

Chapter 11 CEMETERIES

Sec. 11-1. Definitions.

In this Chapter:

Block or Section means a subdivided land area within the cemetery consisting of a systematic layout of lots, further subdivided into individual plots.

City means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

Cemetery means any cemetery owned by the City.

Cemetery business office means the cemetery business office as defined by the City's cemetery policies.

City Council means the City's elected governing body.

Cremains means the ashes of a cremated human body.

Disinterment means to dig up or exhume a body for medical investigation or for other purposes.

Grave means a space of ground within a plot that is used or is intended to be used for interment.

Grave liner means a burial receptacle placed in the ground in a cemetery that is designed and built to support the weight of the earth and standard cemetery maintenance equipment and to prevent a grave from collapsing.

Interment means the entombment or burial of remains.

Lot means a subdivided area of land within a Block or Section consisting of a specified number of plots.

Memorial means a headstone, tombstone, gravestone, monument, or other marker denoting a grave.

Plot means a parcel of property specified as a plot on the official plat maps of a cemetery held by the City that is intended for the burial of:

- (a) One (1) casketed burial;
- (b) One (1) casketed burial and one (1) cremains; or

(c) Four (4) cremains.

Plot owner or owner means a person who holds a deed to a plot in a city cemetery and who is listed in the City's records as the owner of the plot or their lawful heirs.

Remains mean either a deceased human body or human cremains.

Temporary marker means a non-permanent memorial that identifies the grave of a recently deceased person until a permanent memorial is installed.

Vault means a container, formerly made of wood or brick but more often today made of concrete, that encloses a coffin to help prevent a grave from sinking.

Sec. 11-2. Rights reserved to the City; cemetery policies.

(a) Under this Chapter, the City perpetually reserves the right to:

- (1) Enlarge, reduce, replat, and change the boundaries or grading of the cemetery, including changing the locations of and adding, removing, and regrading roads, drives, and walks;
- (2) Lay, maintain, operate, alter, and change any parts or equipment necessary for sprinkler systems or drainage;
- (3) Use cemetery property, not sold to individual plot owners, for cemetery or other official City purposes;
- (4) Ingress and egress over plots for the purposes of care and maintenance of the cemetery and passage to or from other plots;
- (5) Close any road, walk, or drive at any time; and
- (6) Landscape the cemetery, including the planting and cultivating of any flowers, shrubs, or trees.

(b) The City may promulgate cemetery policies for City cemeteries and amend these policies from time to time. Failure of a person to obey any cemetery policy promulgated by the City is an offense.

Sec. 11-3. Hours of operation.

(a) The cemetery will be open to the public daily according to posted hours of operation, which will be posted on the cemetery's main gate.

- (b) It is unlawful for any person, other than the City or with the City's written approval, to enter or be in the cemetery at any time when the cemetery is not open to the public.
- (c) It is unlawful for any person, other than the City or with the City's written approval, to enter or leave the cemetery at any location other than through the public gates.

Sec. 11-4. Purchase of plots.

- (a) Plots may be purchased from the City as provided by the City's cemetery policies.
- (b) Upon payment of the full purchase price, the City will provide the plot owner(s) the original deed that conveys the plot to the owner(s).
 - (1) Only one original deed will be issued per a plot. If there are multiple plot owners, the plot owners must specify in writing which plot owner will be provided the original deed.
 - (2) The City will keep a copy of the original deed in its records.
- (3) The City Manager may waive the costs or reduce the price of plots and any cemetery fees for the burial of indigent persons at their discretion.
- (4) All deeds will grant to the plot owner(s) the right to use the plot for interment of remains, subject to the requirements of this Chapter, the City's cemetery policies, and applicable State law.

Sec. 11-5. Transfer of plots.

- (a) The transfer of ownership or interest in a plot may only be made on forms provided by the City.
- (b) No transfer of ownership or interest in a plot will be effective without the written approval of the City.
- (c) The City may refuse to approve a transfer of ownership or interest in a plot at its discretion. The City may require a proposed transferee of a plot to assume responsibility for an unpaid amount of the purchase price of the plot as a condition of approving the transfer.
- (d) The City will issue a new deed that transfers ownership to the new plot owner when a transfer request is approved by the City and the purchase price for the plot is paid in full.

Sec. 11-6. Records of plots; plot owner's address.

- (a) The official record of plot owners will be maintained by the City.
- (b) A plot owner, or their surviving family members or heirs, is responsible for ensuring their mailing address on file with City is current. All notices sent by the City related to the owner's plot will be deemed sufficient if sent to the most recent mailing address on file with the City.

Sec. 11-7. No easements or right-of-ways created.

No easement or right-of-way is granted to any plot owner in any road, drive, or alley within the cemetery, but such easement or right-of-way, when dedicated to public use, may be used for access to the grounds and buildings of the cemetery.

Sec. 11-8. Repurchase of plot.

A plot owner may request to sell their plot(s) back to the City. The City may, at its discretion, repurchase the plot(s) at the prices set by the City Manager.

Sec. 11-9. Interment and disinterment.

- (a) In addition to being subject to this Chapter and any City cemetery policies, interments and disinterments are subject to all local, state, and federal laws, rules, and regulations regarding the same.
- (b) All excavations of plots for interment or disinterment of remains must be completed by a person approved, in writing, to perform this work by the City. The City may require a person to carry insurance to perform this work.
- (c) The City has the authority to correct errors in interment or disinterment or in the transfer or conveyance of a plot, either by cancellation and conveyance of a plot of equal value (as established by the City) and similar location as may be practicable or, at the sole discretion of the City, by refunding all sums paid for the plot.
 - (1) If an error involves the interment of remains, the City may remove and reinter the remains as provided by the Texas Health & Safety Code § 711.004, as amended. Once the remains are removed from the original plot and reinterred in a new plot, the City will convey ownership of the new plot to the owner of the original plot.
- (d) Written authorization is required from the City before any work may commence for an interment or disinterment.

- (1) A person may perform a disinterment without written authorization of the City if they are authorized to perform the disinterment by an order of a court or person who conducts inquests or as otherwise authorized by Texas Health and Safety Code §711.004, as amended.
- (e) Any work performed related to a disinterment or interment will be subject to inspection by the City.
- (f) The City will not be liable for the accuracy of the information provided on a request for interment or disinterment authorization or the verification of the identity of the person for whom the interment or disinterment is sought.
- (g) Interment.
 - (1) The City requires a minimum 24 hours' notice prior to interment.
 - (2) The person performing interment services for any casketed remains must use a grave liner.
 - (3) The person performing interment services must secure the gravesite and provide for the immediate cleaning of the gravesite and removal of all debris, fill, and equipment resulting from the interment or used by the person performing the interment.
 - (4) The maximum number of burials allowed per plot is:
 - (A) One (1) casketed burial;
 - (B) One (1) casketed burial and one (1) cremains; or
 - (C) Four (4) cremains.
 - (5) No cremains may be spread anywhere in the cemetery.
 - (6) No interment is permitted in a plot unless the purchase price for the plot has been fully paid, except by the written consent of the City.
 - (7) All vaults must be placed no less than one and one-half (1 1/2) feet below the surface of the ground. Exposed vaults are prohibited.
 - (8) A casket containing remains may not be opened within the cemetery by anyone without the consent of a legal representative of the deceased, by order of a court of competent jurisdiction, or as otherwise provided by state law.

(9) No animals may be interred at the cemetery.

(h) Disinterments.

(1) The City requires a minimum 24 hours' notice prior to disinterment.

(2) Disinterments must be performed in accordance with Texas Health and Safety Code §711.004, as amended.

(3) A person performing a disinterment must secure the gravesite and provide for the immediate cleaning of the gravesite and removal of all debris, fill, and equipment resulting from the disinterment or used by the person performing the disinterment.

Sec. 11-10. Memorials.

(a) A person must receive written authorization from the City before beginning any work to erect a memorial in the cemetery. City authorization is not required to erect a temporary marker. The City may remove any memorial erected without written City authorization. The City may bill any cost incurred by the City for the removal of a memorial under this Subsection to the plot owner or the owner's surviving family members or heirs, if known.

(b) Persons erecting memorials must verify the location where a memorial will be placed with the City before the installation of any memorial foundation on a cemetery plot. The City will not be not responsible for memorials erected in the wrong location or placed incorrectly.

(c) No memorial, except a temporary marker, is allowed on any plot until the purchase price for the plot has been fully paid, except by written consent of the City. The City may remove any memorial erected in violation of this Subsection.

(d) The City reserves the authority and has the right to correct any error in the location or placement of a memorial or marker in the cemetery. The City may bill any cost incurred by the City to correct a memorial or marker location or placement error to the plot owner or the owner's surviving family members or heirs, if known.

(e) All foundations for memorials must adhere to cemetery policies and be of sufficient depth and stability to support the memorial and are subject to inspection and approval by the City.

(f) Memorial location and placement on a plot, as well as a memorial's dimensions and materials, must conform with the City's cemetery policies regarding memorials.

(g) All flush memorials must be flush with the ground.

(h) Memorials that contain niches for cremains are not permitted.

- (i) Persons installing memorials must remove all trash, rubbish, debris, and materials from such work immediately.
- (j) All memorial work is subject to the inspection, control, and direction of the City.
- (k) Wooden planks must be used for placing and rolling heavy memorials on rocks or grass.
- (l) All memorials must be maintained. The maintenance of all memorials in the cemetery is the responsibility of the plot owner or the owner's surviving family members or heirs. This maintenance will include, but is not limited to, the following:
 - (1) The cleaning of the memorial;
 - (2) Ensuring that the memorial is seated properly, except that the City is responsible for leveling and straightening markers and memorials as provided by Texas Health & Safety Code § 713.011, as amended; and
 - (3) Repairing any damage to the memorial or the structure of the memorial, including replacement, if necessary.
- (m) In the event that a memorial needs maintenance or repair, the City may send a letter requesting the plot owner, or the owner's surviving family members or heirs, if known, to perform the necessary maintenance or repair. If the plot owner or the owner's surviving family members or heirs cannot be located, then the City may publish a newspaper notice to request the plot owner or the owner's surviving family members or heirs to perform the necessary maintenance or repair. If the maintenance or repair is not performed within the time period prescribed by the notice, then the City may initiate action to have the maintenance or repair performed or the memorial removed.
 - (1) In the event of an emergency or if there is an imminent threat to public safety, the City may perform maintenance on or repair or remove a memorial without providing notice to the plot owner or the owner's surviving family members or heirs.
 - (2) The City may bill any cost incurred by the City for the maintenance or repair or removal of a memorial to the plot owner or the owner's surviving family members or heirs, if known.

Sec. 11-11. Benches.

- (a) Benches that were placed or installed by a private party prior to the adoption of this Chapter are permitted if the bench is:

- (1) Placed entirely within a plot;
 - (2) Not encroaching on a maintenance easement, public area, or a plot owned by another person without the consent of the other plot owner or their surviving family members or heirs;
 - (3) Kept in a safe and stable condition and in a good state of repair; and
 - (4) Not interfering with an interment or setting of a memorial.
- (b) Any bench that does not meet the criteria of Subsection (a) may be removed by the City without liability to the City.
- (c) A person must obtain written authorization from the City prior to beginning any work to replace or install a bench removed under Subsection (b) or to place or install a new bench in the cemetery. The City may authorize the placement or installation of a bench at its discretion. Failure to obtain written authorization from the City under this Subsection is an offense. Benches placed without prior written authorization of the City may be removed by the City.

Sec. 11-12. Damage to cemetery property.

A person performing an interment or disinterment or installing a memorial or placing or installing a bench is responsible for any damage done by them to any property in the cemetery, including grass, trees, and any other landscaping, and any damage caused by the person's work must be repaired at the person's expense and to the satisfaction of the City.

Sec. 11-13. Enclosure of plots.

- (a) It is unlawful for a person, apart from the City, to place or construct an enclosure including a fence, coping, hedge, border, edging, or ditch around any plot, lot, block, or section in the cemetery.
- (b) Existing enclosures are permitted to remain in the cemetery if they were in place prior to the enactment of this ordinance and are in safe and stable condition and in a good state of repair.

Sec. 11-14. Stones and slabs.

- (a) It is unlawful for any person, apart from the City, to place, lay, or install slabs, ledgers, concrete, gravel, rocks, stones, or other ground coverings on the top of any plot, lot, block, or section in the cemetery.

- (b) Existing ground coverings are permitted to remain in the cemetery if they were in place prior to the enactment of this ordinance and are in safe and stable condition and in a good state of repair.

Sec. 11-15. Decorative items.

- (a) No person, apart from the City, may plant any flower, shrub, tree, grass, or any other type of vegetation in the cemetery. This subsection will not apply to vegetation planted by the public prior to the enactment of this ordinance, except that any vegetation, regardless of when planted, that interferes, or by its maintenance or cultivation interferes, with another memorial, plot, easement, driving path, walkway, roadway, parking area, or cemetery operations may be removed by the City.
- (b) Fresh flowers, floral arrangements, potted plants, artificial flowers, sprays, and wreaths may be placed on any plot, but may be removed by the City if:
 - (1) Fresh, are dead or dying; or
 - (2) Artificial, are weathered, severely sun faded, torn, or broken.
- (c) Vases and other decorative items must adhere to the City's cemetery policies.
- (d) The City is not responsible for the vandalism or theft of any permitted or unpermitted object left in a cemetery.

Sec. 11-16. Removal.

- (a) The City may remove:
 - (1) Trash, rubbish, and debris;
 - (2) Deteriorated and broken decorative items;
 - (3) Enclosures in an unsafe or unstable condition or in disrepair, including fences, coping, hedges, or edging around a plot, lot, block, or section;
 - (4) Ground coverings, including stones or slabs, on the top of any plot in an unsafe or unstable condition or in disrepair;
 - (5) Any object that violates the City's cemetery policy or any other local, state, or federal law, rule, or regulation; and

- (6) Any object from the cemetery that poses a direct or foreseeable threat to the safety, health, or welfare of the public.

Sec. 11-17. Prices, costs, and fees.

The City Manager has the authority to set cemetery prices, costs, and fees, including the price of cemetery plots.

Sec. 11-18. Penalty.

- (a) A person violating a provision of this Chapter or failing to perform a duty required under this Chapter, obtain any City authorization required under this Chapter, abide by the terms and conditions of any written City authorization issued under this Chapter, or comply with the City's cemetery policies commits a Class C misdemeanor. Each offense under this Chapter is punishable by a fine not to exceed five hundred dollars (\$500.00). A culpable mental state is hereby not required to prove an offense under this Chapter.
- (b) The City may seek all available civil remedies in a court of competent jurisdiction for violations of this Chapter.
- (c) The remedies provided for in this Section are not exclusive. The City may take any, all, or any combination of these remedies against a person who violates this Chapter or the cemetery policies.

Sec. 11-19. Severability.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be unconstitutional or invalid, such holding will not affect the validity of the remaining portions of this Chapter.