.**

- (a) *No changes.*
- (b) The **Chief Financial Officer**, or his designee, shall be responsible for the day-to-day operation of the Fairview Cemetery, including the sale of plots, the filing of deeds in the county clerk's office, providing notification and permits for interment, and for all record-keeping associated therewith.

- (c) *No changes.*
- (d) *No changes.*
- (e) All funerals within the Fairview Cemetery property shall be scheduled and coordinated through the Finance Department.

**Sec. 15.01.009 Hours of Operation.**

Visitation at the Fairview Cemetery is permitted from sunrise to sunset seven (7) days a week. Burials, on receipt of an interment permit, shall be permitted from 9:00 a.m. to 4:00 p.m. Monday – Friday, except in the case of special circumstances and on a case-by-case basis the City Manager, or his designee, may permit interment at other times. No interment is permitted on State, Federal or City holidays. In the event the City Manager or his designee permits a burial to occur outside of the cemetery's regular hours, the individual requesting the burial may be responsible for paying any and all associated costs, including but not limited to the payment of overtime costs of City employees. All construction, maintenance or digging of a grave shall cease during a funeral service unless authorized by the Finance department in advance.

**Sec 15.01.010. Record-keeping.**

- (a) The City shall maintain permanent, cemetery records, which shall be the official records regarding the purchase and ownership of deeds in the Fairview Cemetery. These records shall contain:
  - (1) Name, address, telephone number, and email address of each person purchasing a grave site.
  - (2) The purchased burial site identified by section, row, lot, and block (as applicable).
  - (3) *No changes.*
  - (4) *No changes.*
  - (5) *No changes.*
- (b) *No changes.*
- (c) *No changes.*

**Sec. 15.01.012. Sale of Cemetery Plots; Generally.**

- (a) No changes.
- (b) *Warranty deed/payment in full.* Grave sites in the Fairview Cemetery shall be conveyed to a purchaser by warranty deed, identified by section, row, block and lot, for the purpose of the burial of human remains only. Every purchaser of a lot shall be required to complete an application and pay the city for the cost of the grave site and the recordation of the deed in the county clerk's office. Deeds may be delivered to a purchaser only upon full payment of the purchase price, which must be paid prior to interment.
- c. *Cost.* The cost of a cemetery plot shall be as set forth in the fee schedule in appendix "A" of the city code. The purchaser shall also be required to pay the cost to the city for filing the cemetery deed

with the county clerk's office. The city and the county clerk's office reserve the right to change the above referenced fees at any time at their discretion.

d. *Maximum number of cemetery plots.* A maximum of eight cemetery plots shall be available for purchase at any one time by the same individual. However, the maximum number of plots for purchase may be increased above eight at the discretion of the City Manager, or his designee, should specific circumstances indicate that additional plots are required.

(e) *No changes.*

(f) *No changes.*

(g) *No changes.*

(1) *No changes.*

(2) *No changes.*

(3) *No changes.*

(4) *No changes.*

(5) *No changes.*

(h) *No changes.*

(i) *No changes.*

(j) *No changes.*

**Sec. 15.01.013. Opening or Reopening of Graves; Interment Permit Required.**

(a) *Permit required.* New graves in the Fairview Cemetery shall be opened only under the direct supervision of the city, and upon receipt of an interment permit. A permit for interment will be issued only if proper certificates, as required by state law, have been provided, along with the name of the deceased, the name and address of the purchaser, the exact location of the plot, burial details, and payment information. Whenever possible, a person seeking a permit for interment shall provide the city with a copy of an official report of death, certificate of death, or original death record for the state. The city shall use their best efforts to promptly issue requests for interment permits and shall when possible process issue permits within twenty-four (24) hours of receiving all necessary information. A person or entity desiring to dig a grave in the Fairview Cemetery shall file with the finance department a certificate of liability insurance, with the city as an additional insured, in the minimum amount of \$500,000, which sum may be used to pay for any damages occurring to person or property in the process of digging the grave. The certificate may be held by the city for application to future burials.

(b) *Reopening of graves.* Reopening a grave for the purpose of burying a second decedent, whether the decedent is cremated or intact, shall require an interment permit from the city under the same regulations set forth in subsection (a) and the payment of a reopening fee.

(c) *No changes.*

(d) *Twenty-four-hour notice.* The city prefers a minimum of twenty-four (24) hours' notice prior to interment to issue the interment permit and identify the grave site for excavation and burial by a licensed or approved contractor.

(e) *No changes.*

(f) *No changes.*

(g) *Grave backfilling.* All graves shall be backfilled and force settled by hydraulics or mechanical means to the satisfaction of the city.

(h) *No changes.*

(i) *Hand digging.* The hand/shovel excavation of a grave is prohibited in the Fairview Cemetery, except for cremation sites with an interment permit. This prohibition may be waived at the sole discretion of the City Manager, or his designee, should extenuating circumstances arise.

**Sec. 15.01.015. Prohibited Activities.**

(a) The placement of objects which are deemed hazardous, or injurious, to the environment, public, or City employees (i.e. glass objects; loose, sharp, pointed/jagged or metal wire objects etc.) is prohibited in Fairview Cemetery.

(b) Glass vases are prohibited in the cemetery.

(c) Curbing is permitted in all areas of the Fairview Cemetery after the obtainment of the required construction permit from the city through an application to the finance department, and shall comply with all city and cemetery construction rules, specifications and requirements.

(d) No party shall enlarge, reduce, re-plat or change the boundaries or grade of the cemetery or the location of any roads, drives, walks, parkways, or gardens, which shall be the exclusive right of the city. All grading, landscaping, planting, trimming, and cutting of trees and other vegetation shall be the sole responsibility of the city.

(e) The drinking of alcoholic beverages in the Fairview Cemetery is strictly prohibited.

(f) No dogs are permitted in the Fairview Cemetery, with the exception of service dogs.

(g) No advertising of any type is permitted in the Fairview Cemetery, including the posting of signs advertising the sale of private burial spaces, funeral homes, or grave digging services.

(h) Construction or reconstruction, including, but not limited to fencing, trellises, coping, or other enclosures, whether of vegetation or other matter, is prohibited around any plot within the Fairview Cemetery, except, however, as of the effective date of this article, nonconforming, permanently installed fencing, coping, trellises or enclosures of any kind may remain 'as is.' In the event the nonconforming improvement is removed or damaged, the improvement will be removed without a replacement permitted. This section shall not apply to fencing or other improvement that, at the discretion of the City Council, is historical in nature and replacement or repairs can be made safe and in a manner that preserves the original historical design or integrity of the grave site.

**Sec. 15.01.016 - Monument, memorial or tombstones; construction permit required.**



(a) *Permit required.* Any person desiring to erect a monument, memorial, tombstone or other marker in the Fairview Cemetery shall obtain a written permit from the city through an application to the finance department, and shall comply with all city and cemetery construction rules, specifications, and requirements.

(b) *Certificate of Insurance.* Prior to the issuance of a permit by the city for the purposes of erecting a monument, tombstone or other marker or memorial in the Fairview Cemetery, the applicant shall file with the finance department a certificate of insurance with the city listed as an additional insured as stipulated in Section 15.01.013(a). This insurance coverage shall be for the repair or replacement of cemetery property, if necessary, caused by a contractor, which repair and replacement shall be the sole responsibility of the individual performing the work.

(c) *No changes.*

(d) *No changes.*

(e) *Height restrictions.* Monuments, markers, memorials, or tombstones in the Fairview Cemetery shall be six feet (6') in height or less, unless otherwise approved by the City Manager.

**Sec. 15.01.017 - Placement of objects in the Fairview Cemetery.**

(a) Flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations, and sentimental objects are permitted to be placed on gravesites. The City shall have the right to remove and dispose of, in its sole discretion, any item(s) placed on a grave site that have become withered, deteriorated, hazardous, or an obstruction to maintenance. In no event shall the city be responsible for locating and returning items to the original owner. Further, the city shall not be responsible for the upkeep or protection of items placed in the cemetery.

(b) Gravel, rock, or mulch placed upon any grave, require a commercial grade weed control liner, and must be surrounded and contained by a continuous curbing or border that prevents the movement of the materials beyond the gravesite. Gravesites that are covered with such materials must be maintained by the property owner or heirs. If not maintained, the city reserves the right to remove the covering.

**Sec. 15.01.018 - Planting in the Fairview Cemetery.**

(a) Shrubs, grass, flowers or other vegetation may be planted and shall be permitted to remain, unless the visible vegetation and/or roots become dangerous to adjacent plots, walkways or streets, grows beyond a 4' height restriction and/or plot boundaries, or becomes unsightly or inconvenient for other visitors. In such event, the city may remove the planting in its sole discretion.

(b) Potentially hazardous or invasive species of plants, such as bamboo are prohibited.

(c) Any diseased, infected, or dead trees or shrubbery may be immediately removed by the city.

**Sec. 15.01.019 - Grave site beautification by relations of deceased.**

None of the rights, powers and duties provided for in this article shall deprive any person having any interest in a grave or plot from beautifying or caring for the grave or plot, individually, at his own expense, under the rules and regulations stated herein.


PART 2: That all other ordinances, resolutions and orders previously passed, adopted and made, or any part of the same affecting the Fairview Cemetery which are in conflict with this Ordinance, shall be, and the same are hereby, in all things repealed to the extent that the same conflict with this Ordinance, or with the laws of the State of Texas.

PART 3: This Ordinance shall take effect upon the date of final passage noted below in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

PASSED AND APPROVED on FIRST READING on the 10<sup>th</sup> day of January, 2017.

PASSED AND ADOPTED on SECOND READING on the 24<sup>th</sup> day of January, 2017.

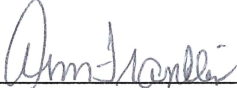
ADOPTED:



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Kenneth Kesselus, Mayor

ATTEST:



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Ann Franklin, City Secretary