

ORDINANCE NO. 3620

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, CREATING A NEW CHAPTER 5.5 ENTITLED CEMETERY OPERATIONS ESTABLISHING RULES AND REGULATIONS OVER THE MESQUITE CEMETERY; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE; AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Mesquite, Texas, agreed to assume maintenance of an existing cemetery located on Walker Street in the City and known as Mesquite Cemetery (the "Cemetery") pursuant to a Trust Agreement dated August 19, 1963; and

WHEREAS, on February 13, 2002, the City of Mesquite purchased with money out of general revenues certain property adjoining the Cemetery, which has been platted as an addition to the existing Cemetery and dedicated exclusively for cemetery purposes; and,

WHEREAS, the City of Mesquite wishes to adopt rules and regulations governing operations at the Cemetery, including the addition recently purchased and dedicated by the City.

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

SECTION 1. That Chapter 5.5 is hereby added to the Code of the City of Mesquite to read as follows, in all other respected said Code to remain in full force and effect.

CHAPTER 5.5

CEMETERY OPERATIONS

Sec. 5.5-1. General.

- (a) The Mesquite 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 Mesquite 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 of the City of Mesquite.
- (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 Cemetery consists of two sections: the original and a new addition. The original section contains approximately 8.6 acres. The new platted addition consists of approximately 0.679 acres located on the south side of the original section of the Cemetery. The Cemetery is divided into sections with bounding streets and property lines. All sections are further divided into lots with each lot generally containing 12 spaces.
- (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. 5.5-2. Cemetery care.

- (a) The City shall provide for the continuing care, maintenance, operation and improvements to the Cemetery. In general, this shall include: 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, leveling or replacement of monuments, headstones, markers or any other item on a space.

Sec. 5.5-3. Hours of operation.

The Cemetery shall be open every day from 8:00 a.m. to sundown.

Sec. 5.5-4. Purchase options.

- (a) Standard Cemetery Space: A standard Cemetery space is 4'-2" x 12'-0"; and in this chapter shall be referred to as a space. A Baby Land Cemetery space is 4'-2" x 6'-0".
- (b) Cremate-Only Space: There are no cremate-only spaces available in the Cemetery.
- (c) Purchase Price: The price of all Cemetery spaces shall be established by ordinance and amended as necessary.
- (d) Purchasers are limited to two interments per each standard space, except that no more than four cremates shall be allowed in a single space. Combinations of one casket burial and one cremate shall be allowed in a single space.

Sec. 5.5-5. 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 his 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. 5.5-6. Cemetery records.

Records giving full data on all interments shall be kept in the Parks and Recreation Department files and shall be 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. 5.5-7. Cemetery Sexton.

- (a) The City Manager or his 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 shall maintain order and enforce the Cemetery regulations and rules, 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. 5.5-8. 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. 5.5-9. 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 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. A family lot is composed of six configured burial spaces acquired in a single purchase within the section designated for family lots.

- (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 may refuse the placing of any memorial on such foundation if he 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 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.

Sec. 5.5-10. 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 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.

Double stacked burials shall be permitted so long as a minimum 24" of cover is maintained.

Sec. 5.5-11. 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. 5.5-12. 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 14 days after placement. Items desired to be retained by the family and/or visitors must be removed within 72 hours after being placed on the gravesite.

Up to two individual containers 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 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 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 reserves the right to trim, prune or remove any shrub and/or plant whenever necessary or advisable.
- (h) The City may plant trees or shrubs on lot boundary lines.
- (i) The City is exempt from the requirements of this section.

Sec. 5.5-13. 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. 5.5-14. 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. 5.5-15. 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.

Sec. 5.5-16. Disinterment.

Disinterment shall be permitted as provided by state law upon payment of all fees as established by ordinance and amended as necessary. In the event that consent of a representative of the City is required under state law for a disinterment, the Mayor, City Manager or Cemetery Sexton shall have the authority to execute the necessary consent. The person seeking disinterment of remains shall be obligated to provide sufficient information to the Cemetery Sexton to enable him to maintain the records required by state law.

Sec. 5.5-17. Rubbish.

- (a) It shall be unlawful for any person to place or deposit or cause to be placed in the Cemetery tin cans, bottles, papers, glass vases or other rubbish of any kind.

- (b) It shall be unlawful for any person making any interment in the Cemetery to permit dirt, rocks and other rubbish, accumulated from the digging of any grave space to remain upon the Cemetery space, except by permission and direction of the Cemetery Sexton, for more than 10 days.


SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense.

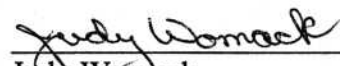
SECTION 5. That the present ordinances of the City of Mesquite are inadequate to provide for the proper regulation of the Mesquite Cemetery creates an urgency and an emergency for the preservation of the public health, safety and welfare, and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of November, 2003.




Mike Anderson
Mayor

ATTEST:



Judy Womack
City Secretary

APPROVED:



B. J. Smith
City Attorney