

**ORDINANCE NO. 2021-04-26-A**

**AN ORDINANCE OF THE CITY OF RANGER, TEXAS, ADOPTING RULES AND RATES FOR THE EVERGREEN CEMETERY; PROVIDING A PENALTY CLAUSE; PROVIDING FOR SEVERABILITY; OPEN MEETING CLAUSES; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Ranger (“City”) owns a municipal owned cemetery, which is operated by the City as Evergreen Cemetery;

**WHEREAS**, the City Commission (“City Commission”), as the governing body of the municipality may purchase, establish, regulate, enclose, and improve a cemetery owned by the municipality.

**WHEREAS**, the City Commission has previously regulated the sale of lots and the appearance of the cemetery; and

**WHEREAS**, the City Commission finds it necessary to update its cemetery regulations and has determined that the regulations should be adopted as an ordinance to aid in enforcement of the regulations;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RANGER, TEXAS THAT:**

**Section 1. Findings of Fact.** The findings and recitations set out herein above are found to be true and correct and are hereby adopted by the City Commission and made a part hereof for all purposes as findings of fact.

**Section 2. Adoption of Cemetery Ordinance.** The Ordinance set forth below shall be adopted and known thereafter as the “Evergreen Cemetery Ordinance” for the City:

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**EVERGREEN CEMETERY**

**Article I. Care, Administration, and Provisions**

**Section 1. Evergreen Cemetery Care**

(a) The Evergreen Cemetery is operated pursuant to Chapter 713 of the Texas Health and Safety Code.

(b) The care of the Evergreen Cemetery by the City does not include the purchase, erection, repair, or replacement of markers, headstones, monuments, or any other items on a plot or grave.

## Section 2. Definitions

The following words and terms, when used in this Ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

*Cemetery* means a place that is used or intended to be used for interment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves. In this Ordinance, it means the Evergreen Cemetery.

*City* means the City of Ranger, Texas.

*City Manager* means the City Manager of the City of Ranger or his or her designee.

*Decedent* means a human who has died.

*Disinterment* means to exhume, unbury, or take out of the grave.

*Flower arrangement* means a decorative display of either natural cut flowers or artificial flowers.

*Flower saddle* means a flower arrangement that is attached to an upright headstone by a wire frame. Also called "headstone saddle" and "cemetery saddle".

*Funeral establishment* means 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 are engaged or represent themselves to be engaged in the business of embalming or funeral directing.

*Grave* means a space in the Cemetery that is used for interment or inurnment of human remains in the ground. The term includes *Grave site*.

*Interment* means the permanent disposition of remains by burial.

*Inurnment* means the permanent disposition of a cremation by burial.

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

*Plot* means a space in the Cemetery that is used or intended to be used for interment or inurnment of human remains in the ground.

*Plot owner* means a person in whose name a plot is listed in the City's offices as the owner of the exclusive right of interment or who holds a certificate of ownership or other instrument of conveyance of the exclusive right to interment in a particular plot in the Evergreen Cemetery.

*Remains* mean the body of a decedent or the cremated remains of a decedent.

*Shepherd's hook* means a long metal pole which is curved over at the top for holding hanging baskets.

### Section 3. General Provisions

- (a) The Cemetery contains plots and grave sites in the ground. All plots or grave sites owned by the City are subject to purchase, which shall be memorialized by either a Cemetery Deed for a plot or grave site or a Certificate of Ownership. The City reserves the right to refuse to sell a plot or grave space to any particular person or entity.
- (b) All plots shall be used for the interment of human remains only.
- (c) The owner of plots and grave sites in the Cemetery shall have the right to use the cemetery pursuant to the rules and regulations contained in this Ordinance.
- (d) The rules and regulations herein contained are designed for the protection of the rights of all plot and grave site owners. The rules adopted have been determined to be reasonably necessary.
- (e) The rules and regulations contained in this Ordinance are intended to allow for diverse memorialization of the lives of loved ones while also promoting safety of visitors and City staff and allowing for efficient maintenance by the City.
- (f) The City reserves the right from time to time, to enlarge, reduce, replat, or change boundaries or grading of the cemetery or any section thereof, including the right to modify or change the location of, remove or regrade roads, drives and/or walks or any part thereof, and to lay, maintain, operate, alter, or change pipelines, sprinkler systems, and drainage systems. The City reserves the right to use and to place trees, shrubs, features, monuments, and works of art on portions of the Cemetery not sold to individual plot or grave owners.
- (g) The City reserves the right to establish a volunteer group that will work in cooperation with and under the guidance of the City. The volunteer group would serve as an advocate to preserve, maintain, and improve the Cemetery and educate the City about its importance as a historic and cultural resource. This volunteer group may assist in general clean-up, public remembrances such as veterans' events, research, and projects approved by the City.

### Section 4. Administration and Supervision

- (a) All matters pertaining to the Cemetery are under the jurisdiction of the City Commission. All administrative matters pertaining to the daily operation of the Cemetery are conducted under the direction of the City Manager.
- (b) No person shall have the right to transact any business pertaining to the Cemetery unless duly authorized, in writing, by the City Commission or City Manager.
- (c) The City's Public Works Department has the task of maintenance and care of the Cemetery on behalf of the City and its responsibilities as outlined in this Ordinance.

(d) Records regarding all interments in the Cemetery shall be kept at City Hall. These records shall include the section, lot, and grave location, the name, age, and date of interment of each grave occupant.

#### Section 5. Additional Relevant State Law

State laws which may be enforced at the Cemetery include, but are not limited to:

(a) Abuse of Corpse. Section 42.08 of the Texas Penal Code says that the vandalizing, damaging, or treating in an offensive manner the space in which remains have been interred or otherwise permanently laid to rest is a Class A misdemeanor or State Jail felony depending on the allegations.

(b) Criminal Mischief. Section 28.03 of the Texas Penal Code says that the damage or destruction of property involving human burial is a State Jail Felony.

(c) Graffiti. Section 28.08 of the Texas Penal Code says that the intentional or knowing creation of markings on property of another which is located in a place of human burial with paint, an indelible marker, or an etching or engraving device is a state jail felony.

### **Article II. Penalties**

#### Section 1. Violations and Penalties

(a) If any plot or grave site is found to be in violation of this Ordinance, the City may remove and discard the subject of the violation without liability.

(b) Any person or entity who violates or fails to comply with any provision of this Ordinance shall be charged with a Class C misdemeanor and, if convicted, may be subject to fine of up to Five Hundred Dollars (\$500.00). Each day a violation exists or continues shall constitute a separate offense.

### **Article III. Sale of Spaces**

#### Section 1. Cost

The City Commission shall establish the price of all plots and/or supplementary services in an established Fee Schedule. The current fee schedule is available in the office of the City Secretary.

#### Section 2. Sale Procedures

(a) Payment. A person wishing to purchase a plot may pay the cost in full or may enter into a sales contract with the City to purchase a plot. Upon receipt of full payment, the City will issue a Cemetery Deed to the purchaser. The Cemetery Deed will be recorded at the City Hall of Ranger, Texas prior to being delivered to the purchaser.

(b) Plots for Interments. Only one (1) full interment is permitted per plot. However, a full interment and one (1) inurnment (cremation) may be permitted per plot. If a

cremation (inurnment) and full interment are to be made in one plot, the full interment must be done prior to the inurnment.

(c) Plots for Inurnments. Four inurnments can be made on a single plot without a casket.

(d) The purchaser must agree to abide by the City regulations.

(e) The sale of a space is not valid until either a Cemetery Deed or a Certificate of Ownership has been delivered to the purchaser.

### Section 3. Resale Procedures

An original owner wishing to sell or transfer a plot to another person must file documents memorializing the sale or transfer with the City and pay a transfer fee, as established by the City Commission in the City Fee Schedule. The resale of plot's cannot be for more than the current purchase price that is established in the City Fee Schedule. The City shall then issue a new Cemetery Deed or Certificate of Ownership to the purchaser.

## **Article IV. Use of the Cemetery**

### Section 1. Hours of Operation

(a) The gates of the Cemetery will open at 8:00 a.m. and close at dusk, and no one will be allowed within the grounds before opening or after closing.

(b) All work performed in the Cemetery, by anyone other than the City, may only be conducted between 8:00 a.m. and 5:00 p.m. on Monday through Friday. Individuals may perform work on their personally owned plots until closing.

### Section 2. Vehicles

(a) No person shall operate or cause to operate any vehicle within the Cemetery except on roads designated for that purpose. No person shall operate or cause to operate any vehicle at a speed greater than ten (10) miles per hour while within the Cemetery.

(b) Vehicles shall be driven only on driveways and not across plots or graves to gain access to a grave or plot. Vehicles may not turn around in the avenues.

(c) Commercial vehicles are prohibited, unless used for the delivery of materials for construction and development within the grounds.

### Section 3. Rules of Conduct

(a) Visitors must not intentionally trespass on any plot or grave.

(b) All persons must remain quiet and respectful while interment services are being conducted.

(c) No person shall possess or consume alcoholic beverages or illegal drugs within the Cemetery.

(d) Disorderly conduct is not permitted, and the individual will not be allowed to enter or remain within the Cemetery grounds.

(e) Children should be accompanied by adults.

(f) Dogs and other pets must be on a leash. The pet owner is responsible for collecting and properly disposing of their animal's feces.

(g) No advertisement of any form shall be allowed or conducted within the Cemetery or on the Cemetery gates.

(h) The City will not be responsible for acts of vandalism or theft of memorials or personal property.

#### Section 4. Funerals

Funeral establishments must schedule funerals to ensure that all attendees vacate the Cemetery prior to sundown. On entering and while within the Cemetery, funeral processions, participants, and guests shall conduct themselves in accordance with the rules contained in this Ordinance.

#### Section 5. Interment

(a) Order. A plot owner, or the legal heir(s) of the owner, must sign an order for interment before the City will allow interment.

(b) Licensed Funeral Directors. It shall be the duty and responsibility of the funeral directors to confirm plot ownership with the City prior to interment. All graves must be dug and filled by licensed funeral directors conducting the burials and the City shall not be responsible for digging such graves.

(c) Notice. The Funeral Establishment shall provide the City with notice regarding a planned interment. Said notice shall provide the details of the day and time of the proposed interment. Said notice shall be provided to the City at least one (1) business day before the planned interment. A City representative will be present to mark the appropriate plot for interment.

(d) Restricted. All interments in any plot shall be restricted to members of the family and relatives of the owner thereof unless written permission has been obtained from the City.

(e) Burial Rules. Not more than one (1) casket and one (1) urn may be buried in one plot. This subsection does not affect multiple burials existing as of April 12, 2021.

(f) Burial Rules for Inurnments Only. Not more than four (4) cremated remains may be inurned in one (1) grave.

(g) Fee. A fee shall be assessed for each interment or inurnment after the first interment in a plot. Said fee will be established by the City Commission in the Fee Schedule Ordinance.

## Section 6. Disinterment

(a) Permit. Disinterment shall only be made after a disinterment permit has been issued by the State or upon written permission of the City if the remains are to be reinterred in the Cemetery or if the remains are located in the columbarium.

(b) Order. A plot owner, or the legal heir(s) of the owner, must sign an order for disinterment before the City will allow disinterment.

(c) Notice. Written notice of any disinterment shall be provided at least one (1) business day before the planned disinterment and shall include the state permit, if required, the order described by subsection (b) above, and provide the details of the day and time of the proposed disinterment. A City representative will be present to mark the appropriate plot for disinterment.

## **Article V. Appearance of Cemetery**

### Section 1. Responsibilities of City

(a) All plots are marked and put in order by the City.

(b) The City reserves unto itself a perpetual right of ingress and egress over graves and plots for the purpose of maintenance or any and all other lawful purposes.

(c) The City is responsible for cleaning, mowing, and trimming all areas of the Cemetery. The City may allow the private care of a graves or plots provided said care is at the same or superior level as provided by the City.

(d) The City shall have the right to remove objects that are deemed to be offensive or injurious to the appearance of surrounding plots or graves. The City shall have the right, and it shall be their duty, to enter upon such plot or grave and remove the offensive or improper object, and it may do so without notice to the owner.

(e) Twice a year, the City shall conduct a clean-up during which it will remove any items left at the Cemetery, including individual plots or graves for longer than thirty (30) days.

### Section 2. Appearance of Plots or Graves

(a) Boundary and Grade. All boundary markers set by the City must remain undisturbed. The grade of plots, once established, shall not be changed without the consent of the City.

(b) The City shall have the full right to fill and level graves and plant grass thereon, when desired or deemed necessary.

(c) Vegetation. Picking flowers, wild or cultivated, or injuring trees, plants, shrubs, or other property in the Cemetery is strictly prohibited. The planting of trees, shrubs, and bushes anywhere within the Cemetery will not be permitted without prior approval of the City Manager.

(d) Perimeter Structures. No fencing, coping, or enclosure of any nature will be allowed without prior approval by the City, unless it was in place prior to April 12, 2021.

(e) Flags may be placed on graves of Veterans and Gold Star Families by approved Veterans Groups as authorized by the City and family members. These flags may be placed in celebration of Memorial Day, Independence Day, and Veteran's Day. These flags must be picked up within two weeks following these holidays.

(f) The City is authorized, as part of its role in maintaining the Cemetery, to remove debris, including dead flowers, deteriorated plastic ornaments, wreaths, baskets, floral pieces, decorations, and all other objects when they have become unsightly, withered, or an obstruction to maintenance. The City may remove any item deemed to endanger the public health, safety, comfort, or welfare.

### Section 3. Memorials

(a) Notice Required. A dealer wishing to install a memorial must provide written notice to the City at least one (1) business day prior to installation. Said notice shall include documentation from the plot owner authorizing the installation of the memorial and provide information regarding the size, description, material, and lettering of the memorial. Before a dealer may install a memorial, it must have the written authorization of the City. Once allowed, all work must be completed as fast as possible, under the supervision of the City, and all materials must be removed when work is completed.

(b) Monuments. Standing monuments are authorized.

(c) Individual grave markers. Flat grave markers should be set flush with the ground. Grave markers that are not flush with the ground may be damaged during mowing and maintenance to the Cemetery. Temporary markers must be removed once a permanent marker, headstone, or monument has been placed on a grave space.

(d) Cornerstones and Footstones. Cornerstones or Footstones must be level with the ground, so as to not interfere with mowers. It is recommended that they be made of unpolished granite or bronze, if used.

(e) Removal. No memorial shall be removed from any plot under claim that it is not paid for, or other pretense, without the written permission of the City.

### Section 4. Decoration of Plots, Graves

(a) Non-Flower Items. Toys, glassware, trinkets, rosaries, shells, or similar items may be placed on a plot. However, these items should be permanently attached to the base of an upright monument by the plot owner. Plot owners should be aware that if non-flower items are deemed to be a deterrent to maintenance or mowing, or if they become unsightly, they may be removed by the City.

(b) Flowers. Flowers are authorized in the Cemetery. Plot owners are encouraged to use baskets hanging from a shepherd's hook, as part of a flower saddle placed on

monuments, or in a pot or vase that is staked (or anchored) in the ground. Displaying flowers in this manner allows for efficient maintenance and mowing in the Cemetery.

(c) Existing Decorations. Any decorations existing on plots as of April 12, 2021 which are in violation of this Ordinance shall be allowed to remain as long as the decorations do not pose a threat to the health and safety of visitors and do not interfere with the City's ability to maintain the Cemetery.

(d) Breakage: Every reasonable effort will be made to respect each decoration; however, the City shall not be responsible for the breakage of stands, vases, and other decorations.

Section 5. Watering Guidelines

(a) City water is available at the Cemetery. Water sprinklers will not be left on after the Cemetery closes for the day. Repeat offenses is considered a violation of this Ordinance and is therefore subject to penalties.

(b) Watering equipment is not provided by the City. If patrons leave sprinklers at the Cemetery, they may be tagged and removed by the City Staff. The City will attempt to make contact so that the equipment may be returned to the appropriate owners. The City will not hold or store the equipment for longer than 30 days.

(c) Filling of water containers, tanks, or water trucks for use outside of the Cemetery is a violation and is subject to penalties.

Section 6. Surrounding areas

The space and walk around single graves remain the property of the City. No markers, trees, or flowers shall be allowed between the single grave rows.

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**Section 3. Repeal.** All ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed to the extent of such conflict.

**Section 4. Severability.** The provisions of this Ordinance are declared to be severable. If any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance, but they shall remain in effect notwithstanding the validity of any part.

**Section 5. Open Meetings Act.** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that the public notice of the time, place, and purpose of said meeting was given as required and that public notice, place, and purpose of said meeting was given as required by the open meetings act, chapter 551, Texas Government Code.

**Section 6. Effective Date.** This Ordinance shall be in full force and take effect upon its passage and publication as provided by law, and it is so ordained.

**FIRST READING PASSED AN APPROVED**, this 12<sup>th</sup> day of April, 2021.

**SECOND READING PASSED AN ADOPTED**, this 26<sup>th</sup> day of April, 2021.

**CITY OF RANGER, TEXAS**

  
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Joe Pilgrim, Mayor

**ATTEST**

  
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Savannah Fortenberry, City Secretary