

ORDINANCE NO. 2020-O-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LULING, TEXAS AMENDING THE CODE OF ORDINANCES OF THE CITY OF LULING, TEXAS BY RENAMING CHAPTER 78, “PARKS AND CEMETERIES”; CREATING ARTICLE I, “CITY PARKS”, AND ARTICLE II, “CITY CEMETERIES”; PROVIDING SEVERABILITY; PROVIDING REPEALER; PROVIDING PENALTIES; PROVIDING PUBLICATION, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has by ordinance assumed ownership of the cemeteries owned by Luling Cemetery, Inc. within the city limits of the City of Luling in order to continue providing cemetery services to the community for the present and foreseeable future; and

WHEREAS, in order to assume operation of the cemeteries owned by Luling Cemetery, Inc. and provide cemetery services to the community, it is in the best interests of the citizens of the City of Luling to amend Chapter 78 of the City’s Code of Ordinances to provide for rules and regulations for the City’s operation of, and services for, of the cemeteries.

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

I. Finding of Facts. The matters and facts set forth in the preamble are hereby found to be true.

II. Amending Chapter 78, Luling Code of Ordinances. The Code of Ordinances, City of Luling, Texas, is hereby amended by renaming Chapter 78 “Parks and Cemeteries” and adding Article I, City Parks and Article II, City Cemeteries, as follows:

CHAPTER 78 – PARKS AND CEMETERIES

ARTICLE I. – CITY PARKS

[Secs. 78-1 and 78-2 remain unchanged.]

Secs. 78-3—78-29. - Reserved.

ARTICLE II. – CITY CEMETERIES

Sec. 78-30. - Definitions.

(a) “City” means the City of Luling, Texas.

(b) “City Manager” means the Luling City Manager or her/his designee.

(c) “City staff” means employees of the City of Luling, and contractors and servants employed by the City, who have been designated to work in and around Luling city cemeteries by the City Manager.

(d) “Foot marker” means a marker placed on the foot line of a grave space or spaces. Foot markers will be set on the foot line of the space, and will not exceed forty-eight (48”) inches in length nor sixteen (16”) inches in width. Flat foot markers will be set flush with the ground.

(e) “Luling city cemeteries” are cemeteries owned by the City of Luling, Texas and provide perpetual cemetery care and the memorializing the life of loved ones while taking into consideration the safety and maintenance of the cemeteries.

(f) “Monument” means a headstone, grave marker, or similar permanent object of finished stone or bronze that serves as a memorial to a person or persons interred in the lot upon which the monument is located. Monuments must be placed on the head line of a grave space or spaces.

(g) “Person” means any person, organization, commercial establishment or other entity.

Sec. 78-31. - General provisions.

(a) Luling city cemeteries are set apart for the burial of human remains subject to the rules established in this ordinance, the City of Luling Code of Ordinances, and any applicable federal and state laws.

(b) All spaces and niches in a Luling city cemetery are conveyed to the purchaser by Cemetery Deed for cemetery lot sales, and by a Certificate of Ownership for niche sales, for the purpose of burial only. The rights of the purchaser are subject to rules and ordinances enacted or amended, from time to time, by the City Council of the City of Luling.

(c) The rules and regulations in this Ordinance are designed to conform to state law and are for the protection of the rights of Luling city cemetery space owners.

Sec. 78-32. – Administration.

(a) All matters pertaining to a Luling city cemetery are under the control of the Luling City Council and no person will have the right to transact any business pertaining to a Luling city cemetery unless duly authorized by the City Council.

(b) All administrative matters pertaining to the daily operation and maintenance of a Luling city cemetery are under the direction of the City Manager.

(c) Records of all interments are kept by the City Secretary and are open to authorized persons, and include the section, block, and grave/lot location, and the name and date of interment.

(d) Work performed in a Luling city cemetery by any person not connected with the city will be performed during the hours of 8:00 A.M. through 5:00 P.M. Monday through Friday.

Sec. 78-33. – Interment and inurement.

(a) Applications: Application for interring a body or inurning the cremated remains of a body will be made to the City Secretary, who will maintain burial information including the name of deceased, name of purchaser, exact location of the lot, or niche, on or in which the remains are to be interred, burial details, payment information, and if available, next of kin information. Permission for such interment will be issued if proper certificates, as required by state law, have been provided and all costs and fees are paid to the City.

(b) Interment: Any interment in a Luling city cemetery requiring a three (3) foot long or longer casket will be

made in a concrete box or a non- biodegradable casket. Not more than two (2) bodies may be interred in one (1) grave space. Cremated remains of one or more bodies may be buried in a grave space.

(c) Inurnment: Only one human remain may be interred in a single niche in a Luling city cemetery.

Sec. 78-34. – Disinterments, grave and niche openings.

(a) Disinterment will only be made with advanced written notice to, and under the direction of, the City Manager, in conformity with state laws and this ordinance. Graves and niches will be opened only by written authority of the City Manager.

(b) All fees associated with disinterment of grave and niche openings will be paid in advance to the City.

Sec. 78-35. – Boundary and grade of lots.

(a) All boundary markers set by the City must remain undisturbed.

(b) The grade of lots, once established, will not be changed without the written consent of the City Manager.

Sec. 78-36. – Planting and other decorations in the cemetery.

(a) The City is not responsible for any funeral design, floral piece, or other article or thing placed on any lot or grave, or in any niche, in a Luling city cemetery.

(b) The City prohibits enclosures of any kind, glass and ceramic jars/vases, glass and ceramic decorations, awnings or other articles that may be considered objectionable by city staff, and city staff has the right to remove such items at any time.

(c) Permission must be obtained from the City before benches, chairs and settees are to be placed at grave sites but must they be in alignment with the headstone should space be available on the lot, or at the foot of the grave parallel to the headstone. All benches, chairs, or settees must be placed upon a solid concrete slab approved by the City. Benches, chairs and settees must not encroach upon lots not of the same ownership.

(d) Receptacles for flowers must be of metal, plastic, stone, or part of the monument itself and must be of such character as not to interfere with mowing or appear unsightly when not filled with flowers. All receptacles for flowers must be placed on or immediately next to the monument, or if there is no monument, at the head of the grave. Multiple containers are allowed unless they interfere with mowing and maintenance of the grounds. Receptacles that have become unsightly or damaged, as determined by city staff, may be removed by city staff at any time.

(e) Following a funeral, persons desiring to retain flowers, plants, containers, wire racks or similar objects will pick them up within seventy-two (72) hours after the burial service.

(f) Any natural flowers left on a grave may be removed by the city after one (1) week, and artificial flowers may be removed after a period of two (2) months, and must meet the criteria set forth in herein .

(g) Following an interment in a niche, one flower arrangement or memorial may be left at the site of the niche for not more than seventy-two (72) hours. Any flower arrangement or memorial left after seventy-two (72) hours will be removed by city staff. At no time will any items be allowed to remain in the niche area on a

permanent or semi-permanent basis.

- (h) No planting of any trees, shrubs, flowers or bulbs will be allowed in any part of the city cemetery. Any placed without permission is subject to removal by city staff.
- (i) If any trees or shrubs situated on a cemetery lot, by means of their roots or branches, become detrimental to the adjacent lots or avenues, or become unsightly or inconvenient for visitors, it is the duty of the city staff to remove the hazard. City staff has the right to remove any trees or shrubs that may be infected by disease. No tree may be cut or trimmed by an individual without the approval of city staff.
- (j) The City has full right to fill and level graves and plant grass thereon.
- (k) The City has the right to clean, mow and trim all areas of a Luling city cemetery. The City may allow the private care of a lot or lots provided said care is at the same or superior level of care as provided by the City.
- (l) Flags are allowed at grave sites so long as they are not deemed objectionable by the City Manager, or her/his designee. Objectionable flags may be removed by city staff at the direction of the City Manager, or her/his designee. Flag poles cannot exceed six feet in height and must be located next to the headstone and out of the mowing pathways. Flags that have become deteriorated, torn, frayed, or unsightly may be removed by city staff.
- (m) A minimum of three (3) times a year the cemetery shall have a general clean up when all decorations are removed. Scheduled general clean-up dates are March 15th -31st, July 15th – 31st and October 15th -31st. All decorations to be retained should be removed prior to these times. Graves can be appropriately decorated after the first of the month following clean-up.

The cemetery shall not condone or allow the removal of memorial decorations from graves by persons other than the family of the deceased, with exception being the employees of the cemetery in the operation of their duties.

Sec. 78-37. – Copings, hedges, fences, etc.

- (a) The City prohibits the installation of curbing, tombs, walks, fencing, hedging or enclosures of any kind, and slabs other than for bench foundations or foot markers as otherwise provided herein. Grave sites that have such items prior to this ordinance will be allowed. However, the City may remove damaged, deteriorated, unsightly, covered or partially covered curbing, slabs, walk, fencing or curbs, at its discretion. City staff will remove such items installed on or after the date of this ordinance.
- (b) Gravesites or lots that have fencing, hedging, curbing, or enclosures before the date of adoptions of this ordinance will be allowed but must be maintained by the owner, appointed caretaker, or family member of the lot for the purposes of mowing, weeding, and general maintenance. City staff has the right to remove such fencing, hedging, curbing, or enclosures if the lot is not maintained at the same level as provided by the City on other lots.
- (c) As of the date of adoption of this ordinance, the use of tiles, bricks, gravel, crushed rock, oyster shells or other material on any lot in a Luling city cemetery is forbidden, for safety purposes.

Sec. 78-38. – Monuments, monument permits, headstones, and markers.

- (a) Persons must obtain permission from the City Secretary before erecting a monument. Only one (1) monument per grave space is allowed. If a base is included, it must be of solid concrete or slab material at least four inches (4”) in thickness, and the base may not be more than four (4”) inches above ground level.
- (b) City staff may straighten, reset or mend monuments, foot markers, other items at their discretion, but it is the primary responsibility of the property owner or their next of kin to maintain these items.
- (c) If city staff determines a necessity exists, they may clean monuments. City staff may attempt to contact the next of kin to inform them of this action.
- (d) No monument may be set in place and no inscribing of monuments or markers already in place may be done unless the written permission of the lot owner or their representative has been verified to the satisfaction of city staff.
- (e) Ornaments or vases incorporated into a monument must be affixed to the monument or marker and may not extend beyond the maximum dimensions allowed for the monument itself.
- (f) Monuments, foot markers, or other like items placed in Garden of Peace and Garden of Prayer must be placed flush with ground level.

Sec. 78-39. – Vehicles.

- (a) No person may operate or cause to operate any vehicle within a Luling city cemetery except on roads and driveways designated for that purpose, and no vehicle may be driven at a speed in excess of five (5) miles per hour upon any road within a Luling city cemetery.
- (b) Vehicles may not turn around on Luling city cemetery roads.
- (c) No person may drive across a lot or grave for any reason.

Sec. 78-40. – Vandalism and theft.

The City will not be responsible for acts of vandalism or theft of memorials or personal property, or damage to lots, monuments, or niches except where damage arises from intentional acts of city staff that are not approved by the City Manager or allowed by this ordinance or state law.

Sec. 78-41. – Purchase options.

- (a) The City Council may appoint one or more city employees to sell cemetery spaces and niches.
- (b) The sale of a cemetery space or niche is not valid until full payment has been received by the City and a Cemetery Deed (for Cemetery lot sales) and / or a Certificate of Ownership (for niche sales) has been issued by the City to the purchaser.
- (c) When a Cemetery Deed has been approved by the Mayor and issued by the City to the purchaser, it may then be recorded in the deed records of the City.

(d) The prices of all spaces and niches, and fees for costs associated with a burial, will be established by ordinance of the Luling City Council, and amended as deemed necessary by the City Council. The prices and fees schedules are available in the office of the City Secretary.

Sec. 78-42. – Resale options.

A space or niche may be sold or transferred by the original owner to another person. However, the sale, transfer or assignment of any space or niche in a Luling city cemetery by any owner or purchaser will not be binding upon the City until:

- (1) The sale or transfer is recorded with the City of Luling and a new Cemetery Deed (for Cemetery lot sales) or Certificate of Ownership (for niche sales) is issued by the City to the purchaser; and
- (2) A fee of twenty five dollars (\$25.00) is paid to the City for the recording of such sale or transfer.

Sec. 78-43. – Penalty and procedures for violations.

(a) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be fined as provided in Section 1-8 of the City Code of Ordinances. Nothing in this ordinance restricts the City's authority to seek any and all remedies available in law and equity to enforce this ordinance.

(b) When city staff or other city employees or officers determine that there has been a violation of this ordinance, they will:

- (1) Document the violation;
- (2) Attempt to notify the grave, space, or niche owner or caretaker in person, by telephone, by email, or by regular mail of the violation, giving the owner or caretaker a detailed description of the violation;
- (3) Provide fourteen (14) days from the date the notice was sent to the owner or caretaker to remedy the violation; and
- (4) Take or order corrective action by the City, at the owner's expense, to remedy the violation if the owner or caretaker does not remedy the violation before the fifteenth (15th) day after notice was provided, and/or file a criminal complaint in the Luling Municipal Court or issue a citation to the owner or caregiver for violation of the ordinance.
- (5) Nothing in this ordinance restricts the City from taking any and all remedies at law and equity to enforce this ordinance or otherwise protect public welfare or safety.

III. Severability: If any provision, section, clause, sentence, or phrase of this ordinance is for any reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remainder of this ordinance or its application shall not be affected, it being the intent of the City Council in adopting and of the Mayor in approving this ordinance that no portion, provision, or regulation contained herein shall become inoperative or fail by any reasons of any unconstitutionality or invalidity of any other portion, provision, or regulation herein.

IV. Repealer: All other ordinances, sections, or parts of ordinances heretofore adopted by the City of Luling in conflict with the provisions set out above in this ordinance are hereby repealed or amended as indicated.

V. Publication: The City Secretary is directed to cause the caption of this ordinance to be published in a newspaper of general circulation according to law.

VI. Effective Date: This ordinance shall become effective and be in full force ten days from the date of its passage.

Passed and approved this the _____ day of _____, 2020.

CITY OF LULING

MIKE HENDRICKS, MAYOR

ATTEST:

APPROVED AS TO FORM:

MARTHA VELASQUEZ
CITY SECRETARY

PETER GRUNING, CITY ATTORNEY