

ORDINANCE NO. 1696

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 12 OF THE CITY OF NEODESHA CODE REGARDING CEMETERIES IN THE CITY OF NEODESHA, WILSON COUNTY, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:

Section One: Article II of Chapter 12 of the City of Neodesha Code shall be amended to read as follows:

ARTICLE II MUNICIPAL CEMETERY

DIVISION 1: ADMINISTRATION

Sec. 12-19. Cemetery established.

The land conveyed by the Neodesha Cemetery Association to the city or land purchased for cemetery purposes is set apart as and for a public burying ground and shall be known as the Neodesha Cemetery, and the cemetery shall be under the police regulations of the city.

Sec. 12-20. Applicability.

- a. This article applies to the cemetery.
- b. All provisions of this Code and such ordinances of the city now in force, or hereafter enacted, relating to public offenses in the limits of the city shall, insofar as the same are applicable, be in full force and effect in the cemeteries.
- c. If a person violates any city ordinance while in the cemetery, such person forfeits the right to be in such cemetery and shall leave such cemetery.

Sec. 12-21. Cemetery records.

The cemetery sexton shall have the custody of the original and official records of the cemetery department, and shall keep all maps and plats of the cemetery and the cemetery register showing the ownership of each lot or fraction thereof, and the record of interments in each grave space of each lot. The cemetery sexton shall make such reports in connection therewith as may hereafter be required.

Sec. 12-22. Cemetery hours.

No one shall be permitted within the cemetery between the hours of 9:00 p.m. and 6:00 a.m. without prior approval of the Cemetery Sexton.

Sec. 12-23. Cemetery zones.

The governing body may designate by zones particular areas of the cemetery where burial rights may only be granted by the sale of full lots, half-lots or by single or double grave spaces, and wherein burial rights will be granted only upon the endowment of the lot or portions thereof. The master plat of the cemetery grounds or a copy thereof shall show the particular zones and the purposes for which each may be used in accordance with the above zoning regulations. The governing body may establish the sale price of lots, or portions thereof, with reference to the zones or lot numbers by which the same are described. The price of all lots in the endowed zones of the cemetery shall include the amount of the endowment as provided by this article.

Sec. 12-24. Payment of purchase price must be made prerequisite to conveyance of burial rights.

No grant or conveyance of burial rights in any lot or grave space shall be made by the city until the full purchase price of the lot, lots or space to be granted shall have been paid to the city in accordance to the rules for making such purchases.

Sec. 12-25. Sale of lots.

- a. The price of lots, or portions thereof, shall be as set out in section 16-12. All lots, or portions thereof, shall be sold only for cash or credit card, and no lots or grave space may be sold on credit or on an installment plan.
- b. An individual may make a request to the cemetery sexton to hold a grave space or spaces for a period of ten business days. If the grave space or spaces are not purchased within the designated time period, the hold will expire.

Sec. 12-26. Cemetery conveyances—Deed.

All cemetery deeds or conveyances shall be issued to the purchaser thereof under the seal of the city and the same shall be signed by the mayor and countersigned by the clerk. All persons desiring to purchase cemetery lots or grave space shall apply to the city clerk at the clerk's office and upon payment of the purchase price thereof shall be entitled to a certificate conveying such rights to the cemetery lot as shall be authorized by law. All such certificates shall be recorded in the office of the city clerk.

Sec. 12-27. Same—Rights conveyed.

Cemetery lots owned by the city shall be conveyed by a certificate signed by the mayor and countersigned by the city clerk under the seal of the city, specifying that the purchaser to whom the same is issued is the owner of the lot or lots described therein by number, as laid down on the cemetery map or plat, for the sole purpose of human interment. Such certificate shall vest in the purchaser, the purchaser's heirs and assigns, a right in fee simple to such lot or portions thereof, for the sole purpose of interment, under the regulations of the governing body. Such certificate shall be entitled to be recorded in the office of the county register of deeds, without further acknowledgment and such description of lots shall be deemed and recognized as a sufficient description thereof. All such conveyances shall be registered by the city clerk in the cemetery lot register before the deed is issued to the grantee.

Sec. 12-28. Transfer of titles; approval required.

The title to cemetery lots, or portions thereof, may be transferred to other persons by a quitclaim deed by the owner thereof, but no such transfer shall be valid until approved by the governing body. Before any such transfer will be recognized by the city as valid, a quit claim deed transfer fee of \$25.00 shall be paid to the city clerk, and the instrument shall be recorded by the city clerk in the cemetery lot register. The city retains the option to purchase any lot or portion thereof which the owner may desire to dispose of, at a price not to exceed the price paid for each lot, less the endowment, and less the amount of any annual care charges due and unpaid at the time.

Sec. 12-29. Limitation on number of lots.

The city will sell only such lots or fractions thereof as the purchaser shall have reasonable need, and the city reserves the right to limit the number of lots or portions thereof which any person may purchase or have title to at any one time.

DIVISION 2: BURIALS

Sec. 12-30. Placing and depth of graves.

Unless specified otherwise, all graves shall be not less than 18 inches within the front boundary line of the lot, and not less than four feet 11 inches deep for an adult grave. The depth of all other graves shall be determined by the cemetery sexton.

Sec. 12-31. Grave spaces; interments per space.

- a. Types of burials allowed.
 - (1) One burial per space;
 - (2) One cremation on top of an underground vault;
 - (3) Two cremations per space; or
 - (4) Four cremations on a multiple space headstone.
- b. No pet burials are allowed.

Sec. 12-32. Enclosing lot and cover of graves.

Any fence, hedge, coping, curb, or other means of enclosure of a lot is prohibited. Any cover for a lot or grave except sod is prohibited; provided, that the cemetery sexton may cause any means of enclosure or any lot cover except sod now existing within the cemetery to be removed at such sexton's discretion.

Sec. 12-33. – Indigent Burials

The city will grant burial rights only in endowed lots; provided, however the governing body may otherwise authorize the sale of lots or grave space to the county for interment of those buried or to be buried, at expense of the county.

Sec. 12-34. Reopening graves; disinterment.

- a. Any person desiring to reopen any grave in the cemetery to disinter or remove any body therefrom, or for any other purpose, shall provide the number of the lot and block on which such grave is situated, the name of the person buried therein, the time of such burial and the place where such body is to be reburied, if it is to be reburied, and the reason therefor. The application shall be signed by a member of the family or when there is no family, by the next of kin desiring to reopen the grave. The parties involved must utilize the services of a funeral home director and must obtain written permission from the Cemetery Sexton one week in advance.
- b. The cemetery sexton shall reopen the grave and remove the body therefrom. Upon completion of the work, and the reinterment if there shall be one, the city clerk will issue a statement of the charges incurred in accordance with the rules of the cemetery; provided, that an order of the district court, or the judge thereof, for the exhumation of the body of the deceased person shall be a sufficient application for the permit required hereunder and the cost of such exhumation including the payment of the required service charges shall be a claim against the county as provided by law.
- c. The fees for a disinterment are the same as those for the opening and closing of a grave.

DIVISION 3: FINANCE; COSTS

Sec. 12-35. Grave opening, closing fees.

Grave opening and closing charges shall be as established in section 16-12.

Sec. 12-36. Special services; permits; costs.

If anyone having an interest in any lot or grave space in the cemetery desires to have any special or extraordinary service performed within the cemetery, such person may have the service performed, if it is reasonable and conforms to the rules of the cemetery. Application shall be made to the cemetery sexton for such special service and permission therefor shall be issued upon the approval of the cemetery sexton. The cost of the special service shall be based upon the actual cost of labor and materials required therefor, plus 15 percent of the costs to be added for supervision and administrative costs.

Sec. 12-37. Weekend, holiday funerals.

No burial shall be made after 4:00 p.m. weekdays, on Saturday or Sunday, or on any city observed holidays except in unusual or extraordinary cases where immediate burial shall be required by public authorities. For any funeral arriving after 4:00 p.m. on Monday through Friday, a charge in the amount established in section 16-12 shall be paid to the city, in addition to any other charges authorized. For any weekend or holiday funeral a charge in the amount established in section 16-12 shall be paid to the city, in addition to any other charges authorized.

Sec. 12-38. Neodesha Cemetery columbarium fees.

The fees associated with purchase and services related to columbariums at the Neodesha Cemetery shall be as established in section 16-12.

DIVISION 4: MAINTENANCE

Sec. 12-39. Cemetery work to be done by city employees.

Work in the cemetery will be done by employees of the city under the direction of the cemetery sexton, although the cemetery sexton may give permission to other individuals or businesses to do certain specified work. Such permission must be in writing and the work must be done under the direction and supervision of the cemetery sexton.

Sec. 12-40. Grading lots.

No lot in the cemetery may be raised or lowered from the grade established for it.

Sec. 12-41. Location and construction of monuments and markers.

- a. The cemetery sexton shall be authorized to direct the placing of any monument in a specified location and, in general, the location of monuments must conform to the general plan of placement of monuments in the part of the cemetery in which it is placed. The specifications and materials for the construction of

foundations of monuments shall be governed by the rules and regulations of the governing body pertaining to monument work and beautification of the cemetery as follows:

- (1) All foundations shall comply with the following: only concrete or granite foundations will be permitted. Foundations shall be of sufficient depth and strength to support the weight of the monuments, with a minimum depth of six inches required. No foundation is to exceed 24 inches in width. All foundations shall have a margin of not less than three inches showing on all four side of the monument or marker, unless a deviation from this requirement is approved by the cemetery sexton. Concrete foundations are allowed to be poured on-site or brought in as a prefabricated precast. Additional concrete or sackcrete shall be placed under precast to meet the six-inch requirement.
 - Granite foundations shall be a minimum of three inches thick with a compressive rating of not less than 19,000 psi to 22,500 psi. Additional concrete or sackcrete shall be placed under foundation to meet the six-inch requirement. All granite foundations shall be set with top of foundation flush with ground level.
 - Granite flush-type grassers shall follow the same specifications of granite foundations. Additional concrete or sackcrete shall be placed under foundation to meet the six-inch requirement. All granite flush-type grassers shall require all inscriptions, lettering, and vases to be placed within the stone to allow a margin of not less than three inches from the edge of the grasser on all four sides. No marker shall rise above ground level of a lot except at the end of the grave space at which monuments, markers, or granite flush-type grassers are permitted.
- (2) All monuments, plaques, granite flush-type grassers, including the foundations and apron, shall be placed in such a manner so that the combined width of the monument, foundation and apron will not exceed the width of the grave space on which it is to be placed, in order to prevent encroachment upon adjacent property. The cemetery sexton shall have the authority to cause to be removed and replaced such monuments and foundations that do so encroach upon other property. Standard specifications may be prepared by the cemetery sexton for the construction of monument foundations to cover the various kinds and sizes of monuments to be placed.

Sec. 12-42. Materials for monuments or markers.

No monument or marker shall be located or placed in the Cemetery unless it is of granite, marble, bronze, or granite flush-type grassers. No other materials will be permitted. Temporary markers (provided by funeral homes) may be placed at the direction of the cemetery sexton and shall be subject to removal at the discretion of the cemetery sexton. Temporary markers will be removed once a monument has been placed. No monuments of wood, iron, tin, plaster of Paris, cement, limestone, sandstone, artificial stone or salt projecting above the surface of the ground, shall be permitted in the cemetery.

Sec. 12-43. Corner markers.

At the Neodesha Cemetery, the corners of any lot may be marked by the owner thereof by markers not larger than six inches square which shall be of such material and of such design as the cemetery sexton may permit. No marker shall extend above the surface of the ground. Any markers not conforming to this rule may be removed by the cemetery sexton or brought into conformity with the rule as may be directed by the cemetery sexton.

Sec. 12-44. Burial vaults, crypts, vaults, other structures—Approval required.

Only concrete or steel burial boxes and/or vaults as approved by the cemetery sexton will be permitted to be used for interments made in the cemeteries. Further, that for interments where the casket is three feet or less, a wood, concrete, or steel vault is required as an outside container at the cemetery. No crypt or vault or other structure shall be built until complete plans and specifications of the same have been approved by the cemetery sexton, and the governing body.

Sec. 12-45. Same—Construction.

All vaults, monuments, and other like structures shall be constructed under the general supervision and direction of the cemetery sexton. All materials used in the construction of any such structure must be brought into the cemetery as neatly as possible ready to set in place. The construction must be finished as rapidly as practicable. All chips, waste materials and debris of every kind must be removed at once upon completion of the structure. The builder of any such structure must take every precaution not to trespass on any other part of the cemetery and to keep from damaging any tree, shrub, monument, marker, sod, street or alley or other object in the cemetery.

Sec. 12-46. Construction project—Permits.

- a. No building, wall, monument work, or permanent structure shall be constructed in the cemetery until a building permit therefor shall have been obtained from the city. The application for such work shall be made by a member of the family, its authorized agent, or the person doing the work. The application shall describe the work proposed to be done and when the cemetery sexton shall be satisfied that the same can be done in accordance with the rules of the cemetery, a permit for such purpose shall be issued.
- b. All foundations or bases in the cemeteries shall be installed by the monument dealer and work shall be executed without unnecessary delay under the supervision of the cemetery sexton. Monuments shall not be set by the city, but shall be set under the supervision of the cemetery sexton. Government markers may be set under the direction of the cemetery sexton in compliance with rules set out in section 30-55.

Sec. 12-47. Monuments, plantings; permit required.

It shall be unlawful for any person to erect monumental work, burial structures or buildings without a permit therefor, or to erect any fence, coping, curbing or enclosure of any kind, or to plant or remove any tree, shrub, flower or other decorative plant in the cemetery contrary to the rules and regulations therefor established by this article.

Sec. 12-48. Water supply.

The city reserves the right to make rules and regulations concerning furnishing water to any lot or portion thereof in the cemetery.

Sec. 12-49. Trees and plants.

The planting and care of trees, shrubs and other plants will be done by the cemetery sexton and the city Parks department, and as may be authorized by the governing body; provided that the planting of flowers only in addition to that done by the city may be permitted to be done by the owners of lots or by others interested in the beautification of the Cemetery upon obtaining written permission from the cemetery sexton. If any tree, shrub or other plant within the cemeteries becomes detrimental to adjacent lots, walks or streets or is not in keeping with the general design and the planning of the cemetery, it may be removed at the discretion of the cemetery sexton.

Sec. 12-50. Removal of plants.

No person shall disturb or remove any sod, tree, shrub, plant or any growing flower from a lot owned by such person or from any other part of the cemetery without first having obtained the permission of the cemetery sexton.

Sec. 12-51. Replatting; opening and closing streets.

The city reserves the right to replat any portion of the cemetery and to open additional streets and to close existing streets and alleys.

DIVISION 5: RULES; REGULATIONS

Sec. 12-52. Driving and parking.

It shall be unlawful to drive or move any vehicle within said cemetery except over a roadway open for vehicular traffic or to obstruct any path or driveway within the cemetery open to vehicular traffic. No person shall use the cemetery grounds or any driveway therein as a public thoroughfare nor drive any vehicle through said grounds except for purpose of making deliveries in connection with cemetery work or other lawful purposes.

Sec. 12-53 Conduct in cemetery.

It is to be remembered that the cemetery grounds are sacredly devoted to the interment of the dead and property decorum within and near the cemetery shall be mandatory of all persons at all times.

Sec. 12-54. Grave decorations.

- a. Artificial or cut flowers in approved permanent monument vases are permitted year-round in the Neodesha Cemetery. On graves that have no monument, flowers may be placed in spaces provided for a monument at the head or foot of the grave until a monument is set. At no time shall flowers not in permanent monument vases, solar lights or other decorations be placed on a grave or in the grass area around monuments from April 1 to October 31. Winter decorations from November 1 to March 31 shall be placed around monuments as to not interfere with equipment in process of digging graves. All winter decorations and artificial flowers placed in the ground will be removed and disposed of by cemetery personnel after March

31 of each year. Memorial Day decorations are permitted one week before and two weeks after Memorial Day. If not removed by owners, cemetery personnel shall be authorized to remove and dispose of all decorations. Persons wanting to leave temporary decorations on a grave for a period not to exceed one week must get prior permission by calling the cemetery sexton's office. Dates to be approved for temporary decorations are the deceased person's birth date, death date anniversary, wedding anniversary, Mother's Day, Father's Day and national or religious holidays.

- b. Nothing shall be placed on any grave or lot except monuments and markers without the special written permit of the cemetery sexton, except flowers in permanent monument vases, wreaths, flags and other temporary decorations which shall be removed by the cemetery sexton at the cemetery sexton's discretion. All decorations shall be placed within the boundaries of a lot. Any decoration placed outside the boundaries of a lot shall be removed by the cemetery sexton, without notice to the owner or person placing the decoration at the location. The cemetery sexton shall be authorized to use the sexton's discretion to remove and dispose of noncomplying decorations. Unless an agreement has been made beforehand with the cemetery sexton, no articles mentioned in this section will be returned to the owner or person placing the same.

Sec. 12-55. Firearms in cemetery.

No firearms shall be permitted within the cemetery except those used in the conduct of a military funeral.

Sec. 12-56. Animals.

Except for seeing or hearing support dogs, and guide dogs for the disabled, it shall be unlawful for any person to bring or cause to be placed within the confines of any cemetery a dog, horse, or any other livestock, either attended or unattended, for any purpose.

Sec. 12-57. Advertisements.

No advertisements shall be permitted within the cemetery at any time.

DIVISION 6: MAUSOLEUMS; COLUMBARIUMS

Sec. 12-58. Mausoleums.

No mausoleum shall house more than two persons, and no mausoleum shall be more than four feet in height. Each mausoleum shall require four (4) lots for placement. Mausoleums shall only be allowed in the mausoleum section of a cemetery, and shall conform with the height and size restrictions, unless otherwise authorized by the cemetery sexton. Lots for mausoleums may only be purchased by family members directly, or through a funeral director. Lots for mausoleums may not be purchased by any person or business for resale. All mausoleums erected or placed in a cemetery shall conform to all applicable rules and regulations of the cemetery sexton and this article. All plans and specifications for a mausoleum shall be approved by the cemetery sexton prior to placement in areas specifically designated for mausoleums in the cemetery.

Sec. 12-59. Columbarium regulations.

The following regulations shall be applicable to columbariums at the Cemetery:

- a. Decorations shall only be allowed in the vase provided on the vase rail.
- b. No decorations shall be allowed on or below the vase rail, other than fresh flowers or other decorations at the time of inurnment, for a period of time not exceeding 48 hours after the inurnment.
- c. No decorations shall be allowed on or at the base of the columbarium unit, other than fresh flowers or other decorations at the time of internment, for a period of time not exceeding 48 hours after the inurnment.
- d. No decals, engravings, or any other defacing of niche panels or vases.

DIVISION 7: PENALTIES

Sec. 12-60. Penalty.

Any person violating any of the provisions of this article shall, upon conviction thereof, shall be deemed to be guilty of a Class C violation.

Section Two: Old Article II of Chapter 12 of the Code of the City of Neodesha is hereby repealed.

Section Three: EFFECTIVE DATE. This ordinance shall be in full force and effect after its publication in the official city newspaper.

Passed by the Governing Body of the City of Neodesha, Kansas and signed by the Mayor this 25th day of April, 2018.

ATTEST:

/s/Terry M. Harper

Terry M. Harper, Mayor

/s/Bobby Busch

Bobby Busch, City Clerk