

## ORDINANCE NO. 142

### COAHOMA CEMETERY REGULATIONS

AN ORDINANCE REPEALING AND REPLACING IN ITS ENTIRETY ORDINANCE NUMBER 85 ADOPTED ON JULY 22, 2010 IN ORDER TO PROVIDE NEW REGULATIONS FOR THE CITY OF COAHOMA CEMETERY; PROVIDING DEFINITIONS, PROVIDING REGULATIONS FOR THE CEMETERY; REQUIRING A LICENSE TO OPEN AND CLOSE GRAVES, PROVIDING FOR THE SALE AND MAINTENANCE OF GRAVE SITES; REQUIRING PERMITS FOR INTERMENT AND DIS-INTERMENT AND OTHER WORK; PROVIDING FOR A CRIMINAL PENALTY OF UP TO \$500 FOR VIOLATION; PROVIDING FOR CIVIL REMEDIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PUBLICATION; PROVIDING AN EFFECTIVE DATE AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE WAS ADOPTED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Council finds it is necessary to preserve and maintain the public health, safety, and welfare of the citizens of Coahoma, Texas, and;

WHEREAS, the City Council finds that public cemeteries are a community asset and that the Coahoma Cemetery should be subject to certain regulations for the benefit of the citizens of Coahoma.

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

#### ARTICLE I. GENERALLY

##### **Section 1. Definitions.**

For the purposes of this article, the following words shall have the definitions set out below:

**Cemetery** shall mean the Coahoma Cemetery, and all additions thereto which is owned, leased or under the care and/or control or management of the city.

**Licensed Grave Opener/Closer** shall mean a person who holds a current valid license from the City of Coahoma to open and close graves within the Cemetery.

**Markers or grave markers** shall mean the stone or plaque placed at the head or foot of a single interment space or site, which is flush with the surface.

**Monument** shall mean a tombstone or memorial of granite or other approved stone, which extends above the surface of the ground.

**Owner** shall mean the owner of rights of interment or disinterment in the cemetery.

**Space or grave space** shall mean the individual plot or grave site set aside for a single interment generally five (5) feet by ten (10) feet in size.

## **Section 2. Rules and regulations.**

The city shall make such rules, regulations and requirements as hereinafter provided as it may deem necessary for the orderly and efficient operation of the cemetery as to the maintenance of the grounds, burial of the dead, the erection of marker stones or other identifying media, and the planting of shrubs, trees and flowers. Such rules, regulations and requirements hereafter adopted shall not be applicable to any pre-existing conditions; however, any subsequent actions shall be subject to such rules, regulations, and requirements.

## **Section 3. Right of city to make appropriation and collect ad valorem tax.**

The city shall have the right to include in its annual budget such sum as may be deemed necessary for the maintenance and upkeep of the cemetery and shall have the right, power and authority to assess and collect an ad valorem tax upon all property within the city in accordance with statutory provisions for the maintenance and upkeep of the cemetery.

## **Section 4. Removal of bodies and effects.**

It shall be unlawful for any person to disinter or remove any casket or any dead body, or any of the articles belonging thereto, from the cemetery, except upon the written consent of the nearest relative of the deceased or written court order in accordance with state law and the state disinterment permit approved by the state department of health and upon securing a city permit as hereinafter provided in ARTICLE III of this ordinance.

## **Section 5. Record to be kept.**

(a) The City Secretary shall be the custodian of all records of the city including a cemetery book of record and a map of the cemetery showing the grave spaces for single interments and by whom owned or occupied.

(b) Whenever any right of interment shall be sold to any person, the City Secretary shall, upon receipt of full payment for such burial right, enter such on the book of record, including the name and address of such owner, and shall mark the same on the map. It shall be the duty of the owner to notify the city in writing of any transfer or assignment of any right of interment. The failure to do so may result in the denial of a burial permit to any subsequent owners.

(c) Whenever any permit for interment or disinterment is issued, the City Secretary shall enter such information as required by law on the book of record and shall mark the same on the map as herein required.

## **Section 6. Sale of burial rights.**

(a) The city shall sell only burial rights in the cemetery, as distinguished from fee simple title, title to which belongs to the city or which shall hereafter be acquired by the city.

(b) All such burial rights in the cemetery shall be sold at such prices as set from time to time by the city council and in effect at the time purchase is made. A schedule of such prices shall be maintained in the office of the City Secretary.

(c) The City Secretary is hereby authorized and directed to make, execute, acknowledge and deliver all deeds conveying such burial rights in to the purchasers of same.

(d) Deeds may be delivered to purchasers only upon payment in full of the purchase price. No space or grave space may be reserved.

(e) All deeds so conveying burial rights shall be subject to the terms of this ordinance, and each purchaser shall be responsible for complying with the provisions hereof.

(f) No space in the cemetery shall be used for any other purpose than for the interment of the human dead.

(g) Not more than one (1) body or the remains of more than one (1) body shall be interred in each grave space. However, the cremated remains of one (1) body may be interred with a relative in the same grave

space whether such relative's body or cremated remains is buried in the space. In addition, a child may be interred with a relative where the body of such child does not occupy a space in the grave in excess of three (3) feet in length.

#### **Section 7. Errors in conveyances.**

The city reserves and shall have the right to correct any errors that may be made in the description, transfer or conveyance of any grave space or portion thereof, either by canceling such conveyance and substituting and conveying in lieu thereof other grave spaces or portions thereof of equal value and similar location as far as possible, or as may be selected by the city, or in the sole discretion of the city, by refunding the amount of money paid on account of such purchase. In the event such error shall result in the interment or disinterment of the remains of any person in such property, the city reserves, and shall have, the right to permit the removal and transfer of such remains so interred to such other property of equal value and similar location as may be substituted and conveyed by the city in lieu thereof. There shall be no liability against the city for any remedy other than the correction of the errors.

#### **Section 8. Paupers.**

The city council shall from time to time designate and set aside areas of the cemetery for purposes of the burial of any dead body of a pauper or persons given to the care of the city who die within the city limits. The city shall provide the grave space without charge and arrange for the burial of paupers by order of the mayor.

#### **Section 9. Disclaimer.**

The city distinctly disclaims all responsibility for loss or damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrection, riots, or an order of any military or civil authority, whether the damage be direct or collateral, other than as may be herein provided.

#### **Section 10. Interested parties to obtain necessary information.**

It shall be the duty and responsibility of the funeral directors and others interested in the purchase and sale of grave spaces and the burial within such spaces in the cemetery to obtain the necessary information from the city concerning the status and availability of as well as the regulations pertaining to such grave spaces as well as a copy of this ordinance. The city shall have no duty to keep the funeral directors or other interested persons informed except in reply to particular inquiries.

### **ARTICLE II. SPECIFIC REGULATIONS**

#### **Section 1. Admission to cemetery.**

- (a) Entrance into the cemetery shall only be through the main entrances. It shall be unlawful for any person, other than duly authorized city officers, officials, agents or employees, to enter into or leave the cemetery grounds other than by the established entrance routes.
- (b) Other than as herein provided, a person within the cemetery shall use only the pathways therein.
- (c) The cemetery will be officially open daily to the public for visiting, care of graves, and other appropriate uses.

#### **Section 2. Time for interments and other activities.**

All activities for which a permit is hereinafter required, including interments and disinterments in the cemetery, shall take place during daylight hours unless specifically approved by the city and no such activity shall be permitted on weekends or holidays unless the permit has been approved, in writing, on

the regular working day prior to that weekend or holiday or arrangements have been made through the city.

### **Section 3. Trees, shrubs, flowers and other plants.**

(a) No trees, shrubs, bushes, ornamental plants, flowers or any other similar plants shall be planted on any cemetery space.

(b) Flowers and plants, real or artificial, may be placed in planters or receptacles flush with grave markers or if part of a holiday decoration or funeral design or floral piece, may be placed in pots or other containers on top of the grave for a temporary period as provided herein; however, the city shall not be responsible for the care of such flowers or plants or the containers or receptacles they are placed in.

(c) Family members of the deceased are responsible for upkeep and removal of flowers and plants placed on gravesites, however, the city may remove, without notice, all flowers and plants, real or artificial that become unsightly or wilted.

(d) Whenever any trees or shrubs situated on any cemetery space, which by means of their roots or branches, become detrimental to the adjacent space or become unsightly or inconvenient for visitors, the city or its agents shall have the right to enter upon the space to remove the trees or shrubbery or such part thereof as they shall determine to be detrimental, unsightly or inconvenient. The city authorities shall have the right to remove any trees or shrubbery that may be infected by scales or other diseases and to plant and mow the grass on all grave spaces or encroach upon an adjoining space.

(e) The city reserves the exclusive authority to plant all trees, shrubs, bushes, ornamental plants, and all flowers or other similar plants in the cemetery grounds.

### **Section 4. Curbs, fences and enclosures prohibited.**

It shall henceforth be unlawful for any person to build or erect any coping, fence, hedge, ditch, edging, curbing or enclosure of any kind or character upon or around any space or grave space in the cemetery.

### **Section 5. Certain additional miscellaneous objects on grave spaces prohibited.**

(a) Ornaments, chairs, settees, vases, urns, glass jars, pitchers, artificial flowers, flowers, toys, watering cans, trellises or other articles permanently placed on spaces are prohibited in the cemetery except as provided herein and the right to remove the same without notice is reserved.

(b) Objects of wood of any kind, unless placed in the cemetery by the city authorities, shall not be permitted in the cemetery and no gravel, brick, stone, cement or other kind of artificial walk will be allowed on any space nor will grave blankets or pebbles, pea gravel or sand be allowed as cover.

(c) Surface vaults are not permitted.

### **Section 6. Disposal of funeral designs and floral pieces.**

Funeral designs and floral pieces will be removed from the graves when they become wilted or unsightly in the judgment of the city authorities. Persons desiring to retain such design or piece must remove the same within seven (7) days after the interment. In no case will a city employee attempt to locate designs or floral pieces after their removal from the spaces.

### **Section 7. Holiday decorations.**

Holiday decorations on graves must be temporary and must be placed within eighteen (18) inches of grave markers. All such decorations must be placed no earlier than two (2) weeks before the holiday and be removed no later than one (1) week after.

### **Section 8. Landscaping work.**

(a) All landscaping work within the cemetery will be done by the city.

(b) The city reserves the right to remove without notice any articles or objects in a cemetery space left

thereon in violation of this ordinance.

**Section 9. No effect on right to care for grave spaces individually.**

None of the rights, powers and duties provided for herein shall deprive any person having a proper interest in a grave space, or kinship within the third degree by affinity or consanguinity to those interred therein, from beautifying or caring for the same individually, or at his own expense, subject always to the rules and regulations imposed by the city.

**Section 10. Certain acts prohibited.**

- (a) It shall be unlawful for any person to discharge any firearms, air apparatus, or projectiles in or across the cemetery except the firing of a salute incident to a burial or memorial service.
- (b) It shall be unlawful for any person to deface, molest, injure, mar, throw down, destroy or remove any tombstone, monument, stone, decoration or memorial erected to commemorate the dead in the cemetery.
- (c) It shall be unlawful for any person other than the owner thereof or an employee of the city or its agent, pursuant to the provisions of law or of this ordinance, to remove or disturb any tree or shrub or other plant lawfully planted in the cemetery or any vase or container or to pick, pluck, or cut any flower or decorative plant placed on any grave space in the cemetery.
- (d) It shall be unlawful for any person to place, dump, throw, or deposit or cause to be placed, dumped, thrown, or deposited in the cemetery tin cans, bottles, papers or other litter, garbage, junk or rubbish of any kind.
- (e) It shall be unlawful for any person to burn off any grave space or portion thereof at any time.
- (f) It shall be unlawful for any person to have refreshments within the cemetery or to bring intoxicating liquors or controlled substances in to the grounds.
- (g) It shall be unlawful for any person to be guilty of boisterous or unseemly conduct while on the cemetery grounds.

**ARTICLE III. PERMITS AND LICENSES**

**Section 1. Permits required.**

- (a) Prior to the interment or disinterment of any body, a representative of the deceased and the person owning the burial rights to a cemetery space must obtain a permit for interment or disinterment from the City.
- (b) Application for said permit must be made in writing, giving the exact location of the cemetery space on which work is to be performed, signed by the owner of burial rights to the space and by a representative of the deceased, and must include such other information as may be deemed necessary by the city.
- (c) Prior to the setting or resetting of any grave marker or monument or any work, improvements or alterations on grave spaces, a representative of the deceased and the person owning the burial rights to the cemetery space must notify the City and obtain written permission to perform such work.
- (d) All work, improvements or alterations on grave spaces made without notification to the City and written permission to perform the specific work, may be removed and the space will be brought back to its original condition at the expense of the owner or responsible party.
- (e) Only persons licensed by the City pursuant to Section 3 below shall be allowed to open or close a grave within the Cemetery.

**Section 2. Specific requirements for issuance of permit for interment/disinterment.**

- (a) Before a permit for interment or disinterment is issued by the city, proof of ownership of the burial

rights to such space, such as a deed, receipt, or other evidence satisfactory to the city, must be provided and verified through city records.

(b) Before any grave shall be opened in the cemetery, a representative of the deceased must physically verify the correct location of the grave space with City staff and the location and identification of the cemetery space documented in writing and signed by the representative of the deceased and the owner of the burial rights to such space.

(c) In addition, the family of the deceased or the duly authorized representative shall provide to the city the name of the deceased, such person's date of birth and date of death, place of death, date of interment, the name and address of such person's nearest relative, the name of the funeral establishment in charge of the service, the name and license number of the licensed grave opener/closer, and the space number of the grave. This information must be provided in writing on a cemetery record provided for such purpose.

### **Section 3. License to Open and Close Graves.**

Any person that opens or closes graves within the cemetery must first obtain a license to do so and must meet the following requirements.

(a) Complete an application for the license including a statement that the person has reviewed this ordinance and agrees to comply with all of its provisions as well as any applicable state or local laws regarding interment and disinterment and opening and closing of graves.

(b) Provide evidence through a certificate of insurance with an insurance company licensed in the State of Texas, that such person or entity has liability insurance coverage in the following types and amounts:

General Liability Insurance	\$1 million per occurrence
Automobile Liability	state requirements
Workers' Compensation	statutory amounts as required

(c) Pay the annual grave opener/closer license fee as established by the City Council of the City of Coahoma.

(d) Grave opener/closer licenses must be renewed annually upon the anniversary date of the first issuance and the applicable annual renewal fee must be paid upon renewal.

### **Section 4. Permit and License Fees.**

The City Council shall from time to time establish grave opener/closer license fees, renewal fees, burial permit fees and such other fees necessary for the efficient operation of the Cemetery, and shall make said fees known to the public by posting same in the office of the City Secretary.

### **Section 5. Specific requirements for Licensed Grave Opener/Closers.**

(a) Only persons or entities with a valid grave opener/closer license issued by the City may open or close graves and inter or disinter the bodies of all dead persons in conformity with state laws and regulations and this ordinance. The licensee shall dig and prepare all graves in a proper manner and as promptly as possible upon receiving a request that has been verified by the City. The licensee shall superintend the depositing or removal of the body therein. Such graves shall be of a depth that conforms with state law.

(b) The licensee shall refill and properly finish up the grave after the body has been buried or disinterred. Any dirt remaining after filling of the grave shall be disposed of by the licensee or stockpiled with the permission and at the direction of the city, in a place designated by the city for the deposit of such excess dirt. A minimum of twelve (12) inches and a maximum of twenty-four (24) inches of dirt finished in a curved mound must be left over each completed grave site. Within one



(1) day after the date of burial, the licensee shall remove from the cemetery all excess dirt remaining after the burial. The excess dirt shall not be spread or broadcast over the grave or elsewhere in the cemetery.

- (c) After the grave is closed, the licensee will be responsible for future filling-in of the grave for one (1) full year after the date of burial and shall remove from the grave site all excess dirt remaining above ground level after the grave has settled.
- (d) Licensees shall be held responsible for the action of all vehicle drivers or others employed by them while within the grounds of the cemetery. Heavy trucks or vehicles with heavy loads shall not enter the grounds without first procuring permission from the City. All vehicles or equipment used by the licensee must be insured in accordance with this ordinance.
- (e) Licensees shall be responsible for repairing any damage caused to the grounds, vegetation, curbs, fencing, monuments and headstones within forty-eight (48) hours of interment or disinterment.

#### **Section 6. Duty of funeral director; opening and closing of graves.**

- (a) It shall be the duty of the funeral director in charge of the burial to ensure that all graves are opened and closed by a licensed grave opener/closer as herein provided.
- (b) Funeral directors shall be held responsible for the action of all vehicle drivers or others employed by them while within the grounds of the cemetery. Heavy trucks or vehicles with heavy loads shall not enter the grounds without first procuring permission from the city. Such permission may be denied when circumstances warrant denial.

### **ARTICLE IV. GRAVE MARKERS**

#### **Section 1. Consultation with city.**

Before ordering monuments or grave markers, a grave space owner or the family of the deceased must consult with the city for verification that the monument or marker complies with this article. All monuments or markers must be approved by the city in writing before placement at the grave site. If any marker or monument or foundation for the same is placed in the cemetery without the written verification of the city or the inspection required in Section 5 below, the marker, monument or foundation may be removed by the city at the expense of the representative of the deceased or the owner of the burial rights to the space.

#### **Section 2. Vaults, tombs, mausoleums, etc.**

Vaults, tombs, mausoleums and like structures are prohibited in the cemetery. This section does not apply to the underground vault customarily used to encase a casket which is specifically allowed herein.

#### **Section 3. Single interment markers or headstones.**

- (a) On single interment grave spaces, the marker or stone must be placed at the head of the grave space. Except when multiple spaces are owned by a family, and a monument is placed at the head, then the family has the option to place the headstones or markers at either or both the head and foot of the grave space; however, all such headstones and markers shall be uniformly placed.
- (b) Except as stated above, only one (1) marker or headstone may be placed at a grave space.

- (c) No marker or head stone shall be permitted to extend above the surface of any space but must be flush with the ground.
- (d) The maximum size of markers or headstones shall not exceed thirty-two (32) inches by twenty-four (24) inches and the minimum size shall be ten (10) inches by twenty (20) inches.
- (e) In lieu of the single grave markers as herein provided, companion memorials are permitted as a marker for two (2) graves, so long as that companion memorial marker or headstone shall not exceed sixty-two (62) inches by twenty-four (24) inches.

#### **Section 4. Marker foundations.**

No part of the foundation for any marker shall be permitted to rest on any wooden box or steel vault. The foundation may consist of compacted stone or concrete a minimum of four (4) inches in depth with a minimum three-inch border.

#### **Section 5. Inspection.**

The city shall have the right to inspect all markers and monuments before the same are placed on the foundations thereof and may refuse the placing of any marker or monument on such foundation if it finds that such marker or monument is not in compliance with any of the provisions of this article or that the workmanship has not been done in a skillful, workmanlike manner.

#### **Section 6. Work subject to supervision, control and direction of city.**

All monument dealers or builders or individuals placing any monument or marker in the cemetery shall work and be under the direct supervision, control, and direction of the city.

### **ARTICLE V. PENALTY, REPEALER, PUBLICATION, SEVERABILITY**

#### **Section 1. Criminal Penalty and Civil Remedies.**

- (a) Criminal Penalty. Any person who shall violate the provisions of this ordinance or fail to comply therewith, or who permits the violation of any provision of this ordinance, shall upon conviction be guilty of a misdemeanor and subject to a fine not to exceed five hundred dollars (\$500.00). Each day that a violation of this Ordinance exists shall constitute a separate offense.
- (b) Civil Remedies. Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or whenever the doing of an act is required or the failure to do an act is declared to be unlawful, the violation of any such provision resulting in damages shall be punishable by a civil penalty of no less than the amount of such damages and direct costs incurred by the City covering labor, materials and equipment as verified to the City Secretary.
- (c) Cumulative Remedies. All remedies of the City, whether or not expressly provided for herein are cumulative and the imposition of one remedy shall not preclude the City from seeking any other remedies.

#### **Section 2. Repeal.**

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance, including, but not limited to Ordinance Number 46, are hereby repealed, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated herein.

#### **Section 3. Severability.**



If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Coahoma hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

**Section 4. Publication.**

The City Secretary is hereby directed to publish a caption of this Ordinance that summarizes its purpose and penalty, as provided in Section 52.011 of the Texas Local Government Code.


**Section 5. Effective Date.**

This Ordinance shall be effective upon its passage and publication as required by law.

**Section 6. Proper Notice and 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 law.

**PASSED, ADOPTED AND APPROVED** by the City Council of the City of Coahoma, Texas on this the 21<sup>st</sup> day of January, 2019.

By:   
Warren Wallace, Mayor

**ATTEST:**

  
Tammy Griffith, City Secretary

