

ORDINANCE 2015-05

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 2, ARTICLE VI. CEMETERY ADMINISTRATION, AMENDING THE DEFINITION OF CEMETERY; ESTABLISHING RESPONSIBILITY FOR PERPETUAL CARE; ESTABLISHING TIMES OF AVAILABILITY OF THE CEMETERY MANAGER; ELIMINATING THE CEMETERY TRUST FUND; PROVIDING FOR ADOPTION OF CEMETERY FEES BY RESOLUTION OF THE CITY COMMISSION; ESTABLISHING THE TYPES OF MARKERS OR DECORATIONS ALLOWED OR DISALLOWED WITHIN THE CITY'S VARIOUS CEMETERIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1. Chapter 2, ARTICLE VI. - CEMETERY ADMINISTRATION, Lake Wales Code of Ordinances is amended as shown in the highlighted areas below (~~strike throughs~~ are deletions; underlines are additions):

DIVISION 1. - GENERAL MATTERS

Sec. 2-601. - Short title.

This article, originally adopted by Ordinance No. 96-23 on November 19, 1996 and incorporating all of the preexisting rules and regulations governing the operation of the municipal cemeteries, shall be known and may be cited as the "City of Lake Wales Cemetery Code" or the "Cemetery Rules and Regulations."

Sec. 2-602. - Legislative intent.

(a) It is the intent of this article to establish uniform rules and regulations for the purchase, sale, use and maintenance of cemetery spaces in cemeteries owned by the City of Lake Wales and to prescribe procedures for the administration of these cemeteries.

(b) It is the intent of the city commission that the rules and regulations established by this article shall apply to every burial space in the municipal cemeteries whether said space is a grave, vault, crypt or niche unless specifically exempted herein.

(c) It is the intent of the city commission that this article shall serve as a contract defining the responsibilities of the city in maintaining the municipal cemeteries and the responsibilities of those paying respect to their loved ones who are interred therein.

Sec. 2-603. - Definitions.

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a

different meaning:

- (1) *Block* means a plot of land consisting of lots and spaces which is identified on the cemetery plat filed with the city clerk.
- (2) *Cemetery* means property owned or leased by the city for the burial of human remains including the Lake Wales Cemetery and the Willow Lawn Cemetery and any land leased or owned in the future for the burial of human remains.
- (3) *Cemetery administrator* means that person designated by the city manager to have responsibility for preparation and storage of documents for the conveyance, sale or transfer of burial rights and the collection and deposit of funds in payment of said conveyance, sale or transfer. The cemetery administrator shall also be responsible for any administrative work related to the interment or disinterment of human remains in the city's cemeteries.
- (4) *Cemetery manager* means that person designated by the city manager to have responsibility for the day-to-day maintenance and operation of the cemeteries.
- (5) *Certificate of ownership* means the instrument issued by the city, upon payment of the established fee, evidencing a perpetual right of burial in a certain cemetery space of the individual to whom the certificate is issued or a member of the immediate family of that individual.
- (6) *City* means the City of Lake Wales, Polk County, Florida.
- (7) *City clerk* means the duly appointed city clerk of the City of Lake Wales or his/her designee.
- (8) *City commission* means the elected governing body of the City of Lake Wales.
- (9) *City manager* means the city manager of the City of Lake Wales or his/her designee.
- (10) *Conveyance, sale or transfer* means the conveyance of a right to burial in a space and shall not be deemed to convey fee simple title to the space.
- (11) *Deed* means the certificate of ownership executed by the city certifying the conveyance to a purchaser of the right to burial in a space.
- (12) *Disinterment* means the opening of a burial site, the removal of a casket or other enclosure containing human remains from the open site, and the closing of the site.
- (13) *Final disposition* means the final disposal of human remains by means including, but not limited to, earth interment, aboveground interment or cremation.
- (14) *Finance director* means the finance director of the City of Lake Wales or his/her designee.

(15) *Funeral* means the observance, service or ceremony held for a deceased person.

(16) *Funeral directing* means the making of arrangements for, or directing the arrangements for, the preparation and transportation of human remains for final disposition; or using, in connection with one's name, the word "funeral director," "licensed funeral director," "undertaker," or "mortician" or offering or representing one's self as offering such services.

(17) *Funeral director* means any person licensed in the State of Florida to practice funeral directing.

(18) *Grave* means the excavation on a lot for the final disposition of human remains.

(19) *Immediate family* means spouse, child, parent, grandparent, grandchild, brother, sister, mother-in-law and father-in-law.

(20) *Interment* means the opening of a burial site, the placing of a casket or other enclosure containing human remains in the open site, and the closing of the site.

(21) *Lot* means the numbered divisions as shown on the recorded cemetery plat which consists of one (1) or more plots.

(22) *Lot marker* means a marble or granite post used by cemetery staff to locate the corners of the lot or plot; for the purposes of this article, lot marker shall also mean a permanent metal marker embossed with the contract number and date of sale of a burial space and permanently mounted at the northwest corner of a burial space.

(23) *Marker* means any memorial that is composed of only one (1) piece; e.g., a flat marker. There are cases where a marker is composed of two (2) pieces, but has the effect of a marker; e.g., a bronze marker on granite. This is still technically a marker, even though it has two (2) pieces.

(24) *Memorial* means any marker or structure upon or in any lot or niche, placed thereupon or therein or partially therein for the purpose of identification or in memory of the interred.

(25) *Monument* means any memorial that has two (2) separate sections or more; e.g., a stone with a base. The top section of a monument is the "tablet" and the bottom section is the "base."

(26) *Nonresident* means a person not residing within the corporate limits of the city.

(27) *Owner* means any person, firm or corporation who has purchased a lot, part lot or grave space in a city cemetery or the heirs, personal representatives or successors of the owners.

(28) *Plot or space* means that parcel within a lot in which the remains of one (1)

adult human being will be or have been buried.

(29) *Resident* means a person residing within the corporate limits of the city.

(30) *Service animal* means any animal such as a seeing-eye dog or hearing-ear dog used to assist a person with a disability or an animal trained for law enforcement purposes and under the control of a law enforcement officer.

(31) *Vault* means an underground or aboveground chamber or container used for the final disposition of human remains.

(b) For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

The word "*shall*" is always mandatory and not discretionary; the word "*may*" is permissive.

The words "*he*," "*his*," and other words denoting the masculine gender shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Words used in the present tense shall include the future, and words used in the singular number shall include the plural and plural the singular, unless the context clearly indicates the contrary.

Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "*and*," "*or*" or "*either...or*," the conjunction shall be interpreted as follows:

(1) "*And*" indicates that all the connected terms, conditions, provisions or events shall apply.

(2) "*Or*" indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

(3) "*Either...or*" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(4) The word "*includes*" shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

Sec. 2-604. - Rights reserved by the city.

(a) The city reserves and shall have the right to refuse admission to any cemetery and to refuse the use of any of the cemetery's facilities at any time to any person or persons whom the city may deem to be in violation 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 the 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 lot lines for utility purposes as needed.

(d) The city reserves and shall have the right to use cemetery property not sold to individual lot owners for cemetery purposes, including the interment of human remains, or for anything necessary, incidental or convenient thereto.

(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 lots for the purpose of passage to and from other lots.

(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 interment rights, 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 manager or his designee, or, in 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 structure, object, improvement or adornment from any lot which may have been placed therein in violation of the rules, or which may be considered objectionable, or injurious to the lot, adjoining lots or to the cemetery in general. For the purposes of this article, the term "objectionable" means that an item interferes with the operation of maintenance equipment, has poor aesthetic value, or does not conform to established societal values.

(i) The city reserves and shall have the right to adopt additional rules and regulations or to amend, alter or repeal any rule or regulation established by this article, at any time, and subject only to the public notice requirements provided by Florida Statutes for ordinance adoption.

Sec. 2-605. - Care of cemeteries; limitation of liability; responsibilities of city; responsibilities of public.

(a) The city shall endeavor at all times to provide general maintenance and care to the municipal cemeteries.

(b) The city shall take all reasonable precautions to protect cemetery lot owners and the property rights of cemetery lot owners from loss or damage, but the city shall not be liable, and disclaims all responsibility, for loss or damage to property or rights of lot owners arising from causes beyond its reasonable control including, but not limited to, damage caused by the elements, an act of God, thieves, vandals, malicious mischief-

makers, or unavoidable accidents, whether the damage be direct or collateral.

(c) When cemetery fees are insufficient for the perpetual care of the municipal cemeteries, the cost associated with such perpetual care shall be borne by the taxpayers of the city. ~~The general care of the cemetery is assumed by 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 and trees, and the maintenance of pathways and roadways. Perpetual care by the city shall in no case mean the maintenance, repair or replacement of any memorial, tomb or mausoleum placed or erected upon lots by persons, firms or corporations; nor the doing of any special or unusual work in the cemeteries, including work caused by impoverishment of the soil; nor does it mean the reconstruction of any marble or granite work in any section or portion of a cemetery damaged by the elements, an act of God, thieves, vandals, malicious mischief-makers, or unavoidable accidents, whether the damage be direct or collateral.

(d) Those members of the public honoring their loved ones must realize that anything that prohibits the city from fulfilling its commitment to care for the municipal cemeteries or adds undue cost for the taxpayers shall not be allowed. It shall be the responsibility of those honoring their loved ones to observe the cemetery rules and regulations, to place items permitted well within the spaces allowed, and to remove perishable items when they are no longer performing their role in beautifying the grave site; i.e., dead flowers, faded and weathered artifacts, and similar items.

Sec. 2-606. - Responsibility for cemetery administration and maintenance.

(a) The general administration and maintenance of the municipal cemeteries shall be the responsibility of the cemetery manager who shall be an employee of the city and subject to all rules, policies and procedures governing all employees of the city.

(b) The cemetery manager is hereby empowered and required to enforce all rules and regulations provided by this article and to exclude from the cemeteries any person violating the same.

(c) The duties of the cemetery manager shall be as follows:

(1) *Attendance at cemetery.* At a minimum, the cemetery manager shall be ~~in attendance at the cemetery~~ available from 8:00 a.m. until 4:00 p.m. on Monday through Friday or have one (1) employee present in his absence who is competent in performing the duties of the cemetery manager in order to discharge those duties without delay. The cemetery administrative office in the municipal administration building shall be open during all normal business hours of the city.

(2) *Assistance to the public.* The cemetery manager shall aid and assist the public in the locating of burial spaces, entombment crypts and inurnment niches or in interpreting the meaning of this article and shall take such steps as are necessary for the protection and convenience of all funeral service attendees.

(3) *Supervision of cemetery maintenance.* The cemetery manager shall supervise

city employees in the general care and maintenance of the municipal cemeteries.

(4) *Examination of burial permits.* The cemetery manager shall require and examine burial permits and shall refuse burial, entombment or inurnment until such permit shall comply with the state law and the restrictions of the city.

(5) *Location of burial space.* The cemetery manager shall locate the burial space and authorize the opening of the grave, crypt or niche before work by any party shall commence and shall prepare and issue to the funeral director the vault and casket identification tags required by subsection 2-631(d). The cemetery manager shall locate the burial space and authorize the placement of a monument or marker before a monument or marker shall be set or engraved by any party.

(6) *Record of burials, entombments and inurnments.* The cemetery manager shall keep complete and accurate records at the cemetery office of the names of the deceased, the lot, section and plot in which the burial is made, or the mausoleum wall, row and crypt in which an entombment is made, or columbarium wall, row and niche in which an inurnment is made, the date of burial, entombments, or inurnment, and the name of the funeral director conducting the funeral. Duplicate records shall be maintained and updated on a regular basis which shall be stored with the official records of the city in the municipal administration building.

(7) *Sale of lots, plots, crypts and niches.* The cemetery administrator shall sell such lots, plots, crypts and niches in the municipal cemeteries as authorized by the city commission and at the price established by the city commission. The cemetery administrator shall cause to be issued a certificate of ownership of interment rights upon payment of the whole amount by the purchaser and shall cause the cemetery manager to place a permanent marker on all ground burial lots which indicates the contract number and date of sale.

(8) *Record of plots, crypts and niches sold.* The cemetery manager shall keep a plat book of the cemeteries on which shall be shown all plots, crypts and niches which are sold or are for sale, and a record made of the date, name of purchaser and amount received for each sale.

(9) *Reports.* The cemetery administrator shall make annual reports to the finance director on a form developed by the finance department showing the total number of interments, entombments and inurnments with other pertinent information, including a statement of the lots, crypts and niches sold or transferred and funds received for such sales and transfers.

Sec. 2-607. - Conduct of cemetery workers.

(a) Workers assigned to perform work at a city cemetery shall not perform any work for lot owners, funeral directors, monument companies, vault companies, or similar entities except by direction of the city manager.

(b) No cemetery worker shall solicit or accept any fee, tip, gratuity, commission or other compensation for work performed at a city cemetery from any person, firm or

corporation except the city.

(c) Cemetery workers shall always be vigilant and shall report promptly to the cemetery manager all cases of vandalism, disorder, theft or other matters that might present any disruption to the good order of the cemetery. In the absence of the cemetery manager, they will report all such instances to the cemetery administrator.

(d) Cemetery workers shall at all times refrain from using equipment in a careless or haphazard way that may cause damage to markers, monuments or other property in the cemetery. In case of damage to any property by a cemetery worker, said damage shall immediately be reported to the cemetery manager who shall conduct an investigation and report the results of the investigation to the public works director.

(e) Cemetery workers shall, at all times, behave in a courteous manner toward users of the cemeteries, and shall comport themselves in a dignified and respectful manner.

Sec. 2-608. - Handling of cemetery monies.

(a) No cash transactions shall occur at the cemeteries. All monies due the city for the sale of burial spaces or cemetery services shall be paid by the person, firm or corporation from whom said monies are due to the cashier in city hall.

(b) Under emergency circumstances, it may be necessary to complete a sales transaction after normal business hours. In the case of an emergency, the cemetery manager and the cemetery administrator are authorized to accept a check or money order from the purchaser which shall be deposited with the paperwork documenting the transaction in the locked drop-box at city hall for processing by the cashier on the next business day.

Sec. 2-609. - Cemetery trust fund.

~~Twenty-five (25) percent of all proceeds from the sale of interment rights in burial spaces shall be deposited in a special fund to be known as the "Cemetery Trust Fund." Proceeds deposited and interest income earned by the fund shall be used to make capital improvements at the municipal cemeteries.~~

Sec. ~~2-609~~ 2-610. - Modification of provisions.

The city commission hereby recognizes that cases may arise in which strict enforcement of the provisions of this article may impose unnecessary hardships. Therefore, the city commission delegates authority to the city manager to make exceptions to the provisions of this article upon a finding by the city manager that an exception is necessary to prevent hardship.

Secs. ~~2-610-2-6015~~ 2-611—2-615. - Reserved.

DIVISION 2. - BURIAL SPACES

Sec. 2-616. - Sale of interment rights in burial spaces.

(a) *Price.* The city commission, by adopted Resolution, shall set cemetery fees to fund all, or any portion of the cost, of provision of perpetual care for the municipal cemeteries. shall sell interment rights in burial spaces located in the municipal cemeteries in accordance with prices established on Schedule "A" which is attached hereto and incorporated by reference. Cemetery fees, established by the city commission, The schedule of fees established by Schedule "A" shall be automatically adjusted beginning on October 1, 2016 ~~2008~~ to reflect an increase based on June's annual CPI or two and one-half percent (2.5%), whichever is greater, without further need for commission action.

(b) *Acquired rights.* No interment rights shall be acquired by the purchaser until the cost of the burial space is fully paid and a deed of conveyance is issued to the purchaser.

(c) *Payment by installment agreement.* Payment for burial spaces may be made by installment agreement after a minimum down payment of twenty (20) percent and a five (5) percent administrative fee provided that the period of the installment agreement does not exceed twelve (12) months for each space and provided that installment payments shall be due and payable on the twentieth day of the month. If an installment payment remains unpaid for thirty (30) days after the date due, the installment agreement shall be cancelled and the city shall require full payment of the unpaid principal balance and shall so notify the purchaser. Notice by ordinary mail, sent to the purchaser at the last address on file with the city, shall be considered sufficient and proper legal notification. If the balance due remains unpaid for thirty (30) days after such notification, the purchaser shall forfeit his right to the burial space or spaces, and the city shall have the right to offer the space or spaces to the general public for resale. The cemetery administrator shall request that the finance department refund to the purchaser all installment payments paid to the city less one hundred dollars (\$100) ~~fifty dollars (\$50.00)~~ which shall be retained by the city as an administrative fee.

(d) *Reservation of space.* A burial space shall not be reserved or held unless a non-refundable deposit of one hundred dollars (\$100) ~~fifty dollars (\$50.00)~~ has been paid to the city, and no burial space shall be reserved or held for more than thirty (30) days.

(e) *Payment prior to interment.* No interment shall occur unless the cost of the burial space and other applicable fees have been paid in full except as provided in paragraph (g). All fees shall be paid by 4:00 p.m. on the business day preceding the interment with the following exceptions:

(1) When a request is made after 4:00 p.m. on Friday for interment on Saturday for reasons provided in subsection 2-628(b), the cemetery manager is authorized to accept a check or money order which shall be deposited with the paperwork documenting the transaction in the locked drop-box at city hall for processing by the cashier on the next business day.

(2) When a request is made after 4:00 p.m. on Friday for interment on Monday, all

applicable fees may be paid as in paragraph (1) above or on Monday provided that all fees are paid no later than two (2) hours before the interment takes place.

(f) *Payment prior to placement of markers.* When a burial space has been purchased in advance of need and payment is made by installment agreement, no grave marker or grave decoration shall be placed on the burial space until the cost of the burial space has been paid in full.

(g) *Assignment of life insurance proceeds.* In cases of extreme financial hardship, the city manager or his designee may authorize the acceptance, in lieu of cash for the purchase of burial space, an assignment of the proceeds of a valid life insurance policy. Before the assignment will be accepted, it must be verified and attested to as valid by the funeral home. In the event that the life insurance policy is invalid or insufficient to cover the cost of the burial space and has been accepted by the city upon the verification and attestation of the funeral home, all costs incurred by the city will be the responsibility of the funeral home. In the event that insurance proceeds are not remitted to the city within six (6) months after the date of the burial, all costs incurred by the city will be the responsibility of the funeral home and the city shall be authorized to take whatever action is necessary to obtain payment for such costs.

(h) *Address of lot owner.* It shall be the duty of the lot owner to keep the city informed as to his current correct mailing address and the current address of his legal representative if notices are to be sent to that representative. Notices or other correspondence mailed to the address on file with the city for the lot owner or his representative shall constitute actual delivery and notification. It shall be the duty of the lot owner to keep informed of any changes in the rules, regulations or laws governing the operation of the cemeteries.

SCHEDULE "A"
CITY OF LAKE WALES CEMETERY RATES
(effective 10/1/2009)

Interment Right in Burial Spaces			
	Resident	Water Customer Nonresident	Other- Nonresident
Cemetery Grave Space			
Baby Land	\$ 177.50	\$ 222.00	\$ 355.00
Adult Space	532.75	666.00	1,065.50
Cremation Space	177.50	222.00	355.00
Columbarium Bench	355.00	444.00	710.25
Mausoleum Crypt			
Single	1,835.00	2,294.00	3,670.00
Double	3,167.00	3,958.50	6,333.75
Cremation Niche	213.25	266.50	426.50
Collected at time of sale-			
-Ground Lot Marker	3.00	3.00	6.00
Collected at time of interment			
-Vault & Casket ID	2.35	2.35	4.85
-Tags			
-Grave Locating Fee	59.00	59.00	118.25
Memorial Brick	35.00	35.00	45.00

Twenty-five (25) percent of all proceeds from the sale of interment rights in burial spaces shall be deposited in the "Cemetery Trust Fund." Proceeds deposited and interest income earned by the fund shall be used to make capital improvements at the municipal cemeteries.

Note: The City of Lake Wales does not perform grave openings and closings. Prices shown above for the purchase of interment rights in burial spaces do not include the cost of openings & closings, vaults, monuments, crypt lettering, or similar items.

In accordance with section 2-616, Lake Wales Code, the schedule of fees shall be

~~automatically adjusted annually on October 1 to reflect an increase based on June's annual CPI or two and one half (2.5) percent, whichever is greater.~~

Sec. 2-617. - Deeds of conveyance.

(a) The mayor-commissioner and the city clerk are hereby authorized to execute deeds of conveyance on behalf of the city to the purchasers of interment rights in burial spaces within the cemetery, which conveyances shall be valid for all purposes as the act and deed of the city when the city clerk affixes the seal of the city.

(b) No deed of conveyance shall be executed before the cost of the burial space has been paid in full by the purchaser.

(c) All deeds of conveyance shall bear a description of the burial space in accordance with the cemetery plats approved by the city commission, the name and address of the purchaser, and the official book and page number in which the conveyance is recorded in the official records of the city.

(d) All deeds of conveyance are hereby declared to incorporate and shall be subject to all rules, regulations and conditions set forth in this article, and subject, further to such other additional rules and regulations, amendments or alterations as shall be adopted by the city from time to time. The reference to such rules and regulations in deeds conveying the right of interment shall have the same force and effect as if the same were set forth in full therein.

(e) The deed conveying interment rights to purchasers and the rules and regulations of the city now in force or which may hereafter be adopted, including modifications or amendments thereof, shall be the sole agreement between the city and the purchaser. The statement of any sales agent or employee of the city, unless confirmed in writing by the city manager, shall in no way bind the city.

(f) A certified copy of the executed deed conveying interment rights shall be filed with the city clerk who shall permanently maintain said copy in the official records of the city.

Sec. 2-618. - Lot markers.

All ground burial lots shall be marked by the cemetery manager at the time of sale with a permanent metal marker which shall be embossed with the sales contract number and the date of sale. Lot markers shall be permanently mounted at the northwest corner of the burial lot.

Sec. 2-619. - No easement granted.

The conveyance of interment rights in a burial space shall not grant an easement or right of interment to any owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery or cemetery buildings.

Sec. 2-620. - Sale, transfer, assignment or re-subdivision.

- (a) No interment rights in a burial space shall be sold, transferred, assigned or conveyed in any manner by the owner or his heirs without the written authorization of the city and the payment of a fifty-dollar transfer fee.
- (b) The re-subdivision of any burial space in any manner is prohibited.
- (c) The city is authorized to repurchase an unused burial space for the same price at which it was originally sold. No transfer fee will be required.

Sec. 2-621. - Family burial lot.

- (a) Whenever an interment is made in a lot for which the interment rights have been conveyed to an individual owner by the city and is held as a separate lot, it shall be indivisible, and, at the option of the city, the whole of such burial lot thereby becomes inalienable and shall be held as the family burial lot of the owner in which one (1) grave may be used for the owner's interment and one (1) for the interment of the surviving spouse, if any, of the owner.
- (b) 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 parents or children of such deceased owner may be interred in such lot in the order of need without the consent of any person claiming any interest therein.
- (c) In the event there shall be no parent or child surviving such deceased person, the right of interment therein shall go to the next heirs at law of such deceased owner as specified by the statutes of descent of the state.
- (d) Any surviving spouse and any parent, child or heir of a deceased owner may waive his right to interment in such lot in favor of any other relative of such deceased owner or of his spouse, and upon such waiver, the remains of the person in whose favor the waiver is made may be interred therein.

Sec. 2-622. - Use of burial space.

No burial space shall be used for any purpose except the interment of human remains.

Secs. 2-623—2-625. - Reserved.

DIVISION 3. - INTERMENTS AND DISINTERMENTS

Sec. 2-626. - Interment prohibited except in duly designated or platted cemeteries.

- (a) It shall be unlawful for any person to bury or otherwise inter any human remains within the corporate limits of the city, except in a municipal cemetery designated in this article or in a platted cemetery, the plat of which has been approved by the city commission, and which plat shall show the size and situation of the cemetery, its

subdivisions and the methods used and intended to be used to designate plainly the location of burial lots or graves therein, and which plat shall be recorded in the public records of Polk County, Florida, and a copy thereof furnished to the city.

(b) No person, firm or corporation shall establish any cemetery or burial ground, or create, lay out, plat or use any piece or parcel of land within the corporate limits as a burial ground or cemetery for the interment of human remains without first obtaining a permit from the city.

(c) Any person convicted of violating this section shall be punished pursuant to section 1-15 of the city Code.

Sec. 2-627. - Burial permit required.

No interment shall be made unless the remains are accompanied by a burial permit as required by state law. The city shall not be liable for the correctness of the information on the burial permit nor for the identity of the person sought to be interred.

Sec. 2-628. - Hours when interments are permitted.

(a) *Regular Hours.* Interments shall be made between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Interments shall not be made on Saturdays, Sundays or city holidays except as provided in paragraph (b) and paragraph (c). City holidays are defined as New Year's Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Friday after Thanksgiving Day, and Christmas Day. Other holidays may be designated by the city commission from time to time.

(b) *Saturdays.* Where a burial must be scheduled on a Saturday, interments shall be made between the hours of 10:00 a.m. and 5:00 p.m. Interments to be scheduled on a Saturday shall require a minimum of twenty-four (24) hours' notice to the cemetery manager except where immediate burial is required by the laws of the State of Florida, the rules and regulations of the board of health, or for religious reasons. The notice requirement may be waived by the city manager or his designee if extenuating circumstances prevent twenty-four (24) hours' notice.

(c) *Sundays and holidays.* Where immediate burial is required by the laws of the State of Florida, the rules and regulations of the board of health, or for religious reasons, interments may be made on Sundays or city holidays after payment of a service charge in the amount of three hundred dollars (\$300.00) by the funeral director. Interments shall be made between the hours of 12:00 noon and 4:00 p.m.

Sec. 2-629. - Interment authorization required.

(a) No interment shall be made unless the burial space has been located by the cemetery manager. The cemetery manager shall clearly mark the burial space in which the interment will occur with a temporary tag indicating the name of the deceased, the date and time of the interment, and the name of the funeral director. The cemetery manager shall issue an interment authorization to the funeral director which specifies the name of the deceased, the name of the funeral director, the date and time of the

interment, and the location of the burial space. The interment authorization shall not be issued unless the cost of the burial space and other applicable fees have been paid in full except as provided in section 2-616, paragraph (g).

(b) A request for interment authorization must be made to the cemetery manager no later than twenty-four (24) hours prior to the time scheduled for the interment. For interments scheduled on a Monday, the request for interment authorization must be made to the cemetery manager no later than 4:00 p.m. on the preceding Friday. This requirement may be waived by the city manager or his designee if extenuating circumstances prevent twenty-four (24) hours' notice.

(c) A copy of the interment authorization shall be filed with the permanent records of the city.

Sec. 2-630. - Opening and closing of burial space.

(a) Funeral directors shall be responsible for arranging the opening and closing of burial spaces at their expense.

(b) The opening of a burial space shall not commence without an interment authorization issued by the cemetery manager or his designated representative and shall not commence unless the burial space has been located and marked by the cemetery manager or his designated representative. If any problem is encountered during the opening of a burial space, the person opening the burial space shall cease work immediately and notify the cemetery manager who will resolve the problem before work is permitted to continue.

(c) Graves shall have a minimum cover of twelve (12) inches of soil from the top of the vault or liner to the ground surface level. Grave mounds shall not be allowed. Persons opening a grave must place excavated soil on suitable material to protect the grass on adjacent lots.

(d) Graves shall be closed immediately after the funeral service.

(e) Removal of excess soil after burial or the filling of the grave site with additional soil after settling shall be the responsibility of the funeral director. Any excess soil must be removed the same day as the burial, and any filling needed as a result of settling must be accomplished within five (5) days of the burial. Upon failure to remove excess soil or to fill as required above, the cemetery manager may cause the same to be accomplished with the costs thereof charged to the funeral director, which cost shall be immediately due and payable.

(f) Any additional city services required due to failure by the applicable funeral director to abide by this article and any reasonable rules and regulations promulgated to implement this article shall be charged to the funeral director and be immediately due and payable.

(g) All openings and closings which have been pre-paid or pre-arranged by an agreement between the city and the purchaser prior to the effective date of this article

shall be the responsibility of the city.

(h) The funeral director and his subcontractors (i.e., vault company, grave diggers, and the like) shall exercise all possible care to protect grave markers, monuments, water lines, and other cemetery fixtures, and shall be held liable for any damage incurred.

Sec. 2-631. - Graves and vaults.

(a) No burial above ground shall be permitted.

(b) Only one (1) interment shall be made in a grave, except for the following:

(1) A parent and an infant;

(2) Two (2) children in one (1) coffin; or

(3) One (1) casketed remains and up to two (2) urns bearing cremated remains.

(c) Pre-cast concrete, natural stone, or steel vaults or grave liners shall be used in every uncremated interment except the interment of newborn infants. Such vaults shall be of sufficient construction and weight as to prevent retention of water and cave-in of the grave space.

(d) A permanent identification tag shall be affixed securely to the foot end of every vault and every casket used in an interment after November 19, 1996. The tag shall bear the name of the deceased and the date of the interment written or inscribed in a legible and indelible manner and shall be made of metal, plastic or other non-biodegradable material. The cemetery manager shall prepare the tags and provide them to the funeral director with the interment authorization specified in section 2-629. It shall be the responsibility of the funeral director to ensure that said tags are affixed, and the city shall not be liable for the failure of the funeral director to comply with this section.

Sec. 2-632. - Liability for delays.

The city shall in no way be liable for damages caused by any delay in the interment of a body where a protest, just or unjust, of the interment has been made, where the rules and regulations have not been complied with, where a burial space has not been paid for, or where the body is not accompanied by a proper burial permit.

Sec. 2-633. - Written protests.

The city shall refuse to recognize any protest of an interment unless said protest is made in writing and filed in the office of the city clerk. The remains shall be retained by the funeral director and shall not be admitted to the cemetery until such protest is resolved.

Sec. 2-634. - Interments for remuneration.

Owners shall not allow interments to be made in their burial spaces for remuneration.

Sec. 2-635. - Disinterment.

(a) Although removal contrary to the expressed or implied wish of the original owner of the burial space shall not be allowed, a body or cremated remains may be removed from the original burial space to another burial space within the cemetery at the request of the surviving spouse or heirs when there has been an exchange or purchase of a burial space for that purpose. A disinterment at the request of the surviving spouse or heirs shall be arranged by a funeral director and shall be the responsibility of the funeral director.

(b) A disinterment directed by the order of a court of competent jurisdiction shall be the responsibility of the person, firm or corporation requesting the court order.

(c) A disinterment directed by a medical examiner for the purpose of holding an inquest shall be the responsibility of the medical examiner or his lawful agents.

(d) All disinterments shall be subject to the same rules and regulations established by this article for interments. All disinterments for the purpose of removing the remains from the cemetery shall, in addition, require a transit permit signed by the appropriate public authority.

(e) As provided in section 2-604, paragraph (g), the city may perform a disinterment to correct an error in interment and may transfer the remains erroneously interred to the correct burial space or to another burial space of equal value and similar location as may be substituted and conveyed in lieu thereof.

Sec. 2-636. - Compliance with all laws.

In addition to the rules and regulations established by this article, all interments, disinterments and removals shall be subject to the orders and laws of the properly constituted public authorities.

Secs. 2-637—2-640. - Reserved.

DIVISION 4. - MEMORIALS, PLANTS AND GRAVE DECORATIONS

Sec. 2-641. - Monuments and markers.

(a) All burial spaces shall have no more than two (2) monuments or grave markers with the exception that family burial lots may have a family marker and a marker for each family member interred therein.

(b) For interments after November 19, 1996, a permanent monument or grave marker shall be required on all burial spaces.

(c) All monuments, grave markers and corner markers shall be of bronze, granite, marble or other equally durable stone material, metal or metal alloy. Monuments and markers shall be placed on a foundation which is no closer than three (3) inches to the

boundary lines of the grave space. All foot stones set after November 19, 1996 shall be flush-mounted except where they are placed to duplicate a foot stone pre-existing on the lot.

(d) Within the area of a cemetery designated as a memorial section, markers which are flush with the ground shall be required. All markers shall be flush with the ground in the Lake Wales Memorial Gardens Cemetery.

(e) No monument or marker shall be set unless the burial space has been located by the cemetery manager or his designated representative. The cemetery manager shall clearly mark the burial space upon which the monument or marker will be set and shall issue written authorization to the monument company to proceed with the construction of the foundation for the monument or marker. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the setting of the monument or marker will occur. All monuments, grave markers and corner markers shall be set between the hours of 8:00 a.m. and 4:00 p.m. If it is necessary to set a monument or marker before 8:00 a.m. or after 4:00 p.m., a fifty dollar (\$50.00) ~~twenty-five dollar~~ service fee will be paid to the city by the monument company.

(f) All monuments, grave markers and corner markers shall be placed on a foundation which shall be adequately designed to prevent future settlement, tilting or cracking. All foundations shall be built by the monument company at the cost of the owner. In order to ensure consistent installation of cemetery monuments and markers within all city-owned cemeteries, the following shall apply: (note: corner markers are only allowed in the Lake Wales Cemetery and the Willow Lawn Cemetery; corner markers will not be allowed in the Lake Wales Memorial Gardens Cemetery):

(1) *Permit required.* Installation of all foundations will require the issuance of a permit to the monument company by the cemetery administrator. The cost of the permit ~~will be as established on Schedule "A"~~ and will be nonrefundable. The permit fee will be paid by the monument company and will cover the cost of one (1) foundation inspection. Additional inspections will require payment of a twenty-five-dollar service fee by the monument company. No additional fee will be required for the actual placement of the monument or marker onto the foundation.

(2) *Monument or upright marker.* For monuments having a vertical height of three (3) feet or less, a foundation shall be installed that is three (3) inches wider than the monument on all four (4) sides so that a three-inch margin is created around the base of the monument. For monuments taller than three (3) feet, the width of the foundation shall be increased on all four (4) sides by one (1) inch per vertical foot or fraction thereof. The foundation shall be constructed of concrete that is a minimum of six (6) inches in depth and shall be reinforced with a steel bar one-half (½) inch in diameter. For monuments that will exceed five (5) feet in height, installation must receive prior approval by the city's building official. Upright markers are only allowed in the Willow Lawn Cemetery and designated areas within the Lake Wales Cemetery; upright markers will not be allowed in the Lake Wales Memorial Gardens Cemetery.

(3) *Flush-mounted marker.* A foundation shall be installed that is at least as long and as wide as the marker that will be resting upon it. The foundation shall be constructed of concrete that is a minimum of three (3) inches in depth and shall be reinforced with a steel bar one-half ($\frac{1}{2}$) inch in diameter.

(4) *All foundations.* In all installations, the foundation shall be constructed upon well-compacted soil. The foundation shall be constructed of Portland-based concrete and shall have a minimum designed strength of two thousand (2,000) pounds per square inch (psi). Foundations shall be constructed with the use of forming for the upper four (4) inches of the cast-in-place concrete. Wood forms are permitted, but must be removed after the concrete has cured in place. The surface of the foundation shall be level and have a smooth float finish and shall finish at least one and one-half ($1\frac{1}{2}$) inches below the grade. After curing of the concrete foundation, form work shall be removed and the area back-filled with screened topsoil prior to setting of the monument or marker.

(5) *Inspection.* All foundations shall be inspected by the cemetery manager. If the foundation installation is determined to be satisfactory, the cemetery manager shall issue written authorization to the monument company to proceed with the setting of the monument or marker. A copy of this written authorization shall be provided to the family and shall serve as notice to the family that the foundation has been installed satisfactorily. If the foundation installation is determined to be unsatisfactory, the cemetery manager shall issue written notice to the monument company requiring that the problem(s) be corrected. No authorization shall be issued to proceed with the setting of the monument or marker until the foundation installation is determined to be satisfactory.

(6) *Time of inspection.* To facilitate inspection by the cemetery manager, all foundations shall be set between the hours of 8:00 a.m. and 4:00 p.m. If it is necessary to set a foundation before 8:00 a.m. or after 4:00 p.m., a fifty dollar ~~twenty-five-dollar~~ service fee will be paid to the city by the monument company in addition to the permit fee.

(7) *Rights reserved.* The city reserves the right to modify the specifications contained herein for installation of any foundation, monument or marker, if, in the sole discretion of the building official, such modification is deemed to be desirable.

(g) Where a monument or marker has been previously set, no monument or marker shall be engraved unless the burial space has been located by the cemetery manager or his designated representative. The cemetery manager shall clearly mark the burial space upon which the monument or marker will be engraved and shall issue written authorization to the monument company to proceed with the engraving of the monument or marker. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the engraving of the monument or marker will occur.

(h) Any monument or marker which has been set in violation of the rules and regulations established by this section shall be removed from the grave site by the

monument company. It shall be the responsibility of the monument company to reset the monument or marker in accordance with the rules and regulations of this section without charge to the owner or the city.

(i) Lettering on mausoleum crypts and niches shall comply with all requirements established by the city for uniformity. Any lettering which has been placed on a crypt or niche which fails to comply with all such requirements shall be replaced by the monument company without charge to the owner or city.

(j) It shall not be the responsibility of the city to replace or repair temporary metal grave markers, and all temporary grave markers shall be removed when the permanent marker is set. Any temporary grave marker remaining on the grave six (6) months after the interment shall be removed by the cemetery manager at no risk to the city. Prior to removal, notice shall be provided in accordance with section 6-245, and the family of the deceased shall be given the option of installing a memorial brick in lieu of the monument or marker required in paragraph (c). The brick shall be purchased from the city, and shall be inscribed with the name of the deceased, birth date, and date of death. Cemetery staff shall flush-mount the memorial brick on a foundation at the head of the grave. The memorial brick may remain on the grave as a permanent marker or until replacement by a bronze, granite or marble monument or marker. A family may elect to install a memorial brick immediately following the burial in lieu of placing a temporary metal grave marker.

(k) While the city will exercise all possible care to protect raised lettering, carving or ornaments on any monument or memorial, it disclaims responsibility and shall not be liable for any damage or injury thereto.

(l) The monument company shall exercise all possible care to protect grave markers, monuments, water lines, and other cemetery fixtures, and shall be held liable for any damage incurred.

Sec. 2-642. - Plants, shrubs, flowers, trees and grasses.

(a) Permanent planting, maintenance and removal of grasses, shrubs, trees, flowers, and the like, shall be done only by the city.

(1) The planting of trees, shrubs and other plants in a memorial section violates the contract rights of those who purchased lots in a memorial section with the expectation that there be uniformity and interferes with the maintenance of the grave sites by cemetery staff. Accordingly, the cemetery manager will remove any and all trees, shrubs and other plants installed in a memorial section prior to December 1, 2009 after providing notice as specified in section 6-245. Trees, shrubs and other plants so removed may be transplanted to a common area of the cemetery if appropriate.

(2) Trees, shrubs and other plants installed prior to December 1, 2009 in a section of the cemetery that is not a memorial section may remain in place provided said trees, shrubs and plants are properly maintained by the family. The cemetery manager may remove the trees, shrubs or plants when 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.

(3) Any permanent trees, shrubs, flowers, or similar items planted anywhere in a city cemetery after December 1, 2009 shall be removed by the city following notice as required in section 2-645. Plantings so removed may be transplanted to a common area of the cemetery if appropriate.

(b) The cemetery manager shall remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from a cemetery as soon as, in the judgment of the cemetery manager, they become unsightly, dangerous, detrimental or diseased or when they interfere with the normal maintenance of the cemetery. Except as provided in paragraph (a) of this section, notice of such removal shall not be required.

(c) The city shall not be liable for frozen plants or herbage of any kind or for plantings damaged by the elements, thieves, vandals or by other causes beyond its control.

(d) Live flowers from burial services shall be removed by the cemetery manager within five (5) days after an interment. Upon the written request of the owner or legal representative of the owner within forty-eight (48) hours after an interment, flowers, baskets, designs or frames may be held for such owner or legal representative for a period not exceeding thirty (30) days. If not called for and removed by the end of the thirty-day period, such flowers, baskets, designs or frames shall become the property of the city and may be sold, destroyed or otherwise disposed of without incurring any liability whatsoever to donors, grave owners or their legal representatives.

(e) All vases and receptacles must be approved by the city. Approved vases may be of the invertible type. Fixed vases shall not exceed six (6) inches in diameter and ten (10) inches in height. No other receptacle may be used as a permanent vase. A frame may be used in lieu of a vase to support non-live flowers placed on a grave site on special dates or until a permanent marker can be installed, provided that the combined height of the frame and non-live flowers does not exceed twenty-four (24) inches. Glass or ceramic containers shall not be permitted under any circumstances.

(f) Potted plants will be allowed in the Lake Wales Cemetery and the Willow Lawn Cemetery subject to the following:

(1) A pot shall be buried so that the top edge of the pot is flush with the ground;

(2) A pot shall not exceed one (1) gallon in size, and a plant shall not exceed twenty-four (24) inches in height;

(3) A potted plant shall not bear thorns or stickers or otherwise be potentially hazardous to the cemetery staff or the public;

(4) A potted plant shall be maintained by the family, and, if not maintained by the family, shall be removed by the cemetery manager in accordance with paragraph (b) of this section.

(g) Potted plants will not be allowed in the Lake Wales Memorial Gardens Cemetery.

Sec. 2-643. - Enclosures, coping, curbing and borders.

(a) Fences, hedges, pipe, chains or raised enclosures of any kind are prohibited on grave sites. No coping or curbing shall be installed after November 19, 1996. Where coping or curbing exists prior to that date, it shall be permitted to remain at no risk to the city, and the repair of damage due to routine maintenance, settling, erosion, and the like, shall be the responsibility of the family.

(b) Flat borders will be permitted in the Lake Wales Cemetery and the Willow Lawn Cemetery subject to the following:

(1) A border must be flush-mounted and must be laid upon a foundation that will prevent tilting or shifting out of place.

(2) A border must be made of a material specified by the city, and an example of such acceptable material shall be displayed in the cemetery office.

(3) A border must be maintained by the family; if a border appears to be unkempt or not maintained for a period of three (3) months, the city shall remove the border after providing notice as required in section 2-645

(4) No border shall be installed unless the burial space has been located and clearly marked by the cemetery manager or his designated representative. The cemetery manager shall issue written authorization to the family to proceed with the setting of the border. A request for authorization must be made to the cemetery manager by 4:00 p.m. on the business day preceding the day on which the border will be set.

(5) A border installed in violation of this section shall be removed by the city after providing notice as required in section 2-645

(c) Flat borders will not be permitted in the Lake Wales Memorial Gardens Cemetery.

(d) (e) The requirements of this section shall not apply to portable fences, chains and other structures or equipment used during interments or memorial ceremonies provided said fences, chains, structures, or equipment are removed immediately after completion of the interment or ceremony.

Sec. 2-644. - Grave decorations.

(a) Grave decorations of any kind will be removed when they violate cemetery rules and regulations. Prior to removal, notice of violation shall be provided as specified in section 2-645 unless otherwise specified in this section.

(b) Special decorations placed on a grave site on special dates such as birthdays, anniversaries, Mother's Day, Father's Day, Memorial Day, Veteran's Day, Christmas, Easter or other dates of religious or cultural significance, may be placed no more than seven (7) calendar days before the holiday or special date and shall be removed within

seven (7) calendar days after the holiday or special date. Decorations not removed within the specified time shall be removed by cemetery personnel without the need for notice but shall be stored in accordance with procedures specified in subsection 2-645(b) except that perishable items shall be discarded.

(c) The following shall not be allowed upon grave sites and, if so placed, shall be removed at no risk to the city after notice as specified in section 2-645

- (1) Toys, dolls, stuffed animals or similar articles;
- (2) Shells, rocks, stones or pebbles;
- (3) Glass, ceramic or plastic objects;
- (4) Metal designs, frames, or hangars except as allowed on a temporary basis in accordance with paragraph 6-242(e);
- (5) Chairs, settees, benches or tables;
- (6) Wood or metal boxes or cases;
- (7) Lights, with the following exceptions:
 - a. A single solar-powered light may be flush-mounted on each side of the headstone provided that the solar-powered light is of a style and material specified by the city; an example of such acceptable solar-powered light shall be displayed in the cemetery office; and
 - b. Up to two (2) battery-powered or solar-powered candles may be placed on a grave site at Christmas and other dates of religious significance;
- (8) Inflatable items, with the exception that up to one (1) balloon no larger than fourteen (14) inches in diameter may be placed on a grave site on special dates;
- (9) Figurines or statuettes, with the exception that up to one (1) figurine or statuette of a religious subject (e.g., angel, saint, or the like) may be placed on a grave site on special dates provided it is placed upon a headstone or grave marker, is no more than twelve (12) inches in height, and is made of natural stone or cast concrete;
- (10) An ornament or item of any type that:
 - a. Interferes with the maintenance of the cemetery; or
 - b. Presents a potential safety hazard to cemetery staff and the public; or
 - c. Offends or insults any segment of the population that resides in the community; or
 - d. Disrespects the hallowed ground of the cemetery; or

- e. Disrupts the good order of the cemetery.
- (d) Flags may be placed on the grave site of a veteran in accordance with the following rules:
 - (1) Up to one (1) American flag no larger than thirteen by eight inches (13 × 8) may be placed on a grave site on Veteran's Day, Memorial Day and Independence Day;
 - (2) Any flag remaining on a grave site after seven (7) days shall be removed by cemetery staff without the need for notice; flags so removed shall be delivered to the local chapter of the VFW for re-use or, if faded or damaged, shall be destroyed in a dignified manner in accordance with Title 4, Chapter 1, Section 8, U.S. Code ("Respect for the Flag").
 - (3) A length of one-quarter-inch ($\frac{1}{4}$) PVC extending no higher than six inches (6) above the ground may be installed as a permanent receptacle for flags to be placed on dates that honor veterans.
 - (4) Small American flags no larger than six inches by four inches may (6×4) be incorporated into floral arrangements at all times during the year.
- (e) All decorations shall be placed on a grave site at the owner's risk, and the city shall not be responsible for the loss of any decorations by any cause whatsoever.

Sec. 2-645. - Notice of noncompliance with rules and regulations.

- (a) If a grave site is determined to be in violation of the rules and regulations of the cemetery, the cemetery manager shall place upon the grave site a flag or other marker that will serve as notification of the violation. If the violation is not corrected within thirty (30) days of flagging or marking the grave site, the cemetery manager shall remove the item(s) that are determined to be in violation of the rules and regulations at no risk to the city. Concurrent with the marking of the grave, the cemetery administrator shall forward written notice of the violation to the address on file with the city for the lot owner or his representative. If there is no address on file with the city, flagging or marking the grave site shall be the only notice required. Second and subsequent violations of the same rule or regulation shall not require notice, and the cemetery manager shall immediately remove the item(s) that are determined to be in violation at no risk to the city.
- (b) With the exception of plantings, items removed from a grave site for violation of rules and regulations shall be placed in a bag that is sealed and labeled with the name of the deceased, the location of the grave site, and the date of removal from the grave site. The bag shall be stored by the city for a period of twelve (12) months. After the expiration of twelve (12) months, unclaimed bags shall be disposed of by the city. The city shall bear no liability for items so disposed.
- (c) Trees, shrubs, or other plantings removed from a grave site may be transplanted to a common area of the cemetery or discarded, whichever is most appropriate.

(d) The cemetery manager shall maintain a record that lists items removed from a grave site, the name of the deceased, the location of the grave site, the date of removal from the grave site, the date claimed by the family or the date of disposal by the city, if applicable.

Secs. 2-646—2-650. - Reserved.

DIVISION 5. - RULES OF CONDUCT

Sec. 2-651. - Visiting hours.

The cemeteries shall be open for visitation purposes from sunrise to 9:00 p.m. daily. Persons visiting between sunset and 9:00 p.m. shall do so at their own risk. Any person entering the cemeteries after 9:00 p.m. and before sunrise without the prior approval of the city shall be deemed to be trespassing and subject to the penalty provided in section 1-15 of the city Code.

Sec. 2-652. - Use of roadways and entrances.

(a) No person shall use the roadways of the cemeteries as public thoroughfares for passage through the cemetery or for any other purpose, other than for attendance at funerals, memorial occasions, visits to graves or cemetery lots, or other similar uses and purposes, including official business.

(b) No person shall climb over, go through or go over any wall, fence or hedge in the cemetery, trespass in any manner upon cemetery property, or enter or leave the cemetery at any place other than at regularly established gateways or entrances and at such times as are established by the city for visitation.

Sec. 2-653. - Pedestrians.

(a) Persons walking within a cemetery shall use only the avenues, roads, walks and alleys and no one shall be permitted to walk upon or across lots or lawns unless it is necessary to do so to gain access to one's own lot. The city shall not be liable for any injury sustained by anyone violating this rule.

(b) Persons visiting a cemetery or attending a funeral are strictly prohibited from writing upon, defacing or injuring any memorial, fence or other structure within the cemetery.

(c) Persons visiting a cemetery or attending a funeral are strictly prohibited from gathering flowers, either wild or cultivated, breaking or injuring any tree, shrub or plant, or feeding or disturbing the birds, fish or other animal life within the cemetery.

Sec. 2-654. - Vehicles.

(a) *Admission.* Admission of vehicles upon cemetery roads shall be permitted as a

privilege and not as a right inherent to the ownership of interment rights in a burial space. Admission of vehicles is restricted to persons who observe the traffic rules of the city.

(b) *Entrance.* No vehicle shall enter a cemetery except through a regular entrance maintained for such purpose.

(c) *Driving on lots and lawns.* No person shall drive a vehicle over cemetery lots or upon cemetery lawns under any circumstances whatsoever.

(d) *Parking.* No person shall park any vehicle so as to obstruct any cemetery driveway, and no person shall drive or park any vehicle on any burial space. Parked vehicles must not be left with the engine running, and the emergency brake must be set when the driver is not in the vehicle.

(e) *Speed.* No person shall drive a vehicle at a speed in excess of ten (10) miles per hour.

(f) *U-turns.* No person shall make a U-turn on any road or driveway within the cemetery.

(g) *Horns, sirens or other similar noise emitting instrumentalities.* The sounding of horns, sirens or similar signals within the cemeteries is prohibited.

(h) *Funeral processions.* Drivers of vehicles in a funeral procession shall obey all traffic rules. When a vehicle meets a funeral procession, the driver must stop until the procession passes. A driver must not pass a funeral procession going in the same direction.

(i) *Pedestrian safety.* Visitors upon foot have the primary right to use of the road, and all drivers of vehicles are required to observe pedestrian rights by careful driving and strict adherence to the rules.

Sec. 2-655. - Miscellaneous rules of conduct.

(a) *Alcoholic beverages.* No person shall consume any alcoholic beverage, including beer and wine, within the boundaries of the cemeteries.

(b) *Children.* Children under fifteen (15) years of age shall not be permitted within a cemetery or its buildings unless accompanied by an adult who will be responsible for their conduct. Children, when accompanied by an adult, shall not play upon cemetery lots or lawns.

(c) *Dogs and other animals.* Dogs and other domestic animals or non-domestic animals are prohibited on cemetery grounds or in cemetery buildings, except that this prohibition shall not apply to service animals accompanied by their owner.

(d) *Disrespecting grave sites.* No person shall disrespect or desecrate grave sites by lying, sitting, or standing on top of markers, monuments or any other memorial structures.

(e) *Disturbing funerals.* No loud talking shall be permitted within hearing distance of funeral services.

(f) *Peddling or soliciting.* Peddling of flowers or plants or soliciting the sale of any commodity is prohibited within the boundaries of the cemeteries.

(g) *Littering.* The throwing of trash or litter on the drives, paths, lawns, lots or any other part of the cemetery grounds is prohibited.

(h) *Food and beverages.* No food or beverages shall be permitted in the cemeteries.

(i) *Signs and advertisements.* No signs, notices or advertisements of any kind shall be allowed in a cemetery unless placed by the city.

(j) *Firearms.* No firearms shall be permitted in the cemeteries except for ceremonial purposes by a military escort accompanying the funeral of a veteran or a law enforcement officer or attending memorial services.

(k) *Other inappropriate activities.* No person shall disturb the peace or disrupt the proper order of any cemetery by yelling, fighting, running, engaging in games or sports activities, engaging in horseplay, playing loud music, or using offensive words or insults. No person shall loiter or wander aimlessly about on cemetery grounds.

Sec. 2-656. - Vandalism or injury to cemeteries.

(a) In accordance with F.S. § 872.02, any person who willfully and knowingly destroys, mutilates, defaces, injures or removes any tomb, monument, marker, gravestone or other item intended for the protection, identification or ornamentation of any tomb, monument or gravestone or willfully destroys, mutilates, removes, cuts, breaks or injures any tree, shrub, or plant placed or being within the boundaries of the cemeteries is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082 or F.S. § 775.083. However, if the damage to such property is greater than one hundred dollars (\$100.00) or if any property removed is greater in value than one hundred dollars (\$100.00), then he is guilty of a felony of the third degree, punishable as provided in F.S. § 775.082, F.S. § 775.083, or F.S. § 775.084.

(b) Any person who willfully and knowingly disturbs the contents of a tomb or grave is guilty of a felony of the third degree, punishable as provided in F.S. § 775.082, F.S. § 775.083, or F.S. § 775.084.

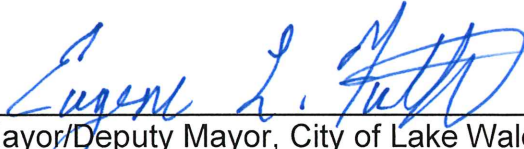
(c) This section shall not apply to any person authorized by law to remove or disturb a tomb, monument or gravestone or the contents of a tomb or grave.

Secs. 2-657—2-699. - Reserved.

SECTION 2. SEVERABILITY. If any clause, section, or provision of this ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.


SECTION 3. EFFECTIVE DATE. This ordinance shall take effect immediately upon its passage by the City Commission.

CERTIFIED AS TO PASSAGE THIS 4th day of August 2015.



Mayor/Deputy Mayor, City of Lake Wales

Attest:



Clara VanBlargan, MMC, City Clerk