

ORDINANCE NO: 562-08

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; 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:

WHEREAS, the City of Navasota City Council (“the City”) finds it in the interest of the public good and welfare of the City to enact rules and regulations governing the city cemetery; and

WHEREAS, the City of Navasota is empowered by Chapter 713, Texas Health & Safety Code to establish rules and regulations related to the city cemetery;

NOW THEREFORE, be it Ordained by the City Council of the City of Navasota, Texas that;

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. AMENDMENT

Chapter ___ of the City of Navasota Code of Ordinances is hereby amended to read in accordance with *Exhibit A*, which is attached hereto and incorporated into this Ordinance for all purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

6. PROPER NOTICE & MEETING

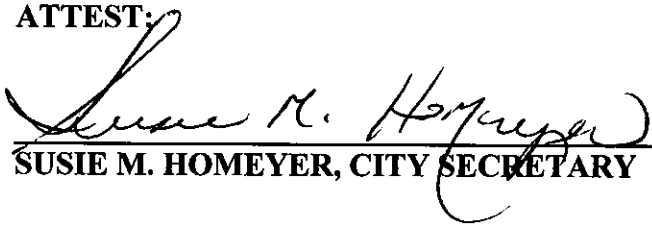
It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Texas Government Code, Chapter 551.

PASSED ON FIRST READING THIS THE 25TH DAY OF AUGUST, 2008.



BERT MILLER, MAYOR

ATTEST:


SUSIE M. HOMEYER, CITY SECRETARY

PASSED ON SECOND READING THIS THE 8TH DAY OF SEPTEMBER, 2008.



BERT MILLER, MAYOR

ATTEST:

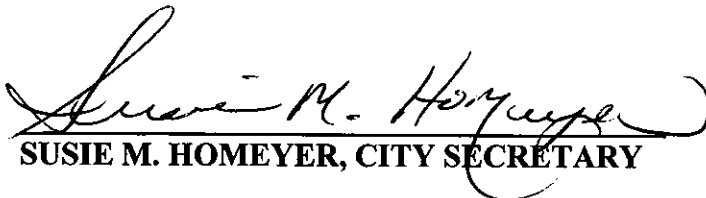

SUSIE M. HOMEYER, CITY SECRETARY

Exhibit A

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 comply with the provisions of this ordinance relating to the division of cemetery land by Sections, Blocks, Lots and Grave Numbers The cemetery shall be divided into five (5) sections identified as Section A, Section B, Section C, Section D, and Section E.

(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 reasonably 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 grave space shall be limited to either: 1) one (1) adult casket; 2),no more than two (2) urns; or 3) a child casket that is three foot (3ft.) or smaller and, if desired, one urn. Urns shall not be placed in a grave space which contains an adult casket.

(g) Oakland Cemetery shall provide a pauper's burial area, a baby burial area, and an urn garden area where it is determined necessary and appropriate.

(h) Baby burial plots are four (4) feet by five (5) feet.

(i) Urn Garden plots are limited to one (1) urn per each three (3) by two (2) foot plot area. Urn garden plots are sold in sequential order on a first-come, first-serve buying basis. Only flat markers are allowed in Section E. Only one (1) potted plant per urn garden plot will be allowed in Section E if it is attached to a monument. The monument must be centered in the space provided and flush with the top of the property line in Section E.

(j) 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 control, and other such maintenance as may be necessary to keep the cemetery presentable at all times.

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

(d) Oakland Cemetery shall be open daily from dawn to sundown unless otherwise directed by the City Manager.

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

(a) The City Manager or his designate 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 burial plots are provided at no cost. Pauper gravesites are provided at no cost so long as the Pauper resided in the city limits of Navasota at the time of his or her death. The Grimes County designate will determine if a person qualifies as a Pauper. Monuments larger than two (2) foot by one (1) feet by six (6) inches shall not be 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 a fee equal to a burial plot. Approval must be obtained by the City Manager or his designate prior to placement of any marker, headstone, or monument in a Pauper or baby burial plot Section.

(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. A fee shall be assessed for the transfer of any space and will be set by the fine and fee schedule. The re-sale of lots is permitted as long as the transaction is approved by the City. The re-sale of lot(s) cannot be more than the original price paid when lot(s) was originally purchased.

(d) The City Manager or his designate may enter into contracts with prospective purchasers of cemetery grave spaces, urn garden plots, or other plots to be used for interment. Such contracts shall not exceed twelve (12) equal payments made on a monthly basis. Should default occur in the timely payment of any installment, the purchaser shall forfeit all interest in any space subject to the contract. Forfeited spaces

may be placed for sale to other purchasers. Any balance remaining after deducting the administrative fee, determined by the City Manager or his designate, will be refunded to the defaulting purchaser.

(e) Records containing full data on all interments shall be kept in the City files, shall be the official record regarding the cemetery, and shall be available to the public as applicable by law. 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. Grave Digging Services, Permits and fees.

(a) The City of Navasota does not perform any grave digging services. Grave digging services must be in compliance with this Section.

(b) The burial of urns may be performed by a lot owner, their designate or a funeral director without obtaining a permit as long as the City Manager or his designate is notified of such burial prior to date of interment.

(c) 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 will be used, which can be operated safely between graves having six-foot wide walkways.
- (3) Proof of general liability insurance for at least three hundred thousand dollars (\$300,000.00), 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 or his designate.

(d) The City Manager or his designate shall issue a one-year permit, provided the applicant has paid the application fee, submitted a complete application form, meets the equipment standard in (b)(2) of this section, and has on file with the City the insurance certificate required by this Sub-Chapter.

(e) Upon receipt of a complaint from the general public to the City Manager or his designate regarding the performance of grave digging services by the permit holder, the City Manager or his designate 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.

(f) Grave digging services shall protect surrounding graves by the use of ply board as necessary during wet seasons.

Sec. 7-5. Grave services; cleaning of graves, 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 and all other sections of this Chapter.

(b) The City shall establish the 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, provided that 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 (1) potted plant, basket, floral piece, decoration, or other object of a temporary nature, not exceeding six (6) inches in diameter and twenty-four (24) inches in height is allowed, but must be placed within six (6) inches in front of the marker, headstone, or monument. Any marker, headstone, or monument containing permanently attached vase(s) may have more than one flower arrangement if placed in existing vase(s); a saddle arrangement may also be placed on this type of marker, headstone, or monument. Funeral designs are acceptable and can be placed on a new grave, but will be removed two (2) weeks after date of interment. The digging of holes for the placement of potted plants and baskets is prohibited. The City shall not be held liable for lost, stolen, or misplaced items set upon cemetery spaces.

(f) 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. Holidays included, but not limited to: Valentine's Day, Easter, Memorial Day, Independence Day, Halloween, Veteran's Day, Thanksgiving, and Christmas.

(g) Benches, bricks, or foot stones are not allowed unless express written consent is granted by the City Manager or his designate. Benches that are part of a monument, and of the same material, are allowed as long as they meet the requirements stated in Section 7-7 (a).

(h) The City of Navasota will clean and discard any item that is placed on a gravesite that is in violation of Section 7-5, Subsections (a) – (g), the last week of each month.

(i) The City Manager or his designate has no wish to interfere with the taste of individuals to the style of their improvements, but in seeking justice for all, holds the right to prevent or remove anything deemed injurious to the immediate locality, or prejudicial to the general good appearance of the grounds, and to prevent any planting which they may deem injurious, unsightly, or detrimental. 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.

(j) 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, and fences.

(a) No copings, 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 7-14 herein.

(b) Coverings and ledgers shall only be permitted in Sections A and D upon the approval of the City Manager and his designate. 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 marker, headstone, or monument that may be placed in such a way as to cover the grave space and must be flush with the ground.

Sec. 7-7. Grave markers, headstones, monuments, foot stones, veteran markers, corner markers, curbs, surface vaults, mausoleums, and crypts.

(a) The base of all grave markers, headstones, government issued veteran markers, corner stones and monuments shall be placed flush with the property line of the grave space. The material for each marker, headstone, veteran markers, corner markers or monument placed in the cemetery must be consistently uniform with current monuments within the cemetery; the City Manager or his designate must grant written approval before marker, headstone, or monument is placed in the cemetery. A grave space shall not have more than two (2) single markers on the space. Any marker (excluding veteran markers or corner markers), headstone, or monument shall be placed on a concrete base to prevent from sinking, leaning, etc. Government issued veteran markers or corner markers must be installed flush with the ground. Family markers, headstones, government issued veteran markers, corner markers or monuments must be placed on the property line. Temporary markers will be removed once a permanent marker, headstone, or monument has been placed on a grave space. Written permission to place any marker, headstone, government issued veteran markers, corner markers or monument must be obtained from the City Manager or his designate. Grave space must be paid in full prior to placing a marker, headstone, government issued veteran markers, corner markers or monument. Failure to meet any of the above requirements may result in the removal of a

marker, headstone, government issued veteran markers, corner markers or monument by the City Manager or his designate.

(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 A and D of Oakland Cemetery with the issuance of a permit by the City.

(e) Foot stones are not allowed in Oakland Cemetery;

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

(g) 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: Two (2) feet by one (1) foot;

(2) Double: Four (4) feet by one (1) foot four (4) inches;

(h) Only flat markers are allowed in Section E. Flat markers must be flush with the ground, centered on the lot and aligned at the top of the property line. The size for flat markers is as follows:

(1) Single: Two (2) feet by one (1) foot;

(2) Double: Four (4) feet by one (1) foot.

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. PERPETUAL CARE FEES AND PRICE FOR SPACES

Sec. 7-11. 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. 7-12. Price and perpetual care fee for spaces purchased in Oakland Cemetery.

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

ARTICLE IV. CEMETERY ENDOWMENT FUND

Sec. 7-13. Established.

A memorial option is available 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. 7-14. 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.

ARTICLE VI. MADELEY CHAPEL

Section 7-15. Public Use of Madeley Chapel.

(a) The use of the Madeley Chapel is free of charge to the public, and can be used on a first-come, first-serve basis for memorial funeral services only. Any individual can request use of the chapel through authorization of the City.