

CITY OF FRANKLIN, KENTUCKY

ORDINANCE NO. 620.2-11-2007

**ORDINANCE OF THE CITY OF FRANKLIN
REPEALING PREVIOUS ORDINANCE(S)
RELATING TO THE GREENLAWN/SHADY REST CEMETERY AND
REINSTATING/REVISING CERTAIN PORTIONS RELATING TO THE
MAINTENANCE/OPERATION OF ALL CITY-OWNED CEMETERIES**

WHEREAS, the City of Franklin, Kentucky, passed Ordinance No. 620.2 and subsequent ordinances amending said ordinance relating to the operation and maintenance of Greenlawn/Shady Rest Cemetery and/or all other portions of the City's cemeteries not named specifically herein; and,

WHEREAS, the City Commission desires to repeal all prior ordinances relating to the operation of any and all city-owned cemeteries and pass a comprehensive ordinance relating to the operation and maintenance of said cemeteries.

NOW, THEREFORE, be it ordained by the City of Franklin, Kentucky, acting by and through its Board of City Commissioners, as follows:

**SECTION 1. PRESERVATION OF OLD FRANKLIN CITY CEMETERY
AS HISTORICAL SITE**

(A) The old Franklin City Cemetery, located near the existing water tower on East Cedar Street, and more specifically described in the property description appendix attached to Ordinance 620.2-11-91, passed November 11, 1991, is hereby declared a historical cemetery site from the effective date of this section. No building or structure shall be allowed to be erected on the cemetery site, and the property shall be properly maintained in its current state in recognition of its significance as a historical site. At such time as the existing water tower and tank become obsolete, the structure shall not be replaced by a similar tower.

(B) The Simpson County Historical Society shall be allowed to place and maintain a memorial marker at the site of the old cemetery, to be dedicated to those persons buried at the site.

SECTION 2. PURPOSE

These rules and regulations are designed for the protection of owners of interment rights as a group. They are intended, not as restraining, but rather as preventing the inconsiderate from taking unfair advantage of others. The adoption of these rules and regulations will help protect and preserve the lasting beauty and tranquility of the cemeteries. Any issues not specifically covered in these rules and regulations must be

approved by the Cemetery Sexton. These regulations apply to all interment rights whether issued prior to or subsequent to the purchase of interment rights.

SECTION 3. CEMETERY PROHIBITIONS

No person shall remove, damage or destroy any flowers, evergreens or other things from any lots of the cemetery, not being the owners thereof, or take up sod or haul anything into the cemetery, or dig graves therein without permission. Any shrub, tree, flower or other article planted upon cemetery property without prior approval of the Cemetery Sexton shall be forthwith removed by the Cemetery Sexton. Any shrub not properly maintained or which causes improper maintenance of the surrounding land will, after adequate notice to abate the violation, be removed by the Cemetery Sexton.

SECTION 4. CEMETERY REGULATIONS RELATING TO MAINTENANCE OF TREES, FLOWERS AND SHRUBS

(A) No shrub, tree, flower or combination thereof shall be planted or transplanted within the boundaries of Greenlawn, Shady Rest or any other city cemetery without the prior written approval of the Cemetery Sexton.

(B) Between March 15 and November 15 of any year, no person shall plant flowers or set flowers in a vase or other receptacle, except in those specifically prepared vases placed on cemetery markers throughout the cemetery. However, flowers may be placed upon the cemetery grounds in any manner whatsoever during the following periods:

1. Good Friday through the Tuesday following Easter; and,
2. From one day before through two days following Memorial Day, Mother's Day and Father's Day.

(C) When artificial flowers are left over a period of time and they become faded or deteriorated, the Cemetery Sexton retains the right to have any faded or deteriorated artificial flowers removed from the gravesite.

SECTION 5. PURCHASE OF CEMETERY LOTS

The lots in the cemetery shall be sold for such prices as the City Commission may determine from time to time. The purchaser of the lot shall pay the price thereof to the City Clerk, and a deed therefore, signed and acknowledged by the Mayor and the Cemetery Sexton, shall be recorded by the Clerk in a record book kept by the City Clerk for that purpose.

SECTION 6. TRANSFER OF LOTS

Deeds for cemetery lots may be transferred to a new owner by a deed of transfer available in the office of the City Clerk or the office of the Cemetery Sexton. The deed must be signed by the seller and signature notarized. The Cemetery Sexton shall check the availability of the lots to be transferred and approve the transfer. The fee for the transfer shall be \$35.

SECTION 7. PROHIBITED ITEMS

The following items are prohibited in any location within the cemetery unless specifically approved by the Cemetery Sexton:

(A) Shepherd hooks or any other hanging devices that are made to hang baskets, flowers, potted plants or other plantings are prohibited.

(B) Glass, ceramic or breakable items are prohibited.

(C) Metal, PVC or wood pipes or stakes designed to drive into the ground are prohibited. Any such items currently in the ground will be removed as of January 1, 2008.

SECTION 8. DEFACING OR DAMAGING CEMETERY

No person shall break down any fence or part thereof, deface any tombstone or grave, or injure any other thing within the cemetery.

SECTION 9. RATES AND CHARGES

The following rates and charges are adopted for the Greenlawn Cemetery:

1. \$400 for a single grave;
2. \$100 for perpetual care per grave;
3. \$450 for opening and closing a grave on weekdays;
4. \$550 for opening and closing a grave on weekends or city-recognized holidays;
5. \$100 for opening and closing a cremation on weekdays;
6. \$200 for opening and closing a cremation on weekends or city-recognized holidays;
7. \$100 for opening and closing a baby grave on weekdays;
8. \$200 for opening and closing a baby grave on weekends or city-recognized holidays;
9. \$1,000 for disinterment of an adult vault or casket; and,
10. \$250 for disinterment of a baby vault/casket or a cremation.

SECTION 10. MONUMENTS

All monuments, markers, tombstones, cornerstones, tablets, or ornaments shall be erected under the supervision of the Cemetery Sexton. The location for erecting any of the items listed above must be marked by the Cemetery Sexton before erection begins. Size limit(s) on monuments will be based on the size of lot(s) owned. The size limits shall be determined at the sole discretion of the Cemetery Sexton, or his or her designee, on a case-by-case basis. The Cemetery Sexton must be notified at least three (3) working days before installation in the form of a Monument Installation Request Form. Flags marking the location will be removed in ten (10) working days if item is not installed within this ten (10) day time frame. Thereafter, a new Monument Installation Request Form must be submitted prior to installing the item. In case of violation of this section, the Cemetery Sexton shall remove, reset, rectify or change such monument, marker, tombstone, cornerstone or ornament, and the owner of the lot or the company and/or person that erected the item shall pay all costs associated with rectifying, removing, resetting or changing same. There is a \$10 fee for marking the monument location.

SECTION 11. RIGHTS AND RESPONSIBILITIES OF CEMETERY MANAGEMENT

“Cemetery Management” shall mean the Board of City Commissioners, or their duly hired/appointed designee, the Cemetery Sexton. Further, the Board of City Commissioners shall hire or retain a person or entity to open and close all graves within the cemeteries. The rights and responsibilities of cemetery management shall be as follows:

(A) Cemetery management reserves the right to compel all persons in the cemetery to obey all rules and regulations.

(B) Cemetery management shall take reasonable precautions to protect the property rights of owners within the cemeteries from loss or damage, but disclaims all responsibility for loss or damage from causes beyond its reasonable control. Loss or damage beyond reasonable control includes, but is not limited to:

1. Damage caused by the elements (acts of God);
2. Damage caused by vandals or malicious mischief makers;
3. Damage caused by explosions;
4. Damage caused by military or civil authority;
5. Losses by theft (thieves); and/or
6. Damage caused by normal cemetery operations and use of equipment.

(C) Cemetery management shall take proper action for any damage occurring due to negligence on the part of any cemetery personnel.

(D) Cemetery management shall have the right to correct any errors made during interment, disinterment, transfer, conveyance or sale of grave lots. Errors may be corrected by, but not limited to:

1. Substituting other interment rights of equal value and similar location as near as possible;

2. The disinterment/re-interment of remains to the correct/right burial lot (with proper disinterment/re-interment permit); or

3. Issuing a new corrected deed to the owner upon retrieval, and voidance of the incorrect deed.

(E) If any memorial, inscription or structure whatsoever is found to be offensive, it shall be the duty of cemetery management to initiate any action necessary for the removal, change or otherwise correct the offensive object or inscription.

(F) The management reserves the right to cross over and/or place equipment upon any properties within the cemeteries as deemed necessary to accomplish all duties associated with services provided.

(G) Cemetery management reserves the right to temporarily remove any memorial if deemed necessary to gain access to work areas. Any memorial moved shall be placed back in its original position as quickly as reasonably possible.

(H) Cemetery management reserves the right to prune, cut-back or remove any tree, shrub or herbage that is or becomes detrimental to adjacent lots and roadways, or is prohibiting access and preparation of gravesites. Cemetery management shall use every available means to avoid permanent damage or destruction to any tree, shrub or herbage, but disclaims all liability or responsibility for the replacement and/or cost of any plants destroyed due to necessary and/or normal work procedures.

(I) Cemetery management reserves the right to remove any dead tree, shrub or herbage in order to protect and preserve the beauty and appearance of the cemetery.

SECTION 12. INTERMENT PROCEDURES

(A) There must be an Authorization for Interment Form completed prior to any interment.

(B) All service charges are due and payable prior to any interment or disinterment, except where prior arrangements have been made.

(C) Cemetery lots or single graves are sold for the sole purpose of right of burial for the use of the purchaser and purchaser's designee/family. Relatives and heirs may be buried in a grave lot if they present a notarized statement, signed by the purchaser or the purchaser's designee, heirs or assigns, attached to the Authorization for Interment Form.

(D) The burial of two bodies in the same grave shall not be permitted except when both bodies are in the same casket. The fee for opening and closing the grave remains the same.

(E) If a grave is purchased for the purpose of interment of cremations, three cremations are permitted per lot site, provided there are no vault burials in the grave.

(F) A limit of one cremation interment is permitted over a vault burial grave.

(G) Cemetery personnel or their designees shall conduct all opening and closing procedures.

SECTION 13. DISINTERMENT PROCEDURES

(A) Any disinterment shall be handled in conjunction with any and all laws, ordinances, or regulations pertaining to such operations.

(B) Any disinterment shall be performed by cemetery personnel under the direction of the Cemetery Sexton or his/her designee.

(C) Disinterment fees are the responsibility of the disinterment applicant.

(D) Any additional costs incurred in the way of contract work, funeral home services, vault and/or transportation shall be the responsibility of the person(s) making application for disinterment, and no cost shall be paid by the cemetery.

(E) Any application for disinterment requires a 30-day notice to cemetery management, except in the case of a court order.

SECTION 14. APPRAISAL OF CEMETERY LOTS

The City Commission shall appraise the lots which remain unsold in the cemetery, and may reappraise and/or set different values for those that remain unsold, from time to time, as may be necessary.

SECTION 15. PERPETUAL CARE FUND

Nothing contained in this subchapter is intended to authorize the use of the "Perpetual Care Fund" except as specifically authorized in this subchapter. The perpetual care fund is designed for the permanent maintenance of the Greenlawn/Shady Rest Cemetery and/or any and all other city cemeteries after the sale of all lots presently owned by the cemetery. The City Commission or its designee shall have custody of the perpetual care account. No disbursement from the corpus of the perpetual care fund shall ever be made by the Board of City Commissioners, or by any other entity. The Board of City Commissioners shall be authorized to expend from the interest income of the perpetual care fund only at such time as the perpetual care fund has accumulated sufficient sums so that the earned interest income is sufficient to meet the budgetary requirements of the Greenlawn/Shady Rest Cemetery. Until such time, the interest income shall be reinvested in the perpetual care fund.

SECTION 16. PENALTY

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for each offense. Any person guilty and/or convicted of causing damages shall be responsible for the costs associated with the repair for or replacement of the items damaged.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such provision, and such holdings shall not affect the validity of the remaining portions hereof.

All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

At a meeting of the Board of Commissioners of the City of Franklin, Kentucky, held on November 26, 2007, the foregoing ordinance was adopted and became official on Friday, November 29, 2007