

City of Bastrop Cemetery Advisory Board Meeting
October 19, 2016 4:00 p.m.
City Hall Council Chambers
1311 Chestnut Street
Bastrop, Texas 78602

- I. Call to Order
- II. Announcements
- III. **Public Comments.** [Note: Persons may address the Cemetery Advisory Board on any issue not otherwise listed on this Agenda. Please observe the time limit of three (3) minutes for general public comments. In accordance with the State of Texas Open Meetings Act, the Board cannot undertake discussion or take any action on Public Comments received at the meeting, but can: (1) recite Board/City policy on the points raised and/or (2) place items on an upcoming agenda for both discussion and action at that upcoming meeting.]
- IV. Consideration, discussion and possible action on approval of the minutes from the Cemetery Advisory Board meeting of July 20, 2016. Pages 1-7
- V. Consideration, discussion and possible action on a review of Chapter 15 "CEMETERIES", Article 15.01 "FAIRVIEW CEMETERY" of the City of Bastrop Code of Ordinances and recommendation of revisions to the Bastrop City Council. Pages 8-21
- VI. Discussion, consideration and possible action on changing the established regular meeting dates and/or times for future Cemetery Advisory Board meeting(s). Page 22
- VII. Informational update to Board, by Staff, on matters related to the Fairview Cemetery operations and maintenance.
- VIII. Invitation for input from Board Members related to issues for possible inclusion on the next meeting agenda.
- IX. Adjourn.

CERTIFICATE

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted on the bulletin board, at the City Hall of the City of Bastrop, Texas, a place convenient and readily accessible to the general public at all times, and said notice was posted on the 14th day of October 2016 at 3:10 pm. Copies of this agenda have been provided to those members of the media requesting such information.


Tracy Waldron, Chief Financial Officer

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: THE CITY OF BASTROP IS COMMITTED TO COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. BASTROP CITY HALL AND COUNCIL CHAMBERS ARE WHEELCHAIR ACCESSIBLE AND SPECIALLY MARKED PARKING IS AVAILABLE. PERSONS WITH DISABILITIES WHO PLAN TO ATTEND THIS MEETING AND WHO MAY NEED ASSISTANCE ARE REQUESTED TO CONTACT THE FINANCE OFFICE AT 512-332-8820. PLEASE PROVIDE FORTY-EIGHT HOURS NOTICE WHEN FEASIBLE.

Confirmed time posted:



STANDARDIZED AGENDA RECOMMENDATION FORM

FAIRVIEW CEMETERY ADVISORY BOARD

DATE SUBMITTED: 10/14/16

MEETING DATE: 10/19/16

1. Agenda Item: **Consideration, discussion and possible action on approval of the minutes from the Cemetery Advisory Board meeting of July 20, 2016.**

2. Party Making Request: **Tracy Waldron, Chief Financial Officer**

3. Nature of Request: (Brief Overview) Attachments: Yes X No _____

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____ Budgeted Amount: _____

Under Budget: _____ Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: **NAME/TITLE** **INITIAL** **DATE** **CONCURRENCE**

a) _____

b) _____

c) _____

8. Staff Recommendation: Approval of Minutes

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

City of Bastrop
Cemetery Advisory Board Meeting Minutes
July 20, 2016 4:00 p.m.

The Cemetery Board met in a regularly scheduled meeting on July 20, 2016 at 4:00 p.m., in the Council Chambers of the City Hall at 1311 Chestnut Street, Bastrop, Texas. Members present were Terry Sanders, Carl Spooner, Ted Schaefer, Mary Williams, and Cheryl Long. City Staff in attendance were Acting City Manager Steve Adcock, Tracy Waldron, Heather Ambrose, David Rosas, Jason Alfaro and Trey Job.

I. Call to Order

Board Chair Terry Sanders called the meeting to order at 4:00 p.m. Board Member Mary Williams arrived at 4:04 pm

II. Announcements

Tracy Waldron introduced Heather Ambrose as the replacement for Zana Jones in the Finance Department. Ms. Ambrose will be the one directly working with the Board.

III. Public Comments [Note: Persons may address the Cemetery Advisory Board on any issue not otherwise listed on this Agenda. Please observe the time limit of three (3) minutes for general public comments. In accordance with the State of Texas Open Meetings Act, the Board cannot undertake discussion or take any action on Public Comments received at the meeting, but can: (1) recite Board/City policy on the points raised and/or (2) place items on an upcoming agenda for both discussion and action at that upcoming meeting.]

There were no public comments.

IV. Consideration, discussion and/or approval of the Cemetery Advisory Board's April 20, 2016 meeting minutes.

Carl Spooner made a motion to approve the minutes as written, seconded by Ted Schaefer. Motion carried unanimously.

V. Consideration, discussion and possible action of a recommendation that City Council either Grant or Deny a Variance Request submitted by owners of the cemetery plots legally described as being Block 1, Section 2, Lots 98 & 98A to allow the placement of polished pebbles (over commercial weed control fabric) as prohibited in City of Bastrop Ordinance No. 2009-31, Section 15.15 (e) Prohibited Activities.

Terry Sanders inquired whether this item had been presented to the City Council first. Tracy Waldron advised him that this is a new request of May 23, 2016. Ms. Waldron explained that included in the Board's packet were two separate, but related, documents. First, there is the new request by Shakeal M. Silva and Thomas and Tresha Silva. This request is for a variance to the Cemetery ordinance to allow polished pebbles, over commercial grade weed control fabric, to cover the cemetery plots referenced on the agenda. The second set of documents show the history of a previously approved variance that is very similar. This shows an example of what happens when variances are approved and citizens do not comply with the requirements set forth in the variance.

Ms. Waldron inquired when the picture of the previously approved variance had been taken. City Parks Worker David Rosas, who is assigned to cemetery maintenance, advised that the picture of the previously approved variance was taken a few weeks before the meeting. Ms. Waldron explained that what was being shown was intended to demonstrate how the Board has been approached with this scenario before and a variance was approved. When this previous agenda item was presented to the City Council it included a stipulation that the property owners be required to maintain the lot if the variance was approved. However, the actual Variance granted did not reflect that recommendation. This will need to be revisited to address the condition of the Plot. Ms. Waldron said she intends to write a letter and let the owners know they were granted a variance but they have not maintained the plot. The concept as proposed looks pretty but the maintenance has not occurred.

Mr. Sanders asked if there was black plastic placed underneath the rocks on the Silva plot. David Rosas said there is plastic but it will eventually deteriorate.

Mr. Sanders said that the issue is how much variation and lack of maintenance the City is willing to accept. Mr. Sanders said he isn't sure what could be done when people place things that violate the ordinance without the City's knowledge. Ms. Long said people could be fined for violating the ordinance but that involves more paperwork and staff time to pursue. She feels that taking it to the Council uses valuable Council time too. Discussion proceeded amongst Board members that when weeds begin to grow, the City would have to poison the weeds. Board members agreed that this was not a good use of a City worker's time.

Mr. Spooner said that he feels that by not upholding the ordinance and allowing weed growth, we (the City) are failing in our duties. Mr. Sanders discussed what types of coverings are allowed over cemetery plots and asked if concrete was an option. Cheryl Long inquired whether any type of covering other than grass was allowed. Ms. Waldron stressed that this variance is specifically to allowing polished pebbles on the specific plot. She reminded the board that the ordinance will be reviewed as a whole and that permitted and prohibited coverings would be one of the areas they could address.

Carl Spooner asked if the rocks were placed without permission and Ms. Waldron said that was correct. Mr. Rosas said he recalls that they came in over a weekend and put it in without a permit. Tracy Waldron said that a letter was sent to the Silvas advising them the rocks were prohibited and would have to be removed. That is why the Silvas submitted the request. Ms. Long said that she thinks people don't realize there are other restrictions than the monument height requirement. Ms. Waldron said that the ordinance gives details about what is allowed and prohibited. Ms. Long said she doesn't think people understand the ordinance requirements.

Mary Williams clarified that the cemetery does have signs indicating that owners should contact the City before placing anything on a plot. In her opinion, allowing this would be an indication that others can do as they choose. Mr. Spooner agreed that it would leave the City open to future requests to be approved.

Ms. Long asked if the Silvas would have to remove the rocks and weed control fabric if the variance is not approved. Ms. Waldron indicated that was correct. Ms. Long said that would be a lot of work. Ms. Waldron said that this was done without a permit. Ms. Ambrose stressed that plot owners are provided a copy of the ordinance at the time a plot is purchased. Since the time of grieving is not an ideal time to read an ordinance, a letter is mailed a month or so later with their deed reminding them once again about the ordinance.

Discussion began related to whether concrete borders were allowed. Ms. Waldron said that in some areas it is allowed. However, even when something is allowed they are required to obtain a permit and that was not done in this instance.

Ms. Long said that she feels what is allowed for loved ones is a sensitive area and that many people are not aware of what is required. Ms. Williams said the family knew to get a permit for the border surrounding the plot so they had knowledge of the ordinances requirements to some extent. Mr. Spooner agreed. Ms. Long suggested that another sign be placed that lists specifics of what is, and is not, allowed

Tracy Waldron reminded the Board that their recommendation will be given to Council if the Silvas choose to pursue the matter to that level.

Mary Williams made the motion to uphold the Cemetery ordinance related to Section 15.15 (e) Prohibited Activities, deny the variance as requested by the Silvas, and require the removal of the polished pebbles and weed control fabric placed by the plot owners. Seconded by Ted Schaefer. Motion carried with Terry Sanders and Cheryl Long voting against the motion.

VI. **Review of City of Bastrop Ordinance No. 2009-31, "Fairview Cemetery".**

Mr. Sanders suggested a committee be appointed to review the ordinance, make recommendations, and report back to the Board with suggested revisions. Ms. Waldron said that can be done but staff has reviewed the ordinance and there are only about three major issues that continually arise. Other revisions would be minor "housekeeping" type changes. Mr. Sanders said that he wouldn't have any problem with the City making the revisions but he has time to assist and wanted to offer. He said he'd like to give input into the changes and Ms. Waldron said that would be important.

Ms. Waldron said various cities about the size of the City of Bastrop had been polled related to the issues that Bastrop faces most often. Cheryl Long inquired what cemeteries had been polled. Ms. Ambrose said that she had polled neighboring cities such as Giddings, La Grange, and Smithville but had also polled other cities such as Lampasas, College Station, Burnet and Taylor. She stressed that the cities were similar in size.

Ms. Waldron said that if the Board really wants to allow coverings over graves, they might be able to place a stipulation that it is allowed provided it is maintained. Mr. Spooner cautioned that "maintained" is a term that would need to be defined to ensure that it's understood by citizens of what is expected.

Ms. Ambrose added that communicating with plot owners related to violations is often difficult because people move, or the owner and/or heirs are deceased. People do not update their records and it takes time to track down new addresses. Contacting them and mailing out letters can become problematic.

Ms. Waldron said she likes the diversity and uniqueness of the cemetery and wants to be able to allow owners to honor their loved ones. However, with only one employee working in the cemetery, it's difficult for him to be able to maintain all the individual, personal decorations and coverings. Ms. Long asked Mr. Rosas if he was the only employee and he confirmed that was correct. She said that it was a lot of work for one person and he may need help. Ms. Waldron said that the revenue that comes in has to support all cemetery operations and needs.

Acting City Manager Steve Adcock asked what ability the City has to enforce violations of the ordinance and what procedures are used. Ms. Waldron said that if a covering or object is not in compliance, it will be removed. Mr. Adcock clarified whether the City itself would remove the materials. Ms. Waldron said the City will do the removal if the property owner cannot be contacted to do so themselves.

Parks supervisor Jason Alfaro said he is concerned about the maintenance related to coverings over plots. Ms. Waldron said that is why it is common to simply prohibit the coverings. Ms. Long said that she has seen many types of coverings inside the borders of cemetery plots. She asked how that is maintained if the property owner does not do so themselves. Ms. Waldron said that Mr. Rosas simply can use the weed-eater over the covering as best as he is able. Mr. Rosas said that he once broke a window in a City vehicle when the weed-eater hit a rock, throwing it towards the truck. Ms. Waldron said that this is why Mr. Rosas is present so that he can give his input into what challenges he faces.

Some discussion was held amongst Board members related to the possibility of the City applying weed killer to the plots with grass overgrown. The general consensus was that this is not something City workers should have to do or an expense that should be undertaken.

Ms. Waldron said that another issue that arises fairly often is variances to the height restriction for monuments. She feels that keeping the restriction is important for safety reasons. For example, as the height of the monument gets taller, the base will need to be larger to ensure safety. A maximum of 4' in height of the monument is the requirement. Ms. Long asked whether there was a height requirement for curbing. Ms. Ambrose advised that many cities do have those restrictions but Bastrop's ordinance does not.

Mr. Adcock said that the higher the monument, the more likely it could be to fall over. And, if the base has to be larger, it requires more space on the plot itself. This is a safety concern.

Ms. Ambrose said that most issues that arise are variations on the prohibited objects. For example, items such as birdbaths, benches (in certain areas), and fences. Ms. Long asked if people are prohibited from putting benches on plots and Ms. Ambrose said that they are allowed in certain areas only. And, fencing is no longer allowed although it has been in the past.

Mr. Sanders said that although he has no problem with the height restriction being raised, he does recognize the possible liability of safety hazards. He feels that raising the height restriction to 6' or 8' wouldn't be too much. He knows people now that want to go that high. Mr. Spooner said he could agree to that, but if it's taller, it needs to be set in concrete and unable to topple over. Mr. Adcock said he too would have safety concerns about liability.

Ms. Waldron stressed the main topics that arise are:

- Placement of prohibited covers and objects;
- Height variances

Ms. Waldron asked if the Board wants staff to bring a draft revised ordinance back at the next meeting. The existing ordinance is decent but just needs some clean-up and clarification.

Board members discussed the use of concrete on top of plots. Mr. Spooner mentioned that concrete trucks should be allowed to enter through a different entrance. He added that the dirt that is piled to the south of Block 8 should be relocated. Ms. Waldron asked if Mr. Alfaro understood what Mr. Spooner was suggesting and he said he understood. Mr. Spooner said that the additional cemetery property will be needed soon.

Mr. Sanders said he feels that there should be guidelines as to how wide the curbing should be allowed. Mr. Spooner agreed that this needs updated. Ms. Waldron said she would address in the revised ordinance.

Mr. Sanders asked about whether a permit and fee is always required for work done in the cemetery and if there are different types. Ms. Ambrose said the permit fee is \$25.00. Ms. Waldron said is it for the placement of monuments, curbing of plots, and burial opening/closing.

Ms. Waldron complimented Mr. Rosas on his dedication to bringing problems and concerns to the attention of office staff.

Ms. Long inquired about whether flags have any restrictions. Ms. Ambrose stated that there is a maximum size of 12" allowed for flags, but not a maximum number. And, larger flags are allowed in advance of, and following, holidays. Smaller flags are allowed at all times.

Discussion ensued about allowing mausoleums in Fairview Cemetery. Mr. Sanders said he actually likes the concept of a mausoleum as there are so many types. Ms. Long agreed that she likes the concept too. Several board members inquired why they are prohibited in Fairview. Ms. Waldron said that she believes the reason they are forbidden is related to the City having little knowledge regarding the guidelines for establishing and maintaining a mausoleum.

Mr. Sanders stressed that citizens always have the option of seeking a variance and going to the Council so the ordinance isn't the end of their ability to make a request. Mr. Sanders suggested that this be added to the ordinance to let people know. Ms. Long suggested that if this is not in the ordinance that it be added.

Mr. Sanders inquired why it was important to prohibit planting on graves. Mr. Rosas and Ms. Waldron said it was important for maintenance reasons as plants can spread to adjoining plots and/or die if not maintained.

Ms. Long stressed that more trees need to be planted in the cemetery.

Mr. Spooner expressed his thanks to the City's Public Works staff for their hard work in maintaining the cemetery.

Ms. Waldron advised that staff will take into consideration the suggestions that were made and bring a draft revised Ordinance back to the Board at the next meeting for review and possible recommendation to the Council for approval.

VII. Informational update to Board, by Staff, on matters related to the Fairview Cemetery operations and maintenance.

Ms. Waldron advised that roads would be worked on soon during this summer period. Mr. Spooner added that some of the trees along the cemetery roads need trimmed as they are hanging too low. Mr. Alfaro informed the Board that the City hired temporary workers to assist with maintenance this summer and it has really helped with the workload. Mr. Spooner said he had met some of them.

VIII. Presentation to Board by staff on financials for period ending June 30, 2016.

Ms. Waldron presented and explained the financials.

IX. Consideration, discussion and approval of proposed budget for Fiscal Year 2017.

Ms. Waldron explained that the documents presented show a snapshot of the financial condition of the current cemetery budget as well as where the departmental fund should be in the future. In addition, a budget for FY17 was presented predicting the same revenue as FY2015-2016. The budget also includes \$10,000 for road maintenance.

Tracy added that a purchase and implementation of cemetery accounting and tracking software is planned for the coming fiscal year. This software should assist City employees in tracking information and assisting in streamlining recordkeeping processes.

Terry Sanders made the motion to recommend approval of the FY 2016-2017 fiscal year budget as presented. Motion seconded by Carl Spooner and carried unanimously.

IX. **Discussion, consideration and possible action on setting the dates and times for next Cemetery Advisory Board meeting(s).**

Terry Sanders set the next meeting for October 19, 2016 at 4:00 p.m.

X. **Invitation for input from Board Members related to issues for possible inclusion on the next meeting agenda.**

No input was received.

XI. **Adjourn.**

Ted Schaefer made a motion to adjourn the meeting at 4:49 p.m., seconded by Mary Williams. Motion carried unanimously.

STANDARDIZED AGENDA RECOMMENDATION FORM

FAIRVIEW CEMETERY ADVISORY BOARD

DATE SUBMITTED: 10/14/16

MEETING DATE: 10/19/16

1. Agenda Item: **Consideration, discussion and possible action on a review of Chapter 15 “CEMETERIES”, Article 15.01 “FAIRVIEW CEMETERY” of the City of Bastrop Code of Ordinances and recommendation of revisions to the Bastrop City Council.**

2. Party Making Request: **Tracy Waldron, Chief Financial Officer**

3. Nature of Request: (Brief Overview) Attachments: Yes X No

Review proposed revisions to the Fairview Cemetery ordinance.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No _____ N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget: _____

Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: **NAME/TITLE** **INITIAL** **DATE** **CONCURRENCE**

a) _____

b) _____

c) _____

8. Staff Recommendation: _____

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager’s Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____

Chapter 15 - CEMETERIES

ARTICLE 15.01 - FAIRVIEW CEMETERY

Sec. 15.01.001 - Definitions.

In this article:

Burial site. A space of ground that is in a cemetery and that is used or intended to be used for interment in the ground.

Cemetery. A place that is used or intended to be used for interment, and includes a graveyard, burial park, or mausoleum.

Cremated remains. The bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.

Funeral establishment. A place of business used in the care and preparation for interment or transportation of human remains, or any place where one or more persons, either as sole owner, in co-partnership, or through corporate status, are engaged or represent themselves to be in the business of embalming or funeral directing.

Grave. A space of ground that is in a burial park and that is used or intended to be used for interment in the ground.

Interment. The permanent disposition of remains by entombment, burial, or placement in a niche.

Perpetual care. The maintenance, repair, and care of all places in the cemetery.

Perpetual care cemetery. A cemetery for the benefit of which a perpetual care trust fund is established.

Plot. A space in a cemetery owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves.

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

- (a) The city as owner and operator of Fairview Cemetery is hereby authorized to act as a permanent trustee for the perpetual care and upkeep of plots and graves in the cemetery and shall accept such trust as provided in this article.
- (b) *Cemetery advisory board.*
 - (1) The advisory board members shall be appointed by the mayor and confirmed by the council, for terms of three (3) years. Each seat on will be assigned a "place." Advisory board members' terms of service shall be "staggered," so that the entire membership of the advisory board will not be subject to replacement at any single point in time. To the extent possible, staggering shall be done so that the advisory board membership is divided into thirds. Initial staggering of the membership will be accomplished by having all appointees/members who are serving as of the first annual meeting following approval and passage of this section (held in July), "draw lots" to determine which "place" will have what number of service in the transition period (e.g., one-third (1/3) of the places will draw for one-year terms, one-third (1/3) of the places will draw for two-year terms, and the remaining one-third (1/3) of the places will draw for three-year terms.) After the first July meeting, staggering of membership, by place, will begin.

- (2) In the event of a vacancy, an individual appointed to fill the vacancy will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.
- (3) The members of the advisory board shall reside within the city's extraterritorial jurisdiction and/or the city.
- (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, with no formal action taken.

(Ord. No. 2009-31, 10-27-09; Ord. No. 2012-13, pt. 4(C), 6-26-12)

Sec. 15.01.003 - Adoption and enforcement of rules and regulations to establish perpetual care cemetery and protect and care for graves.

- (a) The city shall adopt and provide for the enforcement of such reasonable rules and regulations as may be necessary to establish, maintain, and oversee the Fairview Cemetery as a perpetual care cemetery, to protect the graves of those who are interred in the cemetery, and to maintain the beautification of the cemetery under uniform conditions. Perpetual care shall herein mean a cemetery for the benefit of which is created a perpetual care trust fund established pursuant to state law for the maintenance, repair and care of all plots and graves in the cemetery including, but not limited to road maintenance, mowing, edging, pruning, landscape construction, pest control, security, and all other maintenance activities that are deemed necessary to the care, protection, and preservation of the cemetery.
- (b) The city is hereby empowered to enforce all rules and regulations, to exclude from cemetery property any violator and shall have charge and supervision of the grounds, buildings, persons on cemetery property, funerals, traffic, employees, plot owners and invitees.

Sec. 15.01.004 - Purpose; applicability; force and effect.

For the mutual benefit and protection of plot purchasers in the Fairview Cemetery, the rules and regulations in this article are hereby adopted, approved and enacted by the City Council. These rules and regulations, as may from time to time be amended, shall be applicable to all plot owners, visitors, tradesmen, contractors, employees, and agents of the same. Reference to these rules and regulations in any letter, memorandum, contract, deed, certificate of ownership, or other instrument shall have the same force and effect as if fully set forth therein.

Sec. 15.01.005 - Renunciation of trust by city; successor.

If the city shall hereafter renounce the trust it accepts pursuant to this article or if the city fails or refuses to act as a permanent trustee for the cemetery, then the county judge shall appoint a suitable successor to the city which shall faithfully execute the trust as provided herein.

Sec. 15.01.006 - Funds accepted in trust for care and upkeep.

The city will not accept funds in trust for the care of individual plots or graves, other than as a portion of the total cost of a plot which shall be used by the city for the general care and maintenance of all graves in the cemetery. The city will accept donations, gifts, or grants for the upkeep or enhancement of the entire Fairview Cemetery.

Sec. 15.01.007 - Power and authority to invest funds.

The city is hereby invested with the power, authority, and duty to invest and reinvest all funds advanced to or otherwise provided to it for the purposes set forth in this article in interest bearing bonds and securities and other institutions as are authorized under the laws of the state.

Sec. 15.01.008 - Management.

- (a) The City Manager shall be responsible for overseeing and supervising the maintenance, care and operation of the Fairview Cemetery as a perpetual care cemetery, but may in his discretion, appoint or hire employees or contractors or agents to carry out the duties mandated herein.
- (b) The ~~finance director~~Chief Financial Officer ~~or assistant finance director~~, or their 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) Cemetery care, oversight and supervision by the city does not include the purchase, erection, repair, leveling or replacement of monuments, headstones, markers or any other item on a grave site.
- (d) The city shall take reasonable care to protect the burial rights of plot owners, but specifically disclaims any and all responsibility for loss or damage caused by third parties or other events, including but not limited to vandals, unavoidable accidents, malicious mischief, and acts of nature, and the failure of a party to satisfy contractual obligations regardless of whether the loss or damage is direct or collateral or to person or property.
- (e) All funerals within the Fairview Cemetery property ~~shall be scheduled and coordinated through the Finance Department under the charge and supervision of an officer of the city designated by the City Manager.~~

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~~their, designee may permit interment at other times. No interment is permitted on state, federal or city holidays. In the event the City Manager ~~or their designee~~, permits a burial to occur outside of the cemetery's regular hours, the individual requesting the burial ~~shall 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 ~~within 25 feet from in~~ the area where the service is occurring. ~~Two hours of time will be allowed between the end of a funeral and the beginning of another funeral.~~

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Sec. 15.01.010 - Recordkeeping.

- (a) The city shall maintain a permanent, cemetery records ~~book~~, which shall be the official records regarding the purchase and ownership of deeds in the Fairview Cemetery. The ~~se~~ records ~~book~~ shall contain:
 - (1) ~~The Name, and~~ 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) Notification, in writing, of the individual who is to be buried in the plot, if different from the purchaser.
 - (4) Proof of receipt of a copy of this article by the purchaser.
 - (5) Evidence of deed transfers between individuals, when applicable.

- (b) It shall be the responsibility of every purchaser of a plot in the Fairview Cemetery to keep the city fully informed of his/her current mailing address. Notice required pursuant to the provisions of this article shall be deemed sufficient if sent to the most recent mailing address in the city's records.
- (c) It shall be the responsibility of every purchaser of a plot in the Fairview Cemetery to immediately inform the city, in writing, if the individual to be interred in the grave site changes from the initial designation or if there is a transfer in ownership of the grave site.

Sec. 15.01.011 - Previously purchased cemetery plots in the Fairview Cemetery.

The city will honor all prior sales of cemetery plots in the Fairview Cemetery by the Fairview Cemetery Association or Bastrop Cemetery Association upon proof of prior purchase and payment in full. If proof of purchase is not available, the city will accept an affidavit of ownership which shall be signed and notarized.

Sec. 15.01.012 - Sale of cemetery plots; generally.

- (a) *No discrimination.* The city shall not discriminate in the sale, location or availability of cemetery lots which shall be available on a "first come, first serve" basis. The city, however, reserves the right to sell lots in the sections of the cemetery that are currently open and available for purchase.
- (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 and certificate of ownership](#) 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 its discretion.
- (d) *Maximum number of cemetery plots.* A maximum of eight (8) 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 (8) at the discretion of the City Manager [or his designee](#), should specific circumstances indicate that additional plots are required.
- (e) *Receipt of article.* Every person who purchases a cemetery plot shall acknowledge in writing, which writing shall be maintained by the city, that they have received a copy of this cemetery article and they (and any heirs, assigns, or successors) will abide by the provisions established herein.
- (f) *Sale to individuals only.* Cemetery plots in the Fairview Cemetery may be purchased by individuals only and not by a business or entity for the purpose of resale, except in the case of an entity involved specifically in the business of burial services, as a representative of an individual to be buried, or the deceased's family.
- (g) *Remains.* One (1) cemetery plot is approximately 5' x 11', unless otherwise designated. Interment allowed in a single grave shall be:
 - (1) One person's bodily remains;
 - (2) Two people's bodily remains stacked vertically only if lower coffin is equipped with a concrete liner;
 - (3) One person's bodily remains and one persons' cremated remains;
 - (4) Two (2) people's cremated remains; or
 - (5) At the discretion of the City Manager.

The remains of a cremated animal may be buried within the same container as the human remains at the time of the interment, and only in any of the above listed circumstances. The remains of non-cremated animals may not be buried in the Fairview Cemetery.

- (h) *Correction of errors.* The city shall have the right to correct errors in interment, disinterment, removal or in the description, transfer or conveyance of interment property, either by cancellation and conveyance of interment property of equal value and location selected by the city, or in the sole discretion of the city, by refunding all sums paid on account of the purchase. If an error involves the interment of remains, the city shall have the right to remove the remains to another site of equal value and similar location as may be practicable and shall convey ownership to the new site.
- (i) *Delay due to protest.* The city shall not be liable for a delay in interment when a protest to interment has been made or when the rules and regulations of the city have not been met. The city reserves the right under such circumstances to delay the burial or refuse to permit the burial until the protest is resolved. The city shall have no duty to recognize any protest of interment unless filed with the city in writing or upon order of a court of competent jurisdiction.
- (j) *Pauper gravesites.* Pauper gravesites for indigents shall be available by permit only at the sole discretion of the City Manager. Confirmation of the indigent status of the individual must be proven along with the indigent's last known address. Burial sites for indigents who resided in the city limits will be provided at no cost and a marker identifying the indigent's gravesite shall be installed. The interment of indigents who resided outside the city limits shall be at the city's discretion and, if allowed, shall be buried at the expense of the party requesting the burial, which includes purchase of the plot, a filing fee, a marker, permit fee, and a grave preparation fee

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 ~~director~~ department a ~~corporate surety bond~~ certificate of liability insurance, payable to with the city as an additional insured in the minimum amount of \$500,000, ~~limits???~~ \$5,000 which sum may be used to pay for any damages occurring to person or property in the process of digging the grave. The bond certificate may be held by the city for application to future burials, ~~or if for a single interment only, shall be returned after burial and inspection to assure the city that no damage has occurred.~~
- (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), ~~the payment of a corporate surety bond, payable to the city in the amount of \$5,000 which sum may be used to pay for any damages occurring to person or property in the process of reopening the grave,~~ and the payment of a reopening fee.
- (c) *Payment in full.* No permit will be issued for the opening or reopening of a grave until payment for the lot is received in full.
- (d) *Twenty-four-hour notice.* The city ~~shall require~~ 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. ~~This requirement may be waived by the City Manager in the event of a hardship or special circumstances.~~
- (e) *Information and location of plot.* The city shall not be liable for the information provided by a permit applicant and listed on the interment permit, including the identity of the person for whom interment is sought or errors in the location of a burial site.

- (f) *Grave depth.* Grave depth shall be in compliance with state law.
- (g) *Grave backfilling.* All graves shall be backfilled and force settled by hydraulics or mechanical means to the satisfaction of the city ~~staff overseeing the burial.~~
- (h) *Grade level.* All graves shall be maintained at the same level as the surface of the ground surrounding the plot. Under no circumstances, shall a grave mound be permitted to remain after a grave has settled.
- (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.

(Ord. No. 2009-31, 10-27-09; Ord. No. 2010-27, pt. 1, § 15.13, 10-26-10)

Sec. 15.01.014 - Right of first refusal.

No sale, transfer or assignment of title of any plot in the Fairview Cemetery shall be valid without the written consent of the city. All cemetery deeds for plots sold by the city in the cemetery shall provide the city with the "right of first refusal" which permits the city to repurchase the plot in the event the owner of a burial site wishes to divest his/her interest. The plot may be repurchased by the city in the amount the plot was originally sold to the owner. If no records exist to evident the original price paid, the city may repurchase the plot for the percent to be determined of the current existing plot price.

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 and metal vases are prohibited in the cemetery.

(b) Objects placed upon, or around, any gravesite must not exceed four feet (4') in height.

(c) Fencing erected around plots must not exceed 4' and must not prohibit drainage or significantly obstruct the view of other plots.

~~(a) 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.~~

~~(b) As of the date of this article, cCurbing is permitted in all areas of the Fairview Cemetery, where lots are available for purchase after the obtainment of the required construction permit from the city through an application to the finance department director, and shall comply with all city and cemetery construction rules, specifications and requirements. Curbing shall not be permitted, however, in any area of the cemetery not currently open for sale. This includes block 8, as well as any additional blocks established after the effective date of this article.~~

(e) No party shall enlarge, reduce, replat 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.

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- ~~(d) No maintenance, decoration or preparation of any kind shall be permitted on a burial site until the city has received payment in full for the plot.~~
- ~~(e) No granite, brick, stone, wood, concrete, cornerstones or any kind of artificial walkways or walks are permitted on or adjoining plots in the Fairview Cemetery, except those existing prior to the passing of this article or installed by the city.~~
- ~~(f) No graves in the Fairview Cemetery shall be covered with a concrete slab or other type of slab or covering.~~
- ~~(g) Digging for the placement of potted plants, baskets or other items is strictly prohibited.~~
- ~~(h) Digging for the purpose of burying cremated remains is strictly prohibited without an interment permit from the city.~~
- ~~(i) The Fairview Cemetery is for the interment of human remains only, except as provided in section 15.01.012(g).~~
- ~~(j) The drinking of alcoholic beverages in the Fairview Cemetery is strictly prohibited.~~
- ~~(k) No dogs are permitted in the Fairview Cemetery, with the exception of service dogs, providing assistance to individuals with physical disabilities.~~
- (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.

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 construction permit from the city through an application to the finance ~~director~~department, and shall comply with all city and cemetery construction rules, specifications, and requirements.
- (b) *Certificate of Insurance Bond.* Prior to the issuance of a ~~construction~~ permit by the city for the purposes of ~~building~~ erecting a monument, tombstone or other marker or memorial in the Fairview Cemetery, the applicant shall file with the finance ~~director~~department a certificate of insurance with the city listed as an additionally insured corporate surety bond payable to the city in the amount of \$5,000. The city, on notice to the applicant, shall be permitted to use the bond amount. 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) *Performance.* Concrete or other material used on a cemetery plot to build a monument, marker, memorial or tombstone shall be mixed and prepared in the streets of the Fairview Cemetery only and not on grass, dirt or other areas. The person performing such work shall, upon completion, immediately remove all sand, gravel, tools and other equipment from the cemetery and shall leave the cemetery property in the same or better condition as it was prior to performance of the work, including removing all trash or other litter.
- (d) *Standards.* Permanent bronze, granite or marble monuments, markers, memorials or tombstones may be constructed at a grave site, however, the city shall have the right to refuse the placing of any item at a grave site if it is found that the memorial is not in compliance with this article or that the workmanship or foundation does not satisfy generally accepted standards in this area.
- (e) *Height restrictions.* Monuments, markers, memorials, or tombstones in the Fairview Cemetery shall be four **(4) feet in height or less, unless otherwise approved by the City Manager.**
- (f) ~~Mausoleum and crypts are not permitted in the Fairview Cemetery.~~

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

- ~~(a) No objects of any kind may be placed or planted on grave sites or other cemetery property, except as specifically provided herein. No advertising of any type is permitted in the Fairview Cemetery, including~~

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the posting of signs advertising the sale of private burial spaces, funeral homes, or grave digging services.

- (a) ~~Interested individuals shall have the right to place flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations, and sentimental objects are permitted to be placed on a 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.~~
- (c) ~~The city shall have the right to remove and dispose, in its sole discretion any item placed on a grave site that has become withered, unsightly or an obstruction to maintenance. Persons desiring to retain these objects must remove them within ninety-six (96) hours of placement. In no event shall the city be responsible for locating and returning items to the original owner.~~
- (d) ~~Holiday decorations on grave sites are permitted on a temporary basis only and may be placed no sooner than five (5) days prior to a city, state, or national holiday calendar date and must be removed from the site within ten (10) days of expiration of the holiday.~~
- (e) ~~Flags smaller than twelve (12) inches are permitted on graves sites, but may be removed by the city if they become weathered, unsightly, or pose maintenance problems.~~
- (f) ~~As of the date of this article, benches, chairs, and settees are permitted in all areas of the Fairview Cemetery where lots are currently available for purchase. Benches, chairs, and settees are not permitted, however, in any area of the cemetery not open for sale as of the date of this article. This includes block 8, as well as any additional blocks established after the effective date of this article. Any bench, chair, or settee placed in the Fairview Cemetery must be aligned with the headstone if space is available on the plot or at the foot of the grave parallel to the headstone. The city shall not be responsible for the upkeep or protection of such items in the cemetery and may remove the items if they interfere with city maintenance or upkeep.~~
- (g) ~~Up to two (2) flower vases twelve (12) inches in height or smaller may be placed on a headstone or monument. No glass or metal vases are permitted in the cemetery.~~

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- (b) Gravel, rocks, 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 gravel with such materials, must be maintained by the property owner or heirs. If not maintained, the city reserves the right to remove the covering will be removed by the City.

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Sec. 15.01.018 - Planting in the Fairview Cemetery.

- (a) ~~The planting of trees, shrubs, grass, flowers or other vegetation on graves other than by the city is strictly prohibited.~~
- (a) ~~Trees, Shrubs, grass, flowers or other vegetation may be planted prior to the passing of this article and shall be permitted to remain, unless the visible vegetation planting and/or roots becomes dangerous to adjacent plots, walkways or streets, grows beyond the four foot (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 cacti and bamboo are prohibited in Fairview Cemetery.
- (b) Trees may be planted only following issuance of a permit. A Tree Permit will only be issued if the request meets criteria as specified by the City including the type of tree to be planted and location of planting. Trees may only be planted on plots where the same owner has *** or more plots adjacent to each other. Trees may not be planted within *** feet of power lines. ApplicationsPermits will be

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considered based on the information provided and may be rejected if the request is not in the best interest of the Fairview Cemetery.

(c) Only seed or sapling trees smaller than two feet (2') in height may be planted on plots where an individual is currently interred.

(d) The City is not responsible for the care and maintenance of trees planted by individuals and will not be liable for replacement or compensation. The City will have the right to maintain the tree as needed in the best interest of the cemetery to include: pruning; pest and disease control; trimming.

(e) Any diseased, or infected, or dead trees or shrubbery in the cemetery 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. ~~Any person having an interest in a grave or plot that provides beautification, shall insure proper disposal of shrubs, bushes, weeds, trees, tree limbs, decorations, or any other objects removed from the site. If beautification is such that it includes landscape improvements of any kind, concrete work, fencing, or structure change, a permit from the city is required.~~

Sec. 15.01.020 - Property rights of plot owners.

(a) *Interment rights.* Interment rights of plot owners shall be as follows:

- (1) A plot in which the exclusive right of burial is conveyed is presumed to be the separate property of the person named as grantee in the instrument of conveyance filed with the county clerk's office.
- (2) The spouse of a person to whom the exclusive right of burial in a plot is conveyed has a vested right of interment in the plot while the spouse is married to the plot owner.
- (3) A spouse's vested right of interment survives and is not divested by an attempted conveyance of the grave site without the joinder or written, attached consent of the spouse.

(b) *Termination of vested right.* A spouse's vested right of interment is terminated:

- (1) On the final decree of divorce between the plot owner and the owner's spouse unless the divorce decree provides otherwise; or
- (2) When the remains of the person having the vested right are interred elsewhere.

(c) *Other burial rights.* Unless a deceased plot owner has made a specific disposition of a plot by express reference in the owner's will or by a written declaration filed with the city, a grave shall be reserved for the surviving spouse of the plot owner first, and then plot owner's children, in order of need.

(d) *Waiver.* A surviving spouse or child of a deceased plot owner may waive, in writing, his/her right of interment in a grave site in favor of a relative up to the third degree of sanguinity of the owner or the owner's spouse. The person in whose favor the waiver is made may be interred in the plot.

(e) *Conveyance.* No sale, transfer or assignment of title of any plot in the Fairview Cemetery is valid without the written consent of the city endorsed upon the instrument of transfer or assignment and recorded in the records of the city and the county clerk's office, which filing fee shall be paid by the grantee or grantor at the time of the conveyance. All conveyances are subject to the city's right of first refusal.

(f) *Multiple owners.* Two (2) or more owners of a plot may designate a person to represent the plot and file with the city written notice of the designation. If notice is not filed, the city may inter or permit an interment in the plot at the request or direction of a registered co-owner of the plot.

- (g) *Right of ingress and egress.* The city reserves to itself and to lawful invitees, a perpetual right of ingress and egress over plots for the passage to and from other plots.
- (h) *Subdivision.* Individuals may not subdivide a plot without the consent of the city and the burial of the remains of any person not having an interest in the burial site shall be strictly prohibited without the written consent of all interested parties according to the records of the city and approved by the city.
- (i) *Consent required for opening of caskets.* A casket containing human remains shall not be opened within the confines of the cemetery by a funeral director or his agent or employee without notice to the city twenty-four (24) hours in advance and without the consent of a legal representative of the deceased or by order of a court of competent jurisdiction.
- (j) *Location of interment site.* When the instructions regarding the location of a plot cannot be obtained, are indefinite, or for any reason the grave cannot be opened where specified, the city may, in its discretion, order a plot opened in an alternative location within the cemetery as deemed best and proper and without delaying the funeral service. The city shall not be liable for the selection of the gravesite.

Sec. 15.01.021 - Disinterment.

Disinterment and removal shall be conducted by qualified funeral homes or contractors only with a minimum of twenty-four (24) hours' notice to the city, in writing, and at the sole cost of the requestor. The city shall provide assistance in coordinating the necessary procedures and records required with the qualified funeral home or contractor pursuant to the following regulations:

- (1) *To a more desirable lot.* A body may be removed from its original plot to a larger or more desirable plot when there has been an exchange or purchase for that purpose and proper consent is obtained.
- (2) *Care in removal.* The city shall provide assistance in coordinating with qualified funeral homes or contractors to ensure that the utmost care in making a removal is taken, but shall not be liable for damage to a casket, burial case or urn sustained in the removal.
- (3) *Removal for profit.* Removal of remains for the purpose of resale of the plot for profit, or removal contrary to the expressed or implied desire to the original plot owner, is repugnant to the ordinary sense of decency and is forbidden.
- (4) *Removal for autopsy.* Remains may be removed for autopsy only upon written consent as prescribed in subsection (5) of this section or by order of a court of competent jurisdiction.
- (5) *Consent.* Remains interred in the cemetery may be removed from the cemetery with the written consent of the city, the state or local health department or county court, and one of following individuals in the priority listed:
 - (A) The decedent's surviving spouse;
 - (B) The decedent's surviving children;
 - (C) The decedent's surviving parents; or
 - (D) The decedent's siblings.
- (6) *Consent of court.* If the consent required by subsection (5) of this section cannot be obtained, the remains may be removed by consent of the county court. Before the date of application to the court for consent to remove remains under this rule, written notice shall be given by the applicant to:
 - (A) The city;
 - (B) Each person whose consent is required for removal under subsection (5) of this section who refuses to provide consent to the removal; and
 - (C) Any other person that the court states must be served.

(7) *Supervision of removals.* The city shall supervise the removal of remains from the cemetery.

(Ord. No. 2009-31, 10-27-09)

Sec. 15.01.022 - Miscellaneous provisions.

- (a) *Notarization of signatures.* The city reserves the right to require any or all signatures to be notarized.
- (b) *Final decision.* In the event of a misunderstanding or dispute as to the meaning of any of these rules or regulations, the decision of the City Council shall be final and is not appealable.
- (c) *Materials and equipment.* No material, machinery, equipment or other implements for the construction of memorials, the digging of graves, or other permitted structures may be placed in the cemetery until required for immediate use, and, when not in use, shall be parked/stored away from other gravesites. No such material, machinery, equipment or implement shall be placed upon an adjoining lot without the express permission of the city. No material, machinery, equipment or implement may be left in the cemetery overnight.

(Ord. No. 2010-27, pt. 1, § 15.22, 10-26-10)

Sec. 15.01.023 - Sole agreement.

The purchase contract, deed, trust agreement, and these rules and regulations and all amendments thereto, shall constitute the sole and entire agreement between the city and a plot owner, and no other statement or promise by any officer, employee or sales agent shall be binding on the city.

Sec. 15.01.024 - Modification and amendment by the city.

- (a) *Exceptions and modifications.* Special cases may arise in which the literal enforcement of a rule under this article may impose unnecessary hardship, in which such case the city may without notice make an exception, suspension or modification when deemed advisable. However, such exemption, suspension or modification shall not constitute a waiver affecting the general application of such rule.
- (b) *Amendment.* The city may adopt new rules or amend, alter and/or repeal any rule or regulation set forth within this article.

Sec. 15.01.025 - Penalty and fine.

Persons violating this article are punishable by a penalty up to \$5,000, plus damages and replacement costs, if applicable, and each day a violation occurs shall constitute a separate offense.

(Ord. No. 2009-31, 10-27-09)

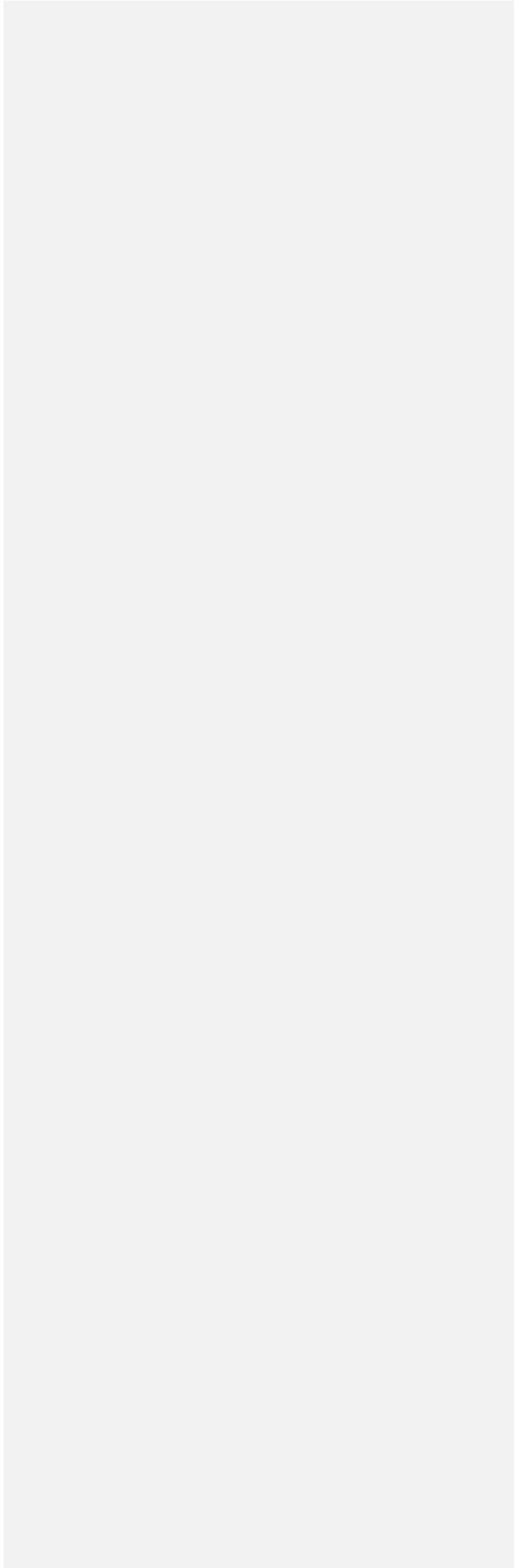
Sec. 15.01.026 - Memorial section.

- (a) *Memorial lot.* A 2.5 ft by 2.5 ft lot located in the memorial section of the cemetery for the purposes of preserving the memory of an individual who is believed to have been buried in the Fairview Cemetery, but for whom there is no gravesite. No monument other than a headstone, and no interment of any kind, is permitted in the memorial lot.
- (b) *No discrimination.* The city shall not discriminate between qualifying individuals who wish to obtain a memorial lot in the memorial section. Spaces are limited, and shall be available on a "first come, first served basis." Memorial lots will be administered sequentially by the finance department in chronological order starting with lot No. 1. The finance department will confirm that the requirements of the memorial lot are satisfied.

- (c) *Location.* The memorial section in the Fairview Cemetery is located behind the gazebo in block 1, and is approximately 25 ft. by 30 ft. in total area, as shown on the map a copy of which is attached to Ordinance 2014-7 and incorporated herein for all purposes.
- (d) *Criteria/qualification for inclusion in the memorial section.* In addition to the requirements provided for below, families may purchase a memorial lot if the memorial is for a deceased family member who has been proven through documentation to be buried in the Fairview Cemetery, but for reasons unknown their gravesite cannot be located either in the Fairview Cemetery and/or the cemetery records. If the cemetery gravesite is located by the finance department in the Fairview Cemetery inclusion into the memorial section would be denied, as their gravesite would be available for placement of a headstone by the family. Only gravesites not located by the finance department but documented as identified below may be allowed for inclusion into the memorial section. The following restrictions apply to the purchase of memorial lots:
- (1) Memorial lots may be obtained in the memorial section only by relatives of the individual to be memorialized. Proof of ancestry to the decedent is required unless otherwise approved by the City Manager.
 - (2) Applications for inclusion in the memorial section, when submitted to the finance department, must be accompanied by an affidavit of the requestor. The affidavit must: (A) confirm that the family of the individual for whom the memorial lot is being purchased agrees to the memorial lot; and (B) verify that the deceased individual was buried in the Fairview Cemetery. In conjunction with the affidavit, verification of the interment in Fairview Cemetery may be provided by documents such as a receipt for purchase of headstone, a newspaper article, a death certificate, a family Bible, or any other documentation conclusively demonstrating that the individual was buried in the Fairview Cemetery.
- (e) *Memorial lot.* Each memorial lot is approximately 2.5 ft. by 2.5 ft. in dimension. A permit for installation of the headstone must be obtained from the finance department and shall be in compliance with the city's general permitting requirements for the Fairview Cemetery and the fees provided for in the fee schedule in appendix A of this code. The memorial section is for the placement of headstones only. No remains of any kind are permitted to be buried or placed in the memorial section (either cremated or otherwise). No curbing, coping, fencing, or vegetation is allowed on a memorial lot. Items may not be placed in, around or on any portion of the memorial lot or the gravestone except for flags smaller than twelve (12) inches are permitted. Flags will be removed by the city if they become weathered, unsightly, or pose maintenance problems. Due to the limited size of the memorial section, and the limited number of lots available therein, the city has determined that no more than two (2) lots in this memorial section may be assigned for use by any single family, unless otherwise approved by the City Manager.
- (f) *Headstone.* Headstones are the sole type of memorial permitted in the memorial section of the Fairview Cemetery. Headstones for placement on a memorial lot shall be limited to twelve (12) inches wide, twelve (12) inches in-depth and may not exceed twenty-four (24) inches in height. The base of the headstone may not exceed twenty-four (24) inches in width, unless otherwise approved by the City Manager.
- (g) *Rules and regulations.* Rules governing the memorial section shall be consistent with the rules and regulations for the Fairview Cemetery, unless otherwise stated herein.
- (h) *Cost.* The cost of purchasing a memorial lot is set forth in the fee schedule in appendix A of this code.
- (i) *Receipt of ordinance.* Prior to placing a memorial headstone, each person purchasing a memorial lot shall acknowledge in writing to the city, that they have received a copy of the cemetery ordinance, including this section, and they (and any heirs, assigns, or successors) will abide by the provisions established in this code. A copy of the executed ordinance shall be maintained by the city. The purchaser shall have an affirmative duty to inform relatives or interested parties of the restrictions in the memorial section.

(j) *Exemption.* Headstones in existence in the memorial section at time of passage of amendment are exempted from the provision herein and approved to remain in place as is.

(Ord. No. 2014-7, 5-13-14)



STANDARDIZED AGENDA RECOMMENDATION FORM

FAIRVIEW CEMETERY ADVISORY BOARD

DATE SUBMITTED: 10/14/16

MEETING DATE: 10/19/16

1. Agenda Item: **Discussion, consideration and possible action on changing the established regular meeting dates and/or times for future Cemetery Advisory Board meeting(s).**

2. Party Making Request: **Tracy Waldron, Chief Financial Officer**

3. Nature of Request: (Brief Overview) Attachments: Yes X No _____

Consider changing the regular meeting date to the 2nd Wednesday of the month on a quarterly basis. Discussion concerning meeting time.

4. Policy Implication: _____

5. Budgeted: _____ Yes _____ No N/A

Bid Amount: _____

Budgeted Amount: _____

Under Budget: _____

Over Budget: _____

Amount Remaining: _____

6. Alternate Option/Costs: _____

7. Routing: **NAME/TITLE** **INITIAL** **DATE** **CONCURRENCE**

a) _____

b) _____

c) _____

8. Staff Recommendation: _____

9. Advisory Board: _____ Approved _____ Disapproved _____ None

10. Manager's Recommendation: _____ Approved _____ Disapproved _____ None

11. Action Taken: _____