

ORDINANCE NO. 792

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 6, OF THE DEFUNIAC SPRINGS, FLORIDA, MUNICIPAL CODE, ENTITLED "CEMETERIES"; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, be it ordained by the City Council of the City of DeFuniac Springs, Florida, that Chapter 6 of the DeFuniac Springs, Florida, Municipal Code be and the same is hereby amended in its entirety to read as follows:

ARTICLE I. IN GENERAL

**6-1.1 Created.**

The Board of Cemetery Trustees of DeFuniac Springs, Florida, is hereby created.

**6-1.2 Members.**

(a) Composition. The Board of Cemetery Trustees shall be composed of the Mayor and two residents of the City of DeFuniac Springs, Florida. The positions which are held by the residents shall be filled upon recommendation by the Mayor and confirmation by a majority vote of the City Council. The terms of the two residents shall be for a period of two years and shall be staggered, with the initial term of Seat #1 being for a term of one year and with the initial term of Seat #2 being for a term of two years. Both seats shall be for a term of two years thereafter. The Mayor shall serve as chairman and the three members of the Board shall select a Vice-Chairman who shall act in the absence or incapacity of the Chairman. The board of cemetery trustees or their designee shall appoint a recording secretary to the Board.

(b) Qualifications. Any resident of the City of DeFuniac Springs, Florida, who is 18 years or older, except for Funeral Directors and Vault Companies, and their employees, and any cemetery related business and its employees.

**6-1.3 Functions generally.**

(a) The board of cemetery trustees or their designee shall take and hold in trust for the city, lands conveyed to the board by the city and lands purchased by the board. The board shall have and exercise complete control of the whole of said cemetery, the use, improvement, and beautifying of same and every part thereof, as well as the expenditure of such funds as a hereinafter provided for the board's use.

(b) The board of cemetery trustees or their designee is authorized to purchase, sell, lease or give purchase money mortgages or other security regarding both real and personal property deemed necessary to the proper operation of the cemetery provided, however, the board shall in no way obligate or indebted the city in any manner.

(c) The chairman of the board of cemetery trustees or his designee is hereby empowered and authorized to make, execute and deliver in the name of said board conveyances of cemetery burial plots and to execute such documents necessary to convey the same.

(d) All persons receiving income or who are authorized to pay out monies of the board of cemetery trustees shall be bonded in an amount set by the city council. All records, documents and books of account of the board shall be subject to inspection by the city council or its designated agent at all times.

**6-1.4 Meetings, Financial statement and budget.**

(a) The board of cemetery trustees shall meet every third Tuesday each January, April, July and October at 5:00 pm. Present at each of these meeting is to be the three board members, the city manager, the finance director, the recording secretary and the cemetery supervisor. At these meetings the board of cemetery trustees or their designee shall have prepared a quarterly financial statement.

(b) An annual audit of the City cemetery shall be submitted to the city council for review. The budget of the cemetery shall be submitted to the city council for approval no later than September 1.

**6-1.5 Definitions.**

For the purpose of this ordinance the following terms, phrases, words, abbreviations and their derivations shall have the following meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in Section 1-2 of the Codified Ordinances of the City.

*Burial Plot* shall mean a space of ground in a cemetery intended to be used for the interment in the ground of human remains. Size of plots will be established by resolution of the DeFuniac Springs Council.

*Cemetery* shall mean a place within the City of DeFuniak Springs, owned or under lease to the City, used or intended to be used for the permanent interment of human remains.

*Columbarium* A structure consisting of small vaults or niches for urns containing cremated remains.

*Dawn to Dusk* shall mean 7:00 am to 7:00 pm during day light savings time and 6:00 am to 6:00 pm during regular time.

*Grave Blocks* shall mean a series of contiguous burial plots as platted.

*Ground level marker section* shall mean gravesites in Blocks N-R. This section will also include one retractable flower vase per gravesite.

*Indigent* shall mean in a general sense, one who is needy and poor, or one who has not sufficient property to furnish him a living nor anyone able to support him to whom he is entitled to look for support.

*Lot* shall mean an individual burial plot or group of contiguous burial plots not to exceed twelve.

*Marker* shall mean a ground level marker either used as a headstone or foot marker used to identify a grave site not to exceed 12 inches in width and 24 inches in length.

*Memorial Vase* -Retractable or removable memorial vase to assist with mowing and maintenance.

*Monument* shall mean any product used for identifying a grave site and cemetery memorials of all types, including monuments, markers and vases.

*New Section* shall mean Lots K-S, burial plots 1 through 2352.

*Niche* A space in a columbarium used or intended to be used for the inurnment of cremated human remains.

*Old Section* shall mean Block through I, Block J, and any section that is not identified as New Section above. Block J is limited to columbariums only.

*Vault* shall mean an outer burial container or enclosure into which a casket is placed and includes, but is not limited to, vaults made of concrete, steel, or equivalent material.

*Vehicle* shall mean any wheeled conveyance, whether motor powered, animal-drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description. Exception is made for baby carriages, wheel chairs, and vehicles in the service of the City vault installers, monument installers and funeral directors.

#### **6-1.6 City cemetery grounds or property.**

No person in any City cemetery shall

(1) Willfully mark, deface, disfigure, injure, tamper with, use inappropriately, or displace or remove, any buildings, benches, paving or paving material, water lines, irrigation systems or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, fences, gates, copings, curbing's, head markers, tombstones, vault covers, slabs, vases or other monuments or structures within any City cemetery.

(2) Dig, remove, or disturb any soil, shell, rock, stones, trees, shrubs or plants, or construct or erect any building or structure, coping, curbing, monument, marker, tombstone, vault cover, slabs, or other structure without obtaining the required permit from the board of cemetery trustees or their designee. Permit fees are established by resolution of the DeFuniak Springs Council.

(3) Damage, cut, carve, transplant or remove any tree, shrub, plants or floral arrangements or injure the bark, pick the flowers or seeds, of any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area. The City shall have the right to trim and maintain trees and shrubs that extend into the rights of way.

(4) Climb any tree or walls, stand or sit upon monuments, vases, fountains, railing, fences, or gates, copings, curbing's, head markers, tombstones, vault covers, slabs or upon any other property not designated or customarily used for such purposes.

(5) Allow the entry of any horse, dog, cat or other domestic animal inside any City cemetery. This section shall not apply to any dog trained to aid disabled or handicapped persons, when such dog is actually being used in such capacity.

(6) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird.

#### **6-1.7 Refuse and trash prohibited.**

No person in any City cemetery shall have brought in or shall dump, deposit or leave any bottles, glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where

receptacles are not so provided, all such rubbish or trash shall be carried away from the cemetery by the person responsible for its presence, and properly disposed of elsewhere.

#### **6-1.8 Traffic.**

No person in any City cemetery shall:

(1) Fail to comply with all applicable provisions of the state motor vehicle traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this and other ordinances.

(2) Fail to obey all traffic officers, City employees, or funeral directors, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in any City cemetery and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions of these regulations.

(3) Fail to observe carefully any and all traffic signs or markings indicating speed, direction, caution, stopping, or parking, and all others posted for proper control and to safeguard life and property.

(4) Ride or drive a vehicle on established roadways, if applicable, at a rate of speed exceeding five (5) miles an hour, except upon such roads as the City may designate, by posted signs, for faster travel.

(5) Drive any vehicle on any area except the established roadways, paved roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the City. Rights of way between grave blocks are for pedestrian use only and their use by vehicles, other than those required for maintenance by the City or for installations of facilities under direction of the City, is prohibited.

(6) Park a vehicle in other than an established or designated parking area, and such use shall be for the purpose of attending funeral, grave site visits, maintenance by the City, or other official business.

(7) Leave a vehicle standing or parked at night.

(8) Double-park any vehicle on any road or parkway unless directed by a City official.

(9) Ride a bicycle on the grounds or property of any City cemetery except to attend funeral.

#### **6-1.9 Prohibited conduct.**

No person in any City cemetery shall:

(1) Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.

(2) Sleep or protractedly lounge on the seats, or benches, or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to be a breach of the public peace.

(3) Disturb or interfere unreasonably with any person or party lawfully present in any City cemetery.

#### **6-1.10 Merchandising, Advertising and Signs Prohibited.**

No person in any City cemetery shall:

(1) Expose or offer for sale any article or thing, nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing.

(2) Announce, advertise, or call the public attention in any way to any article or service for sale or hire. Funeral tents are exempt but shall be removed within five (5) days of the burial.

(3) Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatsoever, nor shall any person erect or cause to be erected any sign whatsoever on any public lands or highways or roads adjacent to any City cemetery.

#### **6-1.11 Burial Plots.**

(a) Burial plots shall be purchased and used only for the purpose of burial of human remains. A Certificate of Right of Interment shall be issued with each sale. There shall be no discrimination in the sale of burial plots, on any basis.

(b) A limited number of burial plots are reserved to resident indigents and are available based on financial need. Eligibility shall be determined by proof submitted, (which would include a copy of the Invoice to the County and upon receipt a copy of the check received from the County) to the board of cemetery trustees or their designee that the resident indigent has died and does not have an estate sufficient to pay the purchase price of a burial plot

within the City's cemetery and that the nearest relative or representative of such deceased person desires to have the deceased interred in the City's cemetery. Nonresident indigents who die in the City may be accorded the privilege herein granted. The board of cemetery trustees or their designee may, upon substantiation by satisfactory documentary evidence, authorize burial plots for such deceased person.

(c) No person shall sell, transfer, or convey a burial plot without written authorization from the City of DeFuniak Springs.

(d) A Certificate of Interment Rights, once issued by the City, may be transferred only with the consent of the board of trustees or their designee so that a new Certificate of Interment Rights may be issued to the new owner.

(e) The City of DeFuniak Springs shall be the only entity authorized to sell or transfer Warranty Deeds or Certificates of Interment Rights for Magnolia Cemetery. A Board of Trustees representative will prepare the Certificate and shall record it as a permanent record for Magnolia Cemetery. All transfers of Warranty Deeds or Certificates to heirs, successors, and assigns by will or otherwise will be recognized by the City of DeFuniak Springs only after probate and submission of an appropriate probate order and surrender of the original Warranty Deed or Certificate of Interment Rights. At that time the City shall issue a new Ownership Transfer Certificate to the legal heir/owner and when such certificate is recorded as a permanent record for Magnolia Cemetery.

(f) Persons desiring to dispose of an unused burial plot/niche may surrender the original Warranty Deed or Certificate of Interment Rights to the City of DeFuniak Springs and be reimbursed by the City for the original purchase price of the burial plot/niche. (Monies deposited into the perpetual care fund are non-refundable.) If the Persons desiring to dispose of an unused burial plot/niche does not have or cannot obtain an original Deed or Certificate of Interment Rights the City of DeFuniak Springs may issue a Certificate of Interment Rights with no reimbursement provided.

(g) Guidelines

(1) Entire Cemetery:

(a) No future sprinkler or sprinkler systems are allowed. Existing sprinklers or sprinkler systems will not be allowed to run over two (2) hours a day.

(b) Refuse, dead flowers or faded artificial arrangements and other litter shall be disposed of in designated areas. Plants, floral arrangements or other matter shall not be placed on the rights of way in any City cemetery.

(c) Temporary markers shall be removed when permanent markers are placed. Temporary markers cannot be used in lieu of permanent markers. Temporary markers will be removed when they become illegible or within three (3) months whichever comes first.

(2) Old Section:

(a) If existing enclosures or curbing's are not properly maintained they may be removed at the direction of the board of cemetery trustees or their designee.

(b) Small potted plants or floral arrangements may be placed on burial plots as long as they are not excessive. The City reserves the right to remove any plants or other matter that have become unsightly.

(c) All enclosure methods and materials shall be approved by the cemetery board or designee.

(3) New Section:

(a) Burial plot enclosures, fences, curbing's, slabs of any kind, plants or potted plants, trees, flowers (other than what is in the permanent vases on the headstones), statues, stands, easels, wreaths, pictures, ornaments, jewelry, stuffed animals, glass, cans of any kind, etc., and coping are prohibited because they inhibit proper care and maintenance of burial plots. Unless removed by family or friends within five (5) days after interment, floral arrangements or other displays will be removed by city staff or his/her agent. The items shall be held for fourteen (14) days at the cemetery office. The city shall reserve the right to remove any item that is not in keeping with general appearance of the cemetery.

(b) Monuments are limited to a three-foot length base for a single burial plot, the height is limited to three feet, and the width is limited to 12 inches. Multiple burial plots monuments are limited to no more than seventy-five (75) percent of the width of the land purchased with the same height and width limits of a single burial plot. Veteran's markers or foot markers shall be placed at ground level only. Such markers shall not exceed 12 inches in width and 24 inches in length. No marker other than veteran's markers or foot markers shall be permitted.

(c) Flower vases must be permanently attached to the base of the headstone. No other vases will be allowed. If a ground marker is used only one (1) holder for flowers shall be attached.

(d) The city does not recommend and will not be responsible for pictures or items placed on or around the grave.

(4) Ground Level Marker Section

(a) In Blocks 1544 and 1553 no gravesites will be surveyed or sold per the document donating the property to the City by the previous owner Mr. Levy Plank.

(b) Sections N-R will be reserved for one ground level marker and retractable vase per burial plot.

(5) Columbarium Section

(a) Niches shall be purchased and used only for the purpose of interment of human remains. A Certificate of Right of Interment shall be issued with each sale. There shall be no discrimination in the sale of niches on any basis.

(b) Plaques are limited to the following description: bronze plate, dark finish, bevel edged, flat face letters, and must be eight inches in length by three inches in height.

(c) Temporary plaques shall be permitted until interment is complete. Temporary plaques shall be removed when permanent plaques are placed. Temporary plaques cannot be used in lieu of permanent plaques. Temporary plaques will be removed when they become illegible or when interment is complete, whichever comes first.

(d) Items such as pictures, flowers, memorabilia or any other items of any kind may not be placed on or around the columbarium. The City will not be responsible for any loss or damage to such items. The City shall remove any pictures, flowers, memorabilia or any other items of any kind that is placed on or around the columbarium.

(6) Four (4) memorial gardens, each with one bench and landscaping provided and maintained by the City shall be located in the new section K-S. Locations are as follows; Section L Lots 137 and 138, Section N Lots 134, 135, 138, 139, Section P Lots 134, 135, 138, 139, and Section R Lots 134, 135, 138, 139.

**6-1.12 City Cemetery Operating Policy**

(a) Except for unusual and unforeseen emergencies, any City cemetery shall be open to the public every day of the year from dawn to dusk. The opening and closing hours for each individual cemetery shall be posted therein for public information.

(b) Any section or part of any City cemetery may be declared closed to the public by the board of cemetery trustees, or their designee, at any time and for any interval of time, either temporarily or at regular and stated intervals (daily or otherwise), as the board of cemetery trustees or their designee shall find reasonably necessary.

(c) Notice of burial (in writing or by a burial transit permit) shall be made to the board of cemetery trustees or their designee, by the funeral director or family member before burial.

(d) No grave/niche will be opened and no deceased person shall be interred in any City cemetery unless the City consents thereto and compliance is made with the following:

(1) A notice of burial (in writing or by a burial transit permit) has been made to the board of cemetery trustees, or their designee, by the funeral director or family member giving, the burial plot number;

(2) The burial plot/niche has been fully paid or determination of indigence has been made;

(3) The person arranging for such burial has proper authority to so act;

(4) Thereafter the City will verify ownership. If verified, the City will cause the burial plot/niche to be marked and consent issued.

(5) The funeral director shall give notice no less than 8 working hours during regular business hours Monday through Friday 8:00 am to 5:00 pm in advance of a burial. On Fridays cut-off time will be 12 Noon to allow time to layout gravesite. Any request after 12 Noon on Friday, excluding holidays, involving work beyond normal business hours, will be billed to the funeral homes at cost to serve.

(e) A person or persons to whom consent has been given shall be bound by all City cemetery rules and regulations and all applicable ordinances.

(f) The person or persons to whom consent for burial has been given shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such consent shall have been given.

(g) The board of cemetery trustees, or their designee, shall have the authority to revoke a burial consent upon finding or violation or any rule, resolution or ordinance, or upon good cause shown.

(h) The City shall keep full and complete records of ownership of all burial plots/niches in any City cemetery; of the burial capacity of each burial plot/niche, interred or not interred; of the location of each burial plot/niche that has been or shall hereafter be used; and of the date of burial of each.

(i) The City shall not be responsible for any damage caused during normal maintenance activities.

(j) The City shall not be responsible for owners of burial plots/ niches performing maintenance activities in a city owned cemetery.

(k) The City may reserve a burial plot/niche, at the request of a prospective purchaser, for a period not to exceed 30 days without a formal agreement or payment of the price of a burial plot. At the expiration of the time period, the burial plot/niche must be purchased or the City may issue a Certificate of Interment Rights to any purchaser.

#### **6-1.13 Burial Plot Requirements.**

(a) Hereafter burial plots must be a minimum of 18" of earth above vault but shall not exceed the elevation of the surrounding area.

(b) Interments within burial plots shall be centered to ensure preservation of the symmetry for future tombstones, markers, or other monuments.

(c) Hereafter each and every burial plot shall contain a vault that meets the specifications of this ordinance. Before opening a burial plot proof of vault purchase must be given to the board of cemetery trustees or their designee.

(d) After each burial turf, (if any), must be replaced and the ground leveled in a workmanlike manner with as little disturbance to surrounding areas as possible. Excess waste materials present after a burial must be disposed of in designated areas as provided by cemetery supervisor.

#### **6-1.14 Vaults.**

(a) The vault shall be made of concrete, steel, or other equivalent material and the cost of such shall be the sole responsibility of the burial plot owner. Such vault shall be of specifications and weight so as to prevent cave-ins. Only one vault will be permitted on any one burial plot.

(b) Tombstones, markers, or other monuments must be leveled, and aligned within burial plot perimeters so as to not infringe on adjacent burial plots or rights of way. Erection of tombstones, markers, and other monuments must be in accordance with acceptable standards so that they will not settle or tilt.

#### **6-1.15 Disinterment.**

Disinterment shall be in accordance with the laws of the State of Florida and permission must be obtained in advance from the board of cemetery trustees, or their designee.

#### **6-1.16 Use of Funds.**

The proceeds of all property disposed of by the board of cemetery trustees, together with funds which may be provided by the city council, shall be held and used for cemetery purposes only. The net profit, if any, as determined by the annual audit shall be invested in the following cemetery trust funds:

(1) 80% to cemetery perpetual care to aid in the maintenance of the cemetery in years that it operates in the negative.

(2) 20% to cemetery future land to provide for needed additional land purchases.

#### **6-1.17 Prices.**

Cemetery burial plot/niche prices in the cemetery are established by resolution of the DeFuniak Springs Council.

#### **6-1.18 Enforcement.**

(a) The DeFuniak Springs Police Department shall have the authority to eject from a City cemetery any person acting in violation of this Ordinance.

(b) The DeFuniak Springs Police Department shall have the authority to seize and confiscate any property, thing or device in a City cemetery used in violation of this ordinance.

**6-1.19 Penalty.**

Any person found in violation of this ordinance shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for not more than sixty (60) days or by both fine and imprisonment. Each day any violation of any provision of the ordinance continues shall constitute a separate offense.

**6-1.20 Validity and reversion.**

The trust created herein is for the use and benefit of the city and shall remain in force and effect until duly revoked by the city council, at which time the title and possession of all trust properties, both real and personal, shall revert to the city.

**6-1.21 Severability.**

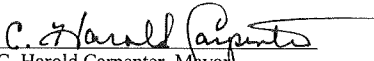
Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

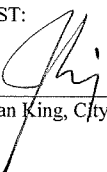
**6-1.22 Effective Date.**

This ordinance shall become effective upon its adoption by city council and signature of the Mayor.

This Ordinance shall become effective upon adoption.

ADOPTED this 13th day of September 2010.

  
C. Harold Carpenter, Mayor

ATTEST:  
  
Jonathan King, City Clerk