

ORDINANCE NUMBER 471-02

AN ORDINANCE OF THE CITY OF NAVASOTA, TEXAS RELATING TO CEMETERY RULES AND REGULATIONS; CREATING PLATTING REQUIREMENTS, ADMINISTRATION; PROVIDING FOR THE MAKING OF DEEDS; ESTABLISHING PERMITS AND FEES; PROVIDING FOR GRAVE SITES AND CONTROL OF DECORATIONS AND LANDSCAPING; CREATING A PERPETUAL FUND; PROVIDING FOR ANNUAL MAINTENANCE ASSESSMENTS; CREATING AN ENDOWMENT FUND; AND ESTABLISHING GENERAL ADMINISTRATION OF THE CEMETERY.

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

1.

That all ordinances of the City of Navasota, Texas governing cemeteries are hereby expressly repealed along with any other ordinances in conflict with the cemetery ordinance adopted by the City Council on this date.

2.

This ordinance shall be known as the Cemetery Ordinance and shall read as follows:

ARTICLE I. IN GENERAL

Sec. 7-1. Platting of cemetery; in general.

(a) All additions to the present city cemetery (known as Oakland Cemetery) shall be as in the case of subdivisions. The cemetery shall be divided into four (4) sections identified as Section A, Section B, Section C, and Section D.

(b) Oakland Cemetery is set apart for the burial of the residents of this community and the surrounding area subject to the rules established in this chapter, the City of Navasota Code of Ordinances, and any applicable federal or state laws.

(c) All spaces in the cemetery owned and operated by the City shall be conveyed to the purchaser by warranty deed for the purpose of burial only. The rights of the purchaser therein are subject to such rules and ordinances as may be enacted or amended from time to time by the City Council.

(d) The rules and regulations herein contained are designed for the protection of the rights of all grave space owners. The rules adopted have been determined to be reasonable necessary and incidental to achieve the aforesated objectives.

(e) Oakland Cemetery, consisting of approximately 31.69 acres, is divided into blocks, each containing lots, generally each lot being twenty (20) feet by twenty (20) feet in size, and each lot generally containing eight (8) grave spaces. Each grave space shall be five (5) feet by ten (10) feet in size.

(f) Each section shall provide a pauper's burial and baby land area, where it is determined necessary and appropriate.

(g) Baby land plots are four (4) by five (5) feet.

(h) By resolution of the City Council, from time to time as necessary, a gravesite purchase price, perpetual care fees, and grave digging service fees shall be established.

Sec. 7-2. Administration.

(a) All administrative matters pertaining to the operation of the cemetery shall be under the direction of the City Manager or his designate.

(b) The City shall provide for the continuing care, maintenance, operation and improvements to the cemetery. In general, this shall include: road construction and maintenance, mowing, pruning, landscaping, removal of plant material, policing of the grounds, pest controls, and such other maintenance as may be necessary to keep the cemetery presentable at all times.

(c) Cemetery care does not include the purchase, erection, repair, or replacement of monuments, headstones, markers, or any other item on a grave space.

(d) Oakland Cemetery shall be open daily from dawn to sundown.

Sec. 7-3. Execution; delivery of deeds; records.

(a) The City Manager is hereby authorized and directed to make, execute, and deliver all deeds conveying lots or portions thereof to the purchasers of same. Deeds may be delivered to purchaser only upon full payment of the purchase price, which must be paid prior to interment. All deeds so conveying lots or portions thereof within Oakland Cemetery shall be subject to the terms of this Chapter.

(b) Baby land plots are provided at no cost. Pauper gravesites are provided at no cost so long as monuments larger than one (1) foot by two (2) feet by six (6) inches are not placed upon the plot. Subsequent placement of monuments larger than the aforementioned size will be evidence that a fee to purchase the burial plot can be afforded and therefore shall be assessed for the burial plot and for reimbursement to the appropriate funeral director.

(c) The sale, transfer, or assignment of any space in the municipal cemetery by any owner or purchaser shall not be binding upon the City until it has been approved in writing by the City Manager or his designate, and a new deed containing the approval of

the City Manager from the seller to the new purchaser is executed and delivered to the City.

(d) The City Manager may enter into contracts with prospective purchasers of cemetery grave spaces. Such contracts shall not exceed twelve equal payments made on a monthly basis consistently. Should default occur in the timely payment of any installment, the purchaser shall forfeit all interest in any space subject to the contract and shall forfeit all prior payments less an administrative fee determined by the City Manager. Forfeited spaces may be placed for sale to other purchasers. Any balance remaining after deducting the administrative fee will be refunded to the defaulting purchaser.

(e) Records giving full data on all interments shall be kept in the City files, shall be the official record, and shall be open to authorized persons. The data is to include the section, lot, and grave location and the name, age, and the date of interment of each grave occupant.

Sec. 7-4. Permits and fees.

(a) No person, firm, or corporation shall perform any grave digging services in Oakland Cemetery without first having obtained a permit from the City Secretary. Such person, firm, or corporation shall make application that shall include the following:

- (1) Name and address of person and/or firm making the application.
- (2) A list and description of equipment that is capable of operation between graves having six-foot wide walkways.
- (3) Proof of general liability insurance for at least three hundred thousand dollars (\$300,00.00), with the City named as co-insured or additional insured.
- (4) A nonrefundable annual fee to cover the costs of processing the application as may be set by the City Manager.

(b) The administrator of cemetery records, after receiving a recommendation of the Parks and Recreation Superintendent for approval of the permit, shall issue a one-year permit, provided the applicant has paid the application fee and has on file with the City the insurance certificate required by this Sub-Chapter.

(c) Upon receipt of complaints from the general public to the Superintendent of Parks and Recreation regarding the provisions of grave digging services by the permit holder or upon the determination of the Superintendent himself, the Superintendent of Parks and Recreation may hold a hearing to consider cancellation of the permit. The permit holder will be given ten (10) days' notice by registered mail of such hearing. The permit holder shall be given the opportunity to appear and contest the cancellation of his permit at such hearing. Any subsequent cancellation shall be provided in writing to the

permit holder and shall state the reasons for such cancellation. Reasons may include failure to comply with applicable ordinances, unpaid damages to public or private property, or the collection of fees not authorized by the City.

Sec. 7-5. Grave services; planting and other decorations in the cemetery.

(a) All grave services performed within Oakland Cemetery shall comply with state laws and shall be in compliance with this Section 7-5 and all other sections of this Chapter.

(b) The City shall establish final grade to match the surrounding area on spaces after an appropriate amount of time has elapsed after burial to allow for settling.

(c) Any grass, flowers, shrubs, trees, or other types of vegetation shall be planted only by or at the direction of the City Manager or his designate in accordance with a master landscape plan for the entire cemetery. Plantings by individuals are prohibited and shall be removed and disposed of by the City.

(d) Plantings of trees, shrubs, or flowers on grave spaces that existed prior to adoption of Ordinance Number 316-91 on January 14, 1991, which were specifically grandfathered with the adoption of that Ordinance, shall continue to be grandfathered. These plantings may be removed and disposed of by the City whenever they become unsightly, or as necessary to provide access to grave spaces. Replacement of grandfathered plantings that have been removed shall not be required.

(e) The placing of one potted plant, basket, floral piece, funeral design, decoration, or other object of a temporary nature is permitted within six (6) inches of the monument only. The digging of holes for the placement of potted plants and baskets is prohibited.

(f) The City Manager or his designate shall have the right to remove and dispose of all flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations, and all other objects when they become withered, unsightly, or an obstruction to maintenance.

(g) The City Manager or his designate is empowered to and may enter upon any space within the cemetery and remove and dispose of anything that may have been erected or placed thereon contrary to the provisions of this Section, and may remove and dispose of any dead or damaged tree, shrub, or vine.

Sec. 7-6. Copings, hedges, fences; holiday decorations.

(a) No hedges, fences, exposed vaults, walls, or other enclosures shall be permitted in, on, or around any space in Sections B and C and shall be removed in accordance with section 7-15 herein.

(b) Coverings and ledgers shall only be permitted in Sections B and C upon the approval of the City Manager. For the purpose of this Chapter, a covering means any

material other than turf that may be placed over the grave. A ledger is any stone, monument, or marker that may be placed in such a way as to cover the grave space.

(c) Holiday decorations on graves must be temporary, be placed no sooner than five (5) days prior to a holiday calendar date, be removed after ten (10) days from the holiday calendar date, and be placed within eighteen (18) inches of grave markers. These decorations will be removed and disposed of by the City after eleven (11) days following a holiday calendar date if not removed by family.

Sec. 7-7. Grave markers; curbs; surface vaults; mausoleums and crypts.

(a) The base of all grave markers, headstones, and monuments shall be placed flush with the property line of the grave space.

(b) No curbing of any kind shall be permitted in Sections B and C of Oakland Cemetery with the exception of that installed by the City to delineate the boundaries of the blocks.

(c) Curbing is grandfathered in Sections A and D.

(d) Surface vaults are permitted in Sections B and C of Oakland Cemetery with the issuance of a permit by the City.

(e) Mausoleums and crypts may be built in Sections B and C but must be built and sealed by an approved contractor in that field. Before construction begins, one must obtain a permit from the City.

(f) Only flat markers are allowed in Section B, Block 9. Flat markers must be flush with the ground. The sizes for flat markers are as follows:

- (1) Single: Twenty-four (24) inches by twelve (12) inches;
- (2) Double: Forty-eight (48) inches by sixteen (16) inches.

ARTICLE II. PERPETUAL CARE FUND

Sec. 7-8. Established.

All money collected for the purpose of providing perpetual care for cemetery lots or grave spaces shall be deposited in interest bearing accounts insured by the Federal Deposit Insurance Corporation, and shall be referred to as the Perpetual Care Fund.

Sec. 7-9. City to provide care.

The City shall provide perpetual care of Oakland Cemetery, either by City personnel or under contracts with third parties.

Sec. 7-10. Income from perpetual care fund; restriction on use; maintenance of fund.

(a) Interest income generated from the Perpetual Care Fund shall be used to defray the cost to the City of the perpetual care provided by it or under contract with third parties.

(b) The funds contained in the Perpetual Care Fund can be used for no other purpose than to provide a fund for the generation of income, which shall be used as aforesaid.

(c) The City shall maintain the Perpetual Care Fund for perpetuity for the use and benefit of owners of lots or spaces with Oakland Cemetery.

ARTICLE III. PAYMENT FOR SPACES, PERPETUAL CARE FEES AND APPLICATION OF FUNDS

Sec. 7-11. Maintenance assessments for owners prior to June 12, 1967.

(a) The owners of all lots or grave spaces owning such spaces prior to June 12, 1967, shall be assessed a fee of fifteen dollars (\$15.00) per annum for ownership of four (4) grave spaces or less, and a fee of thirty dollars (\$30.00) per annum for ownership of five (5) to eight (8) spaces.

(b) The fee shall be assessed in January of each year and the funds generated shall be applied to the general fund. Payment of such fee shall entitle the owners of such spaces to maintenance of said spaces.

Sec. 7-12. Perpetual care fee for owners prior to June 12, 1967.

(a) Owners of all lots or grave spaces owning such spaces prior to June 12, 1967, may obtain perpetual care of such spaces by making a one-time payment to the perpetual care fund as follows:

- (1) Owners of one-half cemetery lot or less (one (1) through four (4) spaces).....\$200.00
- (2) Owners of more than one-half and not more than a whole cemetery lot (five (5) through eight (8) grave spaces).....\$300.00

(b) Ownership of additional spaces is governed by the charges set forth above.

Sec. 7-13. Price and perpetual care fee for spaces purchased in Oakland Cemetery.

The purchase price and the perpetual care fee for all spaces purchased for Oakland Cemetery shall be established by resolution of the City Council and amended as necessary from time to time, upon recommendation of the City Manager.

ARTICLE IV. CEMETERY ENDOWMENT FUND

Sec. 7-14. Established.

A memorial option is available to citizens through the Oakland Endowment Fund established by the City of Navasota. All gifts donated to this fund shall be used for facility or landscape improvements as approved in the master landscape plan, maintenance of roads and facilities, or as designated by the donor.

ARTICLE V. ADMINISTRATION

Sec. 7-15. Rule infraction procedures.

(a) Whenever the City Manager or his designate determines that there has been an infraction of the Rules set forth in Sections 7-6 and 7-7 herein, the procedures listed below shall be followed:

- (1) The City Manager or his designate shall record and document infractions of this Chapter.
- (2) Notice in writing of the infraction shall be sent to the owner of the lot or space at the address of the owner according to the records of the City specifying the infraction, the Rule violation, and the action necessary to be taken to correct the infraction.
- (3) The owner shall have fourteen (14) days from the date notice was mailed for compliance or appeal, or attempted notification was made in the case no current address is available.
- (4) Should the violation not be corrected within in the time allotted, the City Manager or his designate shall cause the removal and disposal of the item(s) that constitute the infraction by the space owner or the City.

PASSED AND APPROVED THIS THE 14TH DAY OF OCTOBER, 2002.

PASSD AND APPROVED THIS THE 28TH DAY OF OCTOBER, 2002.

MAYOR, PATRICIA M. GRUNER

ATTEST:

CITY SECRETARY, GERALDINE BINFORD