

AN ORDINANCE TO AMEND CHAPTER 18 "CEMETERIES" OF THE CODE OF ORDINANCES OF THE CITY OF NEW BERN

THAT WHEREAS, the Board of Alderman of the City of New Bern deems it advisable and in the public interest to effect certain revisions to Chapter 18 "Cemeteries" of the Code of Ordinances of the City of New Bern.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF NEW BERN:

SECTION 1. That Chapter 18 "Cemeteries" of the Code of Ordinances of the City of New Bern be and the same is hereby amended by deleting Chapter 18 in its entirety and inserting in its stead the following:

"CEMETERIES

Sec. 18-1. Definitions.

(a) *City cemetery:* All cemeteries owned, operated and maintained by the City of New Bern, specifically including the following cemeteries: Evergreen Cemetery, Greenwood Cemetery, Cedar Grove Cemetery, Cedar Grove Extension Cemetery, New Bern Memorial Cemetery, and Bryan-Fordham Cemetery.

(b) *Grave:* A three (3) feet by eight (8) feet cemetery lot located in a city cemetery.

(c) *Outer burial container:* A grave liner or burial vault that surrounds the casket in the ground.

Sec. 18-2. Interment.

(a) It shall be unlawful for any person to make, or cause to be made, any interment inside the city limits except in city cemeteries, existing private cemeteries, cemeteries licensed by the State Burial Association Commission, or in church cemeteries.

(b) Only human remains, properly entombed in caskets or other appropriate burial containers, shall be buried or otherwise interred in any of the cemeteries of the city.

(c) Multiple interments in a single grave shall be limited to one of the following: (1) the interment of two (2) burial vaults for children provided that the grave space will accommodate two (2) burial vaults; (2) the interment of one burial vault and one cremation urn; or (3) the interment of up to six (6) cremation urns as space allows.

(d) No grave shall be opened to a depth of less than five (5) feet to the bottom thereof. All burial vaults and cremation urns shall be at least eighteen (18) inches below the ground level.

(e) All burials on or after April 1, 2015, will be in a commercially procured outer burial container with a liner or vault that has been approved by the parks and recreation director. The minimum requirements for concrete liners shall be one and one-half-inch (1½) sidewall thickness, two-inch top thickness, two-inch bottom thickness, and three thousand (3,000) PSI. The minimum requirements for a steel vault shall be a twelve-gauge thickness top, sides, and bottom. Wooden or other short-term liners are not allowed. No liners are required for cremations.

Sec. 18-3. Sale of use license for cemetery lots.

(a) Fee simple title to the real property included in city cemeteries shall remain vested in the city. There shall be no conveyance of title to any grave space, but the right or privilege of interment shall be sold as herein provided, and such right or privilege shall be evidenced by a certificate issued in the name of the city by the parks and recreation director.

(b) All persons desiring to purchase a use license for cemetery lots in the city cemeteries shall apply to the parks and recreation director or his or her designee who, upon approval and payment of the price fixed for each cemetery lot, shall cause the use license therefor to be executed to the purchaser. Under no condition shall a use license for a cemetery lot be issued to a purchaser nor shall an interment authorization be issued until the purchase price is paid in full and approval is given by the parks and recreation director or his or her designee.

(c) The purchaser of a use license may not transfer the same. The city will refund, without interest, any sum paid for a use license if requested to do so in writing by the purchaser thereof prior to the opening of a grave in the grave space subject to the use license and upon surrender by the purchaser of the use license issued for such grave space. Upon the death of the holder of use license, his or her heirs, legatees or devisees, shall succeed to his rights in said certificates. The owner of a use license may permit interment in the grave space or spaces therein described of any person designated in writing by the use license owner, provided no compensation for such interment is received by the use license owner and provided the interment is made in compliance with the provisions of this chapter. Each use license executed shall contain language that the use rights are conveyed subject to this chapter and any amendments thereto.

(d) The purchase price of use licenses for cemetery lots shall be price established from time to time by the board of aldermen and set forth and maintained in the city schedule of fees and charges.

(e) Use licenses for the right or privilege of interment issued pursuant to this chapter shall be subject to the provisions of this chapter as the same may be amended from time to time by the board of aldermen.

Sec. 18-4. List of purchasers, grave spaces to be kept.

An alphabetical list of purchasers of use licenses for cemetery lots and a section-numerical list of grave spaces for which use licenses have been sold shall be kept on file in the city's parks and recreation department by the parks and recreation director or his or her designee.

Sec. 18-5. Orders for grave openings; grave-side services.

(a) No grave shall be opened and no interment shall be made without a written permit issued by the parks and recreation director or his or her designee, and such permit shall be secured at least twenty-four (24) hours prior to the opening of the grave. Application for permit to open a grave must be made in writing by the owner of the use license if living or by a relative of a deceased owner for interment of a deceased owner. Said application shall state the name, age, sex, race and date and place of death of the person to be interred.

(b) Grave-side services shall be scheduled no earlier than 10:00 a.m.

(c) No grave-side services shall occur on Good Friday, Easter Sunday, Memorial Day, Independence Day, Thanksgiving Day, Christmas Day, or New Year's Day.

Sec. 18-6. Manner of opening and closing graves.

(a) All openings shall be performed by the city, or its exclusive agent in accordance with city standards and specifications as established by the parks and recreation director.

(b) The city shall provide and erect a standard tent over the area of the plot containing the open grave, and shall also be responsible for removing the same. The fee for such service shall be established from time to time by the board of aldermen and set forth and maintained in the city schedule of fees and charges.

Sec. 18-7. Disinterments; application and approval required.

A person who desires to have removed from his or her lot or vault the remains of a person interred therein shall apply in writing addressed to the parks and recreation director, setting forth in such application the name of the deceased, the date and cause of death, relationship of deceased to applicant, number of lot, vault, or space in which the remains are interred, and the number of lot, vault, or space (or name of cemetery, if elsewhere) in which the remains are to be reinterred, and reason for removal. No such permission for such disinterment shall be granted, nor shall such disinterment be made until the application has been approved by the Craven County health department.

Sec. 18-8. Reinterment; requirements.

Any person desiring to have reinterred the remains of a person brought from another cemetery or burial place shall furnish the parks and recreation director with a certificate from the Craven County health department, setting forth, if possible, the name, age, sex, marital status, cause and date of death, and last residence of deceased, and name and location of former burial

place. The parks and recreation director, upon evidence of payment of charges as set forth in the schedule of fees and charges, shall have the remains properly reinterred in such place as may be selected by the person having charge of such remains.

Sec. 18-9. Grave markers and monuments.

(a) No grave marker or monument shall be placed in any city cemetery unless and until the parks and recreation director has reviewed and approved a photograph, sketch, or other accurate depiction or rendering (including a listing of all applicable materials, dimensions and wording) of such grave marker or monument.

(b) Except as provided in subsection (c), no grave marker or monument shall be placed in any city cemetery unless human remains, properly interred in a casket or other appropriate burial container, have been buried or otherwise interred in the burial plot upon which the grave marker or monument is to be placed.

(c) A grave marker, monument, or footstone may be placed in a city cemetery at an empty burial plot where:

(1) An immediately adjacent burial plot contains human remains properly entombed in a coffin or other appropriate burial container; and a living member of the immediate family of the deceased buried or otherwise interred in the adjacent burial plots is to be buried or otherwise interred in the empty burial plot; or

(2) The owner of the empty burial plot obtains permission from parks and recreation director to place a grave marker or monument on the empty burial plot in anticipation of his or her burial or interment in that plot, or in anticipation of the burial or interment of an immediate family member in that plot, or in the event the grave marker or monument is a family marker.

(d) No grave marker or monument placed in any of the city cemeteries shall contain or reflect any profanity, obscenity, vulgarity, or fighting words.

(e) No grave marker or monument placed in any of the city cemeteries shall contain or include any device intended to or capable of generating any form of light or sound.

(f) All occupied graves must have a permanent marker.

(g) No structure other than an approved monument may be placed at a gravesite. By way of illustration but not limitation the following shall be prohibited:

(1) Coping, curbing, fencing, hedging, border enclosures.

(2) Cover with stone, gravel, cinders, tile, and cement or other materials.

(3) Benches, sundials, settees, and lights.

(4) Flags will be allowed only during the weeks of Memorial Day, Veteran's Day, Patriot's Day, and July 4th.

(h) All aboveground grave markers or monuments shall have four-inch concrete aprons which shall be flush with the ground in order to facilitate monument protection, stability and maintenance. No monument shall exceed eighteen (18) inches in height, thirty-six (36) inches in width, or eight (8) inches in depth. A maximum of one (1) upright monument shall be permitted per each grave. A family marker shall be permitted on two (2) or more adjacent graves, located side by side, and shall be placed along the base line of the grave spaces and centered between the spaces. Single and cremation markers shall be placed along the base line of the grave space and centered on the axis of the space. All grave markers or monuments placed on lots are to read over the ground toward front of lot.

(i) In the areas specifically identified on official city maps of its cemetery which are kept on file in the office of the city's parks and recreation director, all grave markers must be set even with the lawn so that maintenance machines may pass over them safely without damage to the marker or machine. All such grave markers shall be size two (2) feet by one and one-half (1½) feet by four (4) inches.

(j) The persons placing grave markers shall request the city to locate the grave corners prior to placing the monument, or corner markers, as applicable. After installation, a final inspection of the marker, or corner markers shall be made by the city. All installations of markers shall comply with dimensions and placement details approved by the parks and recreation director.

(k) Anyone placing or causing to be placed a grave marker so that it is not in conformity with this section will correct it. If the marker is not brought into conformity as requested, the city shall make the correction and bill the person who placed or caused to be placed the marker.

Sec. 18-10. Plot elevation to conform to curb line.

All graves shall be level with the surrounding area. No mounds shall be allowed.

Sec. 18-11. Improvements, shrubbery and landscaping generally.

(a) Improvements by the city in city cemeteries shall be made under the direction of the parks and recreation director. No planting of trees, shrubbery or flowers shall be permitted in the cemetery except by or under the direction of the parks and recreation director.

(b) It shall be unlawful for any lot owner to plant any tree, flower, shrub or to sow seed of any kind or have such things planted or sown on his lot without the written approval of the parks and recreation director. Any such planting or sowing done without permission will be immediately removed.

(c) It shall be unlawful for any person to dig up, excavate, or remove any soil from any city cemetery, or to remove flowers, shrubs, trees, bushes, markers, pots, boxes, vases, or any other property unless from his own property, or with the consent of the owner, or by permission of the parks and recreation director.

Sec. 18-12. Entry, departure; hours of operation.

(a) It shall be unlawful for any person to enter or leave any city cemetery except at the proper places provided for entrance and exit.

(b) It shall be unlawful for any person to enter any city cemetery after the sun has set, or after 7:00 p.m., prevailing time, whichever comes first, and from then until sunrise the following morning, unless a cemetery is open for an event approved by the parks and recreation director.

Sec. 18-13. Disturbing, defacing grave, grave marker, flowers, shrubs, property; removal of flowers.

(a) It shall be unlawful for any person, in any manner, to disturb any grave, deface or remove any grave marker or to damage any flowers, shrubs, trees, or other property in any city cemetery. The parks and recreation director may authorize removal from the cemetery any floral designs, flowers, weeds, plants or herbage of any kind when, in his or her judgment, they become unsightly or if they fail to conform to the standards generally maintained in any cemetery.

(b) Flowers, including arrangements and artificial flowers used in floral decorations may be used in any city cemetery but a limit of one (1) weeks is hereby established as a reasonable period for use of such decorations. After one (1) weeks, such arrangements will be removed and disposed of.

Sec. 18-14. Speed of vehicles; vehicles restricted.

Vehicles shall be driven only upon the roadways within any city cemetery and at a rate of speed not in excess of 10 miles per hour.

Sec. 18-15. Use as playground.

It shall be unlawful for any person to use any city cemetery as a playground.

Sec. 18-16. Reserved.

Sec. 18-17. Abandoned cemetery lots; publication of notice and reversion to the city.

(a) A cemetery lot may be determined to be abandoned by the parks and recreation

director according to the following standards and procedures:

(1) Upon investigation, the parks and recreation director shall determine that there has been no interment in the lot for a period of fifty (50) years from the date of purchase;

(2) The parks and recreation director shall conduct a reasonable effort to locate the listed owner, including the sending of certified mail inquiries to the owners' last known address, and attempting to contact the owners' immediate family by mail or telephone; and

(3) Upon making the investigations outlined above, and if no valid response(s) are recovered, the parks and recreation director shall certify and report these efforts to the board of aldermen and request the board to publish notice of its intent to determine that the lot has been abandoned once a week for four (4) successive weeks in a newspaper published in the city, such notice requesting the purchaser, his or her heirs, or immediate family members to report to the city that the lot is intended to be used and has not in fact been abandoned. Upon receiving no valid responses to the published notice as described herein, the lot and all rights of burial thereon, shall revert to the city, which may then resell the lot in due course. In the event the original owner reappears after the resale of the lot or lots, a full refund of the original purchase price shall be made by the city.

(b) These provisions, or an accurate summary thereof, shall be included in the provisions of any use license to a cemetery lot sold by the city.

Sec. 18-18. Responsibility for loss or damage.

(a) The city shall accept no responsibility for any loss or damage to any grave marker, vase, or other personal property within any city cemetery as a result of the elements, storms, theft, trespass, or the operation of vehicles by visitors to the cemetery.

(b) The city shall accept no responsibility for loss, destruction or removal of any items or materials left, displayed, or otherwise installed in the cemetery whether authorized or unauthorized.

State Law reference— *Authority to regulate cemeteries, see G.S. §§ 160A-341 through 160A-348*

SECTION 2. This ordinance shall be effective from and after the date of its adoption.

ADOPTED THIS 24th DAY OF MARCH, 2015.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a solid horizontal line.

MAYOR

Brenda E. Blanco

DEPUTY CITY CLERK