

**AN ORDINANCE OF THE CITY OF WAXAHACHIE**

**ORDINANCE NO. 3256**

**AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS, AUTHORIZING AMENDMENTS TO CHAPTER 9, "CEMETERIES", BY AMENDING SECTION 9-3 THROUGH 9-26, AND ADDING SECTION 9-27, "CEMETERY FEES"; AUTHORIZING THE CITY CEMETERY TO SET A PERMANENT FLAT MARKER ON UNMARKED GRAVES; ESTABLISHING A SCHEDULE OF FEES FOR THE CITY CEMETERY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Waxahachie, Texas is a Home-Rule Municipality located in Ellis County created in accordance with provisions of the Texas Local Government Code and operating pursuant to the legislation of the State of Texas ("City"); and

**WHEREAS**, the of the City of Waxahachie City Council ("City Council") has determined long-term care and maintenance is vital to the City Cemetery; and

**WHEREAS**, the City operates a cemetery and the proper tracking and record of interments necessitate grave markers for unmarked graves; and

**WHEREAS**, the City Council has determined the regulations concerning the cemetery fees assessed throughout Waxahachie; and

**WHEREAS**, the City Council has considered the provisions contained herein, and determined that the fees and regulations set forth will serve the public purpose and fit public needs providing adequate care and maintenance of the City cemetery; and

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

**SECTION 1.** That Chapter 9 "Cemeteries", be amended by amending Section 9-3 and adding Article V. – Cemetery Fees, Section 9-27 "Cemetery Fees" which reads as follows:

**Sec. 9-3. - Rules and regulations—Generally.**

The following rules shall apply in all of the Waxahachie City Cemetery:

- (a) No planting shall be allowed on any new plots sold or used in any part of the cemetery, except for grass.
- (b) Every casket in any grave used in the future may be enclosed in a permanent type of box of concrete or equal material.
- (c) No flower containers may be placed anywhere in the cemetery except on markers or monuments or on the concrete monument supports. This requirement is not to be in effect while funeral services are being held for a burial on a particular tract.

- (d) The cemetery is open to the public only during daylight hours, and is closed after sunset.
- (e) Funeral homes shall be responsible for the opening and closing of graves, and shall be responsible for leveling of graves and cleanup of the site after each funeral service. In the event that a contractor does not level a grave site within a reasonable time after the service, the city may prohibit the opening or closing of any other graves in the cemetery by said contractor until said grave is leveled. An inspection fee based on fee chart below, or such fee as is set by the city council, shall be paid to the City of Waxahachie before each grave is opened, said fee to pay for inspection of the site for removal of excess rock and debris and for cleanup, and to help defray any expense the city may incur in following up on said matters. The city may require completion of any suitable forms for grave openings.
- (f) Funeral homes shall be responsible for any damage to monuments, trees, etc., in the cemetery caused by their operations or that of their contractors for opening and closing graves or other subcontractors, and shall carry insurance against said damage.
- (g) The City of Waxahachie reserves the right to compel all persons coming into the cemetery to obey all rules and regulations. The rules and regulations may be changed without notice to any owner by the city council of the City of Waxahachie, Texas.
- (h) The city shall take reasonable precautions to protect the property rights of owners within the cemetery from loss or damage; but it 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 herein provided.
- (i) Persons within the cemetery grounds shall use only the avenues, walkways and roads.
- (j) The right to enlarge, reduce, replat or change the boundaries or grading of the cemetery; the right to lay, maintain, operate, or change pipe lines of gutters is expressly reserved. The City of Waxahachie reserves to itself, and those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purposes of passage to and from other lots.
- (k) The sale or transfer of any cemetery lot by any owner or purchaser, shall not be binding upon the cemetery unless same shall first be duly approved in writing by the properly authorized officer of the City of Waxahachie. This procedure is required in order that the cemetery may at all times have a complete and accurate record of all owners and purchasers.
- (l) The subdivision of interment rights is not allowed without the consent of the cemetery and no one shall be buried in any lot not having an interest therein, except by written consent of all parties interested in such lot and of the City of Waxahachie.
- (m) All work on the lots will be done by the employees of the City of Waxahachie under the direction of the City of Waxahachie, except when permission is otherwise granted by said City of Waxahachie. All grading, landscape work, and improvements of any kind, and all care of lots, shall be done, and all trees, shrubs and herbage of any kind shall be planted, trimmed, cut or removed, by the City of Waxahachie, or under its direct supervision.

- (n) No enclosure of any kind, such as a fence, hedge, or ditch, shall be permitted around any grave or lot other than that already existing at the date of passage of the section.
- (o) If any tree, shrub or plant standing upon any lot, by means of its roots, branches, or otherwise, be or becomes detrimental to adjacent lots or avenues, or if for any other reason its removal is deemed necessary, the City of Waxahachie shall have the right to remove such tree, shrub, or plant, or any part thereof, or otherwise correct the condition existing as in its judgment seems best.
- (p) No person shall pluck or remove any plant or flower, either wild or cultivated, from any part of the cemetery other than from their own family lots.
- (q) For the protection of all lot owners, it is required that persons other than lot owners or their families, erecting, cleaning, or repairing memorials, curbing, watering systems, etc., obtain a permit, and any person in doing such work must comply with the standards and codes as defined by the Building and Community Services Departments and pay any related fees.
- (r) The cemetery will require all monument dealers or monument builders placing a memorial, mausoleum, or tombs in the cemetery to work under the direct supervision of the City of Waxahachie.
- (s) Should any monument, mausoleum or tomb become unsightly, dilapidated, or a menace to visitors, the cemetery shall have the right at the expense of the lot owner either to correct the condition or to remove the same.
- (t) Graves must be located by the family or its representatives and authorization signed by the lot owner or legal representative of the lot owner, at the cemetery office. This gives the cemetery legal right to open the grave space selected by the family on their lot.
- (u) When removal is to be made from a single grave to another grave, the formerly occupied single grave space and all rights therein shall revert to the cemetery. The removal of said bodies shall be done in strict compliance with all state requirements regulating same. Arrangements for the removal of a body must be made by someone other than the cemetery. The cemetery removal charge shall be based on fee chart below, and payable in advance. Application for removal permit must be signed by the next of kin, properly notarized prior to removal.
- (v) The following general regulations shall be enforced in the cemetery:
  - (1) No wooden or cast-iron bench or chair, or any wooden or wire trellis shall be permitted to be brought upon the grounds.
  - (2) The city has authority to enter upon any lot and to remove any objectionable thing or any erection that may have been placed there contrary to the regulations of said city council, and they may remove any dead or damaged tree, shrub or vine.
  - (3) No person shall be permitted to enter or leave the cemetery except by the public gates.
  - (4) Speed of over fifteen (15) miles per hour will not be permitted, and no person shall either ride or drive upon the lawns.

- (5) All persons are forbidden to hunt, or to fish, or to feed or disturb the fish, fowls, or other animals about the cemetery.
  - (6) All persons are strictly forbidden to break, or injure any tree or shrub, or mar any landmark, marker, or memorial, or in any way deface the grounds of the cemetery.
  - (7) No money shall be paid the attendants at the entrance or on the grounds. The entire time of the persons regularly employed on the grounds belongs to the cemetery. Visitors and owners must not otherwise engage them. All orders, inquiries and complaints must be left at the office of the city secretary of the City of Waxahachie.
  - (8) All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that the provisions and penalties of the law, as provided by statute, will be strictly enforced in all cases of wanton injury, disturbance, and disregard of the rules.
  - (9) It is of the utmost importance that there should be a strict observance of all the proprieties due the place, whether embraced in the foregoing regulations or not, as no impropriety will be tolerated.
  - (10) All well-disposed persons will confer a favor by informing the cemetery of any breach of property decorum that may come under their notice.
  - (11) Touch nothing in the cemetery that does not belong to you. This is the only safe rule to adopt in visiting this cemetery.
  - (12) No persons, other than an employee of the City of Waxahachie, shall be permitted to bring or carry firearms within the cemetery except a military guard of honor and then only when in the charge of an officer and during a military service.
  - (13) All work and all planting of any kind of all lots and graves is strictly prohibited, except as provided by (a), (m) and (q) of this section. Cut flowers or artificial flowers may be used at any time.
  - (14) The cemetery reserves the right to remove all flowers, potted plants, summer wreaths or baskets when they become withered, or for any other reason, and the caretakers are ordered to make such removals when in their judgment it is to the best interest of the cemetery.
  - (15) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The city, therefore, reserves the right, without notice, to make exceptions, suspensions, or modifications in any of the rules and regulations when, in its judgment, the same appear advisable and such temporary exceptions, suspensions, or modifications shall in no way be construed as affecting the general application of such.
- (w) Addition Eleven to the city cemetery, in addition to the rules and regulations above stated, shall be subject to the following rules and regulations, with Addition Eleven being subject to the rules above stated where they do not conflict with the special rules for Addition Eleven, and subject also to the following rules, which are to control in case of any conflict:
- (1) All grave spaces are to be physically marked before opening for interment by the cemetery sextant.

- (2) Marker dimensions are to be no larger than twenty-eight (28) inches long by eighteen (18) inches wide by four (4) to six (6) inches thick.
- (3) All markers must be set with concrete footing and placed such that the top surface of the marker is flush with the surrounding lawn. All markers must be previously approved by the cemetery sextant and the installation must meet strict specifications to be established by the city engineer. The cemetery sextant must be established by the city engineer. The cemetery sextant must inspect the installation of all markers and has the power to refuse an installation if it does not meet city standards.
- (4) Only one (1) headstone and one (1) footstone is permitted per grave space and must be oriented and placed on the grave space in the manner specified on the plat of the Eleventh Addition of the section in which it is located. Any footstone markers are to be made of bronze or granite with top of the marker finished flat. Footstone markers dimensions are to be no larger than twenty-four (24) inches long and eighteen (18) inches wide by four (4) inches thick and the top surface thereof shall be flush with the surrounding lawn.
- (5) All grading, landscape work and improvements of any kind, and all care on lots shall be done solely by the City of Waxahachie employees. The ownership of right of interment in lots does not confer any right to do planting on those lots.
- (6) No cross-curbing of lots or covering of lots with concrete or ornamental materials of any type will be permitted.
- (7) In order to properly maintain lawns, it is necessary that all grave decorations be limited to fresh cut-flowers, placed in approved sub-surface, permanent, cemetery vases. The following exceptions to this rule apply on special occasions only:

Placement of artificial flowers, wreaths, pot plants, and baskets are permitted only on Valentine's Day, Easter, Mother's Day, Father's Day and Memorial Day. Placement may be made during the week before and will be removed by the cemetery on the 8th day following the occasion, and disposed of.

Christmas wreaths and pot plants may be placed on graves any time after the Friday before Thanksgiving and will be removed by the cemetery on or after January 15th.
- (8) Due to the city's obligation to maintain the lawn throughout the grass growing season, digging holes in the ground or placing of rods or brackets to support top-heavy pots and containers at places of interment is not permitted at any time of year since there is danger of bodily injury to employees using power equipment or possible damage to expensive maintenance equipment.
- (9) The cemetery reserves the right to reroute or remove roads in this addition without prior notice to lot holders.
- (x) All burial plots shall have a grave marker within two years of interment. After, such time, if the burial plot is without a grave marker, the City Cemetery reserves the right to place an affordable, flat permanent marker at the head of the grave. The marker may be removed by the family or set at the foot of the grave once the family's headstone is set.

(Ord. No. 1055, § 2, 8-28-72; Ord. No. 1443, 1-21-85; Ord. No. 1444, 1-21-85; Ord. No. 2339, 11-7-05; Ord. No. 2435, 10-1-07; Ord. No. 2512, 4-6-09)

**Editor's note**— Ord. No. 1055 being non-amendatory of the Code, §§ 2—4 thereof were added as §§ 9-3—9-5 at the editor's discretion.

Sec. 9-4. - Same—In sections dedicated after June 30, 1972, excluding Addition Twelve of the Waxahachie City Cemetery.

The following regulations shall apply only in sections of the cemetery platted and dedicated after June 30, 1972:

- (a) No monuments shall be over thirty (30) inches in height, or twelve (12) inches thick. All monuments, headstones, etc., shall be placed within the forty-two-inch wide concrete foundation strip in such a manner that a six-inch wide border is retained around all monuments.

(Ord. No. 1055, § 3, 8-28-72; Ord. No. 2339, 11-7-05)

**Note**— See editor's note, § 9-3.

Sec. 9-5. - Deed restriction; excluding Addition Twelve of the Waxahachie City Cemetery.

All deeds to cemetery lots in sections of the cemetery platted and dedicated after June 30, 1972, hereafter sold by the City of Waxahachie shall contain the following restrictions:

"This lot is conveyed subject to the restriction that no monument shall be placed on the lot which is over 30" in height, or over 12" thick, and that all monuments, headstones, etc., shall be placed within the 42" wide concrete foundation strip in such a manner that a 6" wide border is retained around all monuments. Title is conveyed subject to such other restrictions on the use of said lot as may be placed on lots in the City Cemetery by the City Council of the City of Waxahachie".

(Ord. No. 1055, § 4, 8-28-72; Ord. No. 2339, 11-7-05)

**Note**— See editor's note, § 9-3.

Secs. 9-6—9-17. - Reserved.

## ARTICLE II. - CEMETERY BOARD

Sec. 9-18. - Created.

There is hereby created a cemetery board in and for the city.

(Ord. No. 1045, § 1, 4-10-72)

Sec. 9-19. - Composition.

The cemetery board shall be composed of five (5) or more members.

(Ord. No. 1045, § 1, 4-10-72; Ord. No. 1055, § 1, 8-28-72)

**Sec. 9-20. - Appointment.**

The members of the cemetery board shall be appointed by the city council by resolution entered in the minutes of the meeting at which such appointments are made.

(Ord. No. 1045, § 1, 4-10-72)

**Sec. 9-21. - Terms.**

The members of the cemetery board shall serve until their successors are appointed and take office.

(Ord. No. 1045, § 1, 4-10-72)

**Sec. 9-22. - Function.**

The purpose and duty of the cemetery board is to advise the city council on all matters concerning the city cemetery or any cemeteries owned or operated by the city in the future. Any matters relating to the cemetery shall be referred to the cemetery board for their consideration and recommendation before action is taken by the city council, but the recommendations of the board shall be advisory only.

(Ord. No. 1045, § 2, 4-10-72)

**ARTICLE III. - ADDITION TWELVE**

**Sec. 9-22.5. - Rules generally.**

Addition Twelve to the city cemetery, in addition to the rules and regulations previously listed in Article I, shall be subject to those rules where they do not conflict with the special rules for Addition Twelve which are as set out in this article.

(Ord. No. 2339, 11-7-05)

**Sec. 9-23. - Blocks one and three.**

No monument in blocks one and three shall be over seventy-two (72) inches in height or more than fourteen (14) inches wide (thick). All above grade monuments shall be placed on a twenty-inch wide foundation pad, excluding flush markers at grade level, which will require a pier support structure. These pads are to be placed at grade level (flush with the soil) under the monument. Granite pads will be a minimum of four (4) inches thick and concrete pads shall be a minimum of six (6) inches thick and reinforced. Pads of both types will have a six-inch diameter by twelve-inch deep pier at each corner (four (4) total). All monuments, headstones, etc., shall be placed in such a manner that a six-inch wide border is retained around each monument. Monuments which are larger than these specifications must be approved by the cemetery board. No double stacking of graves is allowed in Block One; stacking of graves is allowed in Section 3.

(Ord. No. 2339, 11-7-05; Ord. No. 2525, 5-18-09)

**Sec. 9-24. - Block 2 (Babyland).**

- (a) All markers in Babyland will be upright and be made of granite. Marker dimensions are to be no larger than twenty-four (24) inches long by twenty (20) inches wide by ten (10) inches thick.
- (b) All markers in Babyland are to be placed on a concrete pad (similar to block three) and be placed in such a manner that there is a three-inch border provided by the footing for the marker.

(Ord. No. 2339, 11-7-05)

**Sec. 9-25. - Cremation area.**

Addition 12, Block Five of the Waxahachie City Cemetery is designated a cremation area. Cremation plots are three (3) feet by three (3) feet and the cost is based on fee chart below. Up to two cremations and two markers are allowed per plot. Any marker shall be flat, shall rise no more than six (6) inches above grade and shall measure no more than two (2) feet by two (2) feet if it is the only marker on the plot or one and one-half (1.5) feet if there are two (2) markers on the plot.

Baylor Hospital of Waxahachie is granted use of a portion of the cremation area, at the discretion of the cemetery board, for the interment of ashes from neonatal loss as described by Baylor. This area will be for all Waxahachie residents experiencing neonatal loss. Any and all landscaping, signage and amenities will need approval from the cemetery board before installation.

The cemetery board reserves the right to approve or deny any interment. Ashes of any Waxahachie resident may be spread over the surface of the soil in any common area of the cemetery that is not owned by any individual.



(Ord. No. 2512, 4-6-09)

#### ARTICLE IV. - FAMILY ESTATES

##### Sec. 9-26. - Family estates section.

- (a) The family estates section of the Waxahachie City Cemetery shall be established on that portion of the cemetery shown on the attached Exhibit "A" to Ordinance 2463.
- (b) Each individual family estate:
  - (i) Shall measure 20-foot by 20-foot;
  - (ii) May be set with corner posts, which shall be made of granite and be no wider than 12 inches and shall extend above the surface of the ground no more than 12 inches;
  - (iii) May have one central stone that may be placed upright and may extend above the surface of the ground by no more than six feet;
  - (iv) All other markers, which must be of stone, shall not extend above the surface of the ground;
  - (v) Shall have no landscaping other than turf.
- (c) Variances from the rules enumerated in subsection (b) above shall be only granted upon written approval of the cemetery board upon submission of a written desired alternate site plan for a family estate plot by an applicant.

(Ord. No. 2463, 5-5-08)

#### ARTICLE V. – CEMETERY FEES

##### Sec. 9-27. – Cemetery Fees.

- (a) The cemetery fees section of the Waxahachie City Cemetery shall establish the fees for burial plots, columbarium niches, and any other cemetery related fee as based on the fee chart below.

<b>PLOT, NICHE, OR RELATED FEES</b>	<b>AMOUNT</b>
OLDER SECTION (OC) PLOTS – RESIDENTS	\$2,000
OLDER SECTION (OC) PLOTS – NON-RESIDENTS	\$2,500
NEW SECTION PLOTS – RESIDENT	\$1,700
NEW SECTION PLOTS – NON-RESIDENT	\$2,200
CREMATION PLOTS	\$500
BABY LAND PLOTS	\$500

FAMILY PLOTS	\$14,500
GRAVE INSPECTION FEE	\$25
CEMETERY REMOVAL CHARGE	\$50
COLUMBARIUM NICHES – TOP ROW	\$1,600
COLUMBARIUM NICHES – MIDDLE ROWS	\$1,800
COLUMBARIUM NICHES – BOTTOM ROW	\$1,400
COLUMBARIUM NICHE COVER PLATE ENGRAVING FEE	\$250/ENGRAVING

**SECTION 2.** That all provisions of the Ordinances of the City of Waxahachie, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the Ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 3.** That should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, or of the Code of Ordinances, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances, as amended hereby, which shall remain in full force and effect.

**SECTION 4.** That this Ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

**DULY PASSED** by the City Council of the City of Waxahachie, Texas, this the 1<sup>st</sup> day of March, 2021.



CITY OF WAXAHACHIE, TEXAS

*David Hill*

DAVID HILL, MAYOR

ATTEST:

*Amber Villarreal*

AMBER VILLARREAL, ASSISTANT CITY SECRETARY

APPROVED AS TO FORM

*Robert F. Brown*

ROBERT F. BROWN, CITY ATTORNEY