

CHAPTER 6

CEMETERY RULES AND REGULATIONS

Article 1. Establishment of Cemetery Policy

Sec. 6-1. Establishment of Cemetery Policy.

1. For the mutual protection of lot owners and the cemetery as a whole, the following rules and regulations have been adopted by the City of Wilburton as the rules and regulations of city cemetery and all lot owners and visitors within the cemetery and all lots sold, shall be subject to said rules and regulations.
2. And subject further to such other rules and regulations, amendments or alterations as shall be adopted by the City Council from time to time and the reference to these rules and regulations in the deed or certificate of ownership to a lot shall have the same force and effect as if set forth therein.

Sec. 6-2. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than two hundred fifteen dollars (\$ 215.00) and costs.

Article 2. Definitions

Sec. 6-3. Definitions.

1. **Cemetery.** The term cemetery is hereby defined to include a burial park for earth internments, a community mausoleum for vault or crypt internments, a crematory or crematorium and columbarium for cinerary internments, or a combination of one or more than one thereof.
2. **Plot.** The term plot shall apply to a space of sufficient size to accommodate one adult interment approximately four by ten feet.
3. **Lot.** The term lot shall apply to numbered divisions as shown on the record plat which consists of four or more plots.
4. **Internment.** The term internment shall mean the permanent disposition of the remains of a deceased person by cremation and internment, entombment, or burial.
5. **Memorial.** The term memorial shall include a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, coping, lot enclosure, urn and crypt and niche place.
6. **Monument.** The term monument shall include a tombstone or memorial of granite or marble which shall extend above the surface of the ground.
7. **Marker.** The term marker means a memorial flush with the ground.
8. **Lot marker.** The term lot marker means a type of post used by the cemetery to locate corners of the lot or plot.
9. **Certificate of Ownership.** The term certificate of ownership shall apply to the original conveyance given by the cemetery to the original purchaser.

Article 3. General Rules

Sec. 6-4. General Rules.

The City of Wilburton owns and operates the Memorial and City Cemetery in accordance with the laws of the State of Oklahoma.

1. Employees of the city are not expected to work on Saturdays, Sundays or holidays except when absolutely necessary in the preservation of order, and as specified in the Rules and Regulations. Consequently, Saturday and Sunday funerals will be held to a minimum.
2. Employees of the city are not permitted to do any work for lot owners except upon order of the superintendent but are required to be civil and courteous to all visitors.
3. All fees or charges for services are payable at the City Clerk's office as herein stated and patrons of the cemetery are requested not to pay any fee or gratuity to any employee.
4. Persons within the cemetery shall use only the avenues, roads, walks and alleys, and no one is permitted to walk upon or across lots or lawns unless it be necessary to do so to gain access to one's own lot. The cemetery expressly disclaims liability for any injuries sustained by anyone violating this rule.
5. Persons visiting the cemetery or attending funerals are strictly prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant, or from writing upon, defacing or injuring any memorials, fence, or other structure within the cemetery grounds.
6. Motor cars and vehicles must be kept under complete control at all times. When meeting a funeral procession they must stop until the procession passes. They must not pass a funeral procession going in the same direction. Motor cars must not be left with the engine running and the emergency brakes must be set when the driver is not in his seat. Mufflers must not be opened nor the horn sounded within the cemetery.
7. The following things are prohibited:
 - a. The driving of motor cars or other vehicles through the gates or in the cemetery at speeds exceeding 5 mph.
 - b. Driving any motor car, vehicle or animal across or upon any grave, lot or lawn or parking or leaving the same thereon.

- c. Parking or leaving any motor car or vehicle on any road or driveway within the cemetery at such location or in such position as to prevent any other car or vehicle from passing the same, and if so parked or left the management will remove the same.
 - d. Making a complete or partial reverse turn of any motor car or vehicle on any road or driveway within the cemetery.
8. Children under fifteen years of age are not permitted within the cemetery, or its buildings, unless accompanied by proper persons to take care of them.
9. Receptacles for waste material are located at convenient places. Hence, the throwing of rubbish on the drives and paths, or on any part of the grounds, or in the buildings, is prohibited.
10. The placing of boxes, shells, toys, metal designs, ornaments, chairs, settees, vases and similar articles, upon plots will not be permitted and if so placed the management reserves the right to remove them. Except Memorial Day when flowers, metal boxes, ornaments, glass vases, etc., will be allowed, however, they must be removed within 4 weeks; and on Christmas when blankets and decorations, etc., will be allowed and they must be removed by January 31. All other exceptions must be cleared by cemetery superintendent or mayor. Personal property removed by the city personnel will be retained for 30 days after removal so that property owners may claim their property if they so desire.
11. It is of the utmost importance that there should be strict observance of the properties in the cemetery. Hence, all persons within the cemetery should avoid conduct unbecoming a sacred place.
 - a. Loud or boisterous talking.
 - b. Idling or loafing on the grounds or in any of the buildings.
 - c. Bringing lunches or refreshments into the cemetery or consuming them on the grounds.
 - d. Peddling or soliciting the sale of any commodity within the cemetery.
 - e. Placing of signs or notices or advertisements of any kind within the cemetery.
 - f. Bringing dogs into the cemetery or any of the buildings.

- g. Bringing firearms into the cemetery except by a military escort accompanying a veteran's funeral or attending memorial services.
12. It is the duty of the city personnel to see that the rules and regulations are complied with and it is their duty to see that order is maintained and to protect and promote the best interests of the cemetery. To that end, they are authorized to make temporary additional rules which may be needed, from time to time, to meet emergencies which are not covered by these rules and regulations.
13. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The mayor, therefore is given the necessary powers to make exceptions, suspensions, or modifications of any of these rules and regulations, without notice, when in the judgement of the mayor such action appears necessary; and such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such rules and regulations.

Sec. 6-5. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than two hundred fifteen dollars (\$215.00) and costs.

WILLIAM BIRTON
OKLAHOMA 1910



Article 4. Rules and Regulations Covering Lots and Lot Owners

Sec. 6-6. Lots and Lot Owners.

Persons desiring to purchase lots should visit the cemetery where the management will aid them in making a selection. Payment for lots is to be made at City Clerk's office and deed to lot will be issued upon receipt of payment.

The following prices are now in effect:

1. Space, or any combination of Spaces, One hundred dollars (100.00) per space, including perpetual care

Prices are subject to change by the City of Wilburton without notice.

2. Lots of various sizes are available in the cemetery and hence such lots will not be subdivided.
3. No lot shall be used for any other purpose than for the burial of the human dead.
4. No easement or right of interment is granted to any plot owner in any road, drive, alley or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery or buildings, as long as the mayor devotes it to that purpose.
5. The right to enlarge, reduce, re-plot or change the boundaries or grading of the cemetery, or a section or sections, from time to time, including the right to modify or change the locations of or remove or re-grade roads, drives, or walks, or any part thereof is hereby reserved. The right to lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling systems, drainage, et cetera, is also expressly reserved, as well as is the right to use cemetery property not sold to individual plot owners for cemetery purposes, including interment of the dead, or for anything necessary, incidental or convenient thereto. The city reserves to itself and to those lawfully entitled thereto a perpetual right of ingress and egress over plots for the purpose of passing to and from other plots.
6. Descriptions of lots will be in accordance with the cemetery plats which are kept on file in the City Clerk's office.
7. The city will take all reasonable precautions to protect lot owners, and the property rights of plot owners, within the cemetery from loss or damage; but the cemetery distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from strikers, malicious mischief

makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

8. It is the duty of the plot owner to notify the city of any change in his mailing address.
9. The instrument of conveyance of these rules and regulations and any amendments thereto constitute the sole agreement between the city and the plot owner. The statement of any employee or agent, unless confirmed in writing by the city, shall in no way bind the cemetery.
10. The City Council shall have the power to limit the placement of a community mausoleum for vaults and crypts for interments in restricted areas.

Sec. 6-7. Care of Lots.

1. The general care of the cemetery is assumed by the city.
2. The general care assumed by the city shall in no case mean the maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon lots; not the doing of any special or unusual work in the cemetery, including the work caused by the impoverishment of the soil; nor does it mean the reconstruction of any marble or granite work or any section or plot, or any portion or portions thereof in the cemetery, caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or by the order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.
3. Lot owners desiring additional care of their lots may arrange for such care through private contract.
4. Investment of Permanent Maintenance. The money received for perpetual care shall be held in trust and invested as provided by law. The city reserves the right, however, either to handle all investments itself, or to deposit said funds with any person, company, or corporation qualified to act as trustee for such funds.
5. Concrete walkways will not be allowed between lots.
6. Each monument shall have a concrete base. This base shall be flush with the ground and extend 6 to 8 inches on all four sides to give the monument full support.

7. No plot or lot shall be enclosed in any type of ground marker, curbing or fencing.

Sec. 6-8. Descent of Title.

The laws of the State of Oklahoma govern the descent of title to cemetery lots as well as other matters pertaining to assignment, conveyances devises, trust deeds and inalienability. The city will assist any lot owner who desires information or advice on questions pertaining to his lot.

Sec. 6-9. Internments.

1. The cemetery will open to the public from sunrise to sunset.
2. Where immediate burial is required by the laws of the State of Oklahoma or under the rules and regulations of the Board of Health, interments may be made on Saturdays, Sundays and holidays but an additional fee will be added to the regular interment charge. Otherwise, interments will be permitted only Monday through Friday.
3. All funerals on entering the cemetery shall be under the charge of city personnel.
4. Once a casket containing a body is within the confines of the cemetery, no funeral director nor his embalmer, assistant, employee, or agent, shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased or an order signed by a court of competent jurisdiction.
5. Funeral directors, upon arrival at the cemetery, must present the necessary burial permit from the local health office.
6. All orders for interments in lots must be signed by the owner of the lot or his legal representative. However, when this is impossible because such person is absent from the city, telegraphic permission will be accepted in lieu thereof.
7. Lot owners shall not allow interments in their lots in return for remuneration of any kind.
8. No interment of two or more bodies shall be made in one grave except in the case of mother and child or two infants in one caskets.
9. When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner. Should the lot owner fail or neglect to make such

designation, the city reserves the right to make the internment in a location designated by the city manager.

10. The employees of the city are the only persons who will be permitted to open graves with the following exceptions:
 - a. When the cemetery is directed to make a disinterment by the order of a court of competent jurisdiction and a certified copy of such order has been filed with the city.
 - b. When the district judge directs the disinterment for the purpose of holding an inquest and has filed with the city his signed authorization to release the body to himself and his lawful agents. In such case the disinterment must be made by his lawful agents. City employees will not be permitted to assist his agents.
11. All charges for internment or services in connection therewith, shall be paid to the city which will issue a receipt therefore upon request.
12. Arrangements for the payment of any and all indebtedness due to the city must be made before internment will be made.
13. The right is reserved by the city to insist upon at least twenty-four hours notice prior to any internment and at least one week's notice prior to any disinterment or removal.
14. All internments, disinterments, and removals must be made at the time, and in the manner and upon the charges fixed by Section 6-17.
15. Besides being subject to these rules and regulations, all internments, and disinterments and removals are made subject to the orders and laws of the properly constituted public authorities.
16. The city will not be responsible for any order given by telephone or for any mistake occurring from the want of precise and proper instructions as to the particular space, size of grave, and location in a plot, where internment is desired.
17. The city will not be liable for the internment permit nor for the identity of the person sought to be interred.

Sec. 6-10. Plants and Shrubs.

1. There shall be no individual beds of shrubbery or flowers allowed on the grounds except by special permission of the city. Application for the same should be accompanied by a scaled sketch of the proposed planting indicating the position and names of the plants and shrubs suggested.
2. The city shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the cemetery as soon as, in the judgement of the city personnel, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained or as heretofore set forth in the rules and regulations
3. The city shall not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached beyond the acceptance of such floral pieces for cemetery services held in the cemetery.
4. The city shall not be responsible for frozen plants or herbage of any kind or for plantings damaged by the elements, thieves, or by other causes beyond its control.
5. The owner shall notify the City Clerk's office any time his lot is resold.
6. The city reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants, or herbage of any kind unless the city gives consent.

Sec. 6-11. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than Two hundred fifteen Dollars (\$215.00) and costs.

Article 4. Enforcement

Sec. 6-12. Enforcement of Rules.

The city is hereby empowered to enforce all rules and regulations and to exclude from the cemetery any person violating the same. The city shall have charge of the grounds and buildings including the conduct of funerals, traffic, employees, plot owners and visitors and at all times shall have supervision and control of all persons in the cemetery.

Sec. 6-13. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than Two hundred fifteen dollars (\$215.00) and costs.



Article 5. Application for Internment Permit

Sec. 6-14. Application for Internment Permit. *[Amended 1/2004, Ord. No. 04-1027]*

1. The following application will be used to secure interment within any cemetery operated by the City of Wilburton.
2. All other forms previously used are null and void from this date on.
3. All applications must be submitted with statement signed by family and/or friends requesting interment that all fees have been explained and understood by all parties.



APPLICATION FOR INTERNMENT PERMIT

The undersigned, duly licensed funeral director, does hereby make application to the City of Wilburton, Oklahoma, for a permit to bury _____, deceased, in _____ Cemetery, located in Latimer County, Oklahoma, and in consideration of the granting of such permit, said funeral director does hereby covenant, promise and agree:

1. To employ the Street Department of the City of Wilburton, Oklahoma for the sum of one hundred dollars (\$100.00) thru the week and one hundred fifty dollars (\$150.00) on weekends and holidays to be paid to said city, to open and close the grave, unless friends or relatives of the deceased desire to open such grave gratis, but in no event shall any grave be opened without the knowledge of the Street Department who shall designate the exact location of the grave, this to prevent graves being opened in walkways or on another's lot, and in the event friends or relatives of deceased open and close the grave, the funeral director shall assume full responsibility for any claims for damage or otherwise in connection with or arising out of the opening and/or closing of such grave.

2. To take full charge and supervision of said burial and of the conduction of the funeral of said deceased, and said City shall have no obligation or responsibility whatsoever with reference thereto.

3. To assume complete responsibility for any damages, or any claim of any nature whatsoever, arising from or out of the conduct of said funeral, and all things and occurrences in connection therewith; it being hereby distinctly agreed and understood that said funeral director shall absolve and hold harmless the said City of Wilburton of and from all liability and for all occurrences in connection with the performance and conduct of said funeral.

4. To reduce the possibility of accidents at the grave sites, all opened graves shall have planks placed on both sides and across both ends of the opened graves for the protection of all concerned. If planks are not used, funeral director in charge assumes all responsibility.

5. To conform and comply in all respects, with the rules, resolutions and regulations of said City of Wilburton relative to the use and operation of said cemetery.

Dated this _____ day of _____, 19____.

FUNERAL HOME

By: _____

Sec. 6-15. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than Two hundred fifteen dollars (\$ 215.00) and costs.



Article 6. Recording Fees of Cemetery Lot Deeds and Fees for Grave Openings

Sec. 6-16. Cemetery Lot Deeds and Fees for Grave Openings. *[Amended 1/2004, Ord. No. 04-1027]*

1. A grave opening by the employees of the City of Wilburton shall be made at a fee of One Hundred dollars (\$100.00) thru the week and One Hundred Fifty (\$150.00) weekends and Holidays per grave opening.
2. All cemetery lot deeds shall be recorded in the records retained in the office of the City Clerk of the City of Wilburton and that any sale or conveyance of cemetery lots shall be by deed and said deed shall be furnished to the City Clerk for recording in the official records at the City Hall of the City of Wilburton.

Sec.6-17. Exhumation

1. The City of Wilburton does not object to the exhumation of graves, provided the following conditions are met:
 - a. Any person or their agent(s) desiring to exhume the remains of any person buried in any cemetery owned or controlled by the City of Wilburton shall pay a fee of \$1,000.00 or if actual expenses to the City of Wilburton exceed \$1,000.00 then the actual costs of the use of City manpower and equipment, in advance.
 - b. The party or their agent(s) agree in writing to be responsible for any damage to the adjoining graves, grave sites or the cemetery, and agrees to hold the City of Wilburton harmless from any damage to the burial vault, coffin and/or remains of the deceased, and the party or their agent(s) agree to assume any liability.
 - c. That any arrangements for exhumation are made at least one (1) week in advance.
 - d. That the City of Wilburton has the right to cancel without notice any exhumation that has been arranged.
 - e. That the only responsibility of the City of Wilburton is to open the grave and remove earth and fill to within six (6) inches of the burial vault, coffin and /or remains.

- f. That the party or their agent(s) seeking the exhumation shall be responsible for removing the remaining earth and fill and the actual removal of the burial vault, coffin and/or remains. No employee of the City of Wilburton shall assist in this portion of the exhumation.
 - g. The City of Wilburton shall afterward fill in the grave site with earth and fill.
2. No exhumation agreement shall be made without proper documentation and permits from all responsible local, county, regional, state and/or federal authorities. Copies of which shall be placed on file with the City Clerk with the agreement executed by the party or their agent(s).
 3. The Mayor or his authorized representative has the right to deny any exhumation. The aggrieved party may ask the City Council to override the Mayor's decision. If the City Council does not override the Mayor's decision, it will become final unless it is overruled by a Court of competent jurisdiction.
 4. In the case of a Court ordered exhumation the Mayor or his authorized representative may waive any part of sections one(1) and two (2), provided he is provided a certified copy of such order in advance, and only to the extent required by such order. The certified copy shall be placed on file with the City Clerk.

Sec. 6-17. Penalty.

Every person convicted of a violation of any provision of this article shall be punished by a fine of not more than Two Hundred Fifteen dollars (\$215.00) and costs.

AGREEMENT FOR EXHUMATION OF GRAVE

We, the undersigned, being the next of kin and rightful heir, or their Agent, of

_____,
deceased, who is buried in: (description of cemetery and burial plot) do hereby agree to pay to the City of Wilburton \$1,000.00 (or if the actual cost is greater, then the actual cost), in advance, for the purpose of exhuming the burial vault, coffin and/or remains of _____, deceased.

We agree to perform the exhumation in accordance with the Wilburton City Code, as adopted by the City of Wilburton, in all respects.

We specifically agree to hold the City of Wilburton harmless from any damage and/or liability to the grave to be exhumed, the burial vault, coffin and/or remains, as well as adjoining grave sites, graves or the cemetery, and to assume such liability.

DATED THIS _____ DAY OF _____, _____.

NAME
(If Agent, state who agent is for)

ADDRESS

CITY, STATE, ZIP

PHONE

RELATIONSHIP

Subscribed and sworn to before me this _____ day of _____, _____.
(Seal)

Notary Public

Commission No. _____ Commission expires _____