

ORDINANCE NO. 953

AN ORDINANCE OF THE CITY OF EUDORA, KANSAS, REPEALING CHAPTER XII, ARTICLE 1, OF THE CODE OF THE CITY OF EUDORA IN ITS ENTIRETY, AND ADOPTING SUBSTITUTE PROVISIONS IN PLACE THEREOF, FOR THE OPERATION OF THE CITY CEMETERY.

WHEREAS, the City of Eudora, Kansas, owns and operates a city cemetery (the "Cemetery") within the corporate limits of the City;

WHEREAS, K.S.A. 12-1402 provides that the City shall have full power to make and enforce all necessary rules and regulations pertaining to the custody, control, and care of the Cemetery:

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF EUDORA, KANSAS:

SECTION I. Chapter XII (Public Property, Article I (Cemeteries), of the City Code is hereby deleted in its entirety and replaced by the following sections:

12-101 CEMETERIES IN CONTROL OF PUBLIC WORKS DEPARTMENT.  
The general supervision and control of the Eudora cemeteries shall be vested in the City's public works department, subject to the control and direction of the city administrator and the Governing Body. The public works department may, from time to time, adopt such administrative rules and regulations for the proper care and management of the cemeteries as it may deem necessary or appropriate, subject to this Article and applicable state or federal law. Notwithstanding anything herein to the contrary, the general care assumed by the public works department shall in no way be construed as requiring the City to maintain, repair, level, or replace any grave monument, marker, stone, or concrete base, and the City shall not be liable for damages to any of the foregoing resulting from the City's care or maintenance of cemetery grounds.

12-102 SUPERINTENDENT; DUTIES. The director of the public works department shall be the *ex officio* superintendent of cemeteries. He or she shall superintend all improvements, have general direction of the burial of the dead, superintend the building of all vaults, tombs, and monuments, see that all landmarks and cornerstones are set in their proper places, and have charge of all implements and property belonging to the cemeteries. The director shall take care of the cemeteries, report to the Governing Body any needed repairs, and when so ordered or authorized make or arrange for the repairs. The director shall further dig or cause to be dug all graves in the cemeteries. All grading, landscape work and improvements of any kind, and all care of lots, shall be done, and all trees, shrubs of any kind shall be planted, trimmed or removed, and all interments, disinterment's and removals shall be made only by authorized public works department personnel.

CITY CLERK; DUTIES; SALE AND TRANSFER OF LOTS.

12-103 (a) The city clerk shall manage the sale of the lots within the cemeteries, and shall issue to each purchaser of a lot a certificate signed by the mayor, and countersigned by the clerk under the seal of the city,

specifying that the purchaser to which the certificate is issued is the owner of the lot or lots described therein, by number(s), and as laid down on the maps or plats of the cemeteries, for the purposes of interment only. Lots shall be sold for such prices as the Governing Body may establish or allow to be established from time to time.

- (b) The city clerk shall collect and account for all moneys for the sale of lots, the digging of graves, and other services provided in this Article. The city clerk shall keep an accurate record of the location of the graves in the various lots.
- (c) Lots or spaces in the cemeteries shall be transferred by a bill of sale or receipt, a copy of which shall be provided to the city clerk. All deeds shall convey lots or spaces for burial purposes only, subject to the rules and regulations of the City.

12-104 PERMITS. No interment or removal shall be made until a permit therefore shall have been issued by the city clerk. No interment shall be made or permit therefore issued unless and until the applicable lot price has been paid in full.

12-105 GRAYES. Graves for adults shall not be less than five (5) feet in depth, and for children not less than four (4) feet in depth. The charge for digging and filling of graves by the superintendent shall be as the Governing Body may establish or allow to be established from time to time.

12-106 GRADES. The grade of any lot in the cemeteries shall not be raised more than six (6) inches above the natural grade of the ground or above the established grade.

#### FOUNDATIONS, MONUMENTS, AND MARKERS.

12-107 (a) A solid concrete footing shall be poured for all stones. For stones larger than twelve inches (12") by eighteen inches (18") in size, the footing shall be at least eighteen inches (18") below ground level and shall be three inches (3") wider than the base of the stone. A base at least ten inches (10") deep will be poured for the stones of less size. The person setting the stones or responsible for having the stones set shall contact the superintendent before any work is done at the grave site.

(b) All monuments and markers shall be placed on the West line and parallel to the width of the space. The West line of the concrete foundation shall be two inches (2") East of such West line.

(c) All headstones for single graves shall not exceed thirty-eight inches (38") in width nor four feet (4') in height. All headstones for double graves shall not exceed six feet (6') in width nor five feet (5') in height measured from ground level. All foot stones for single graves shall not exceed two feet (2') in width and shall be placed so the top of the stone will not protrude above ground level.

- (d) Upon written request to the Governing Body by the owner(s) of more than two (2) contiguous grave lots the Governing Body may, in its discretion, permit the placement of a head stone, common to said contiguous graves, to exceed six feet (6') in width, and/or thirty-eight inches (38") in depth, but such stone shall not exceed five feet (5') in height, measured from ground level.
- (e) The City reserves the right to refuse permission to erect any monument or marker not in keeping with the good appearance of the cemeteries.

12-108 INTERMENTS.

- (a) All graves shall be opened by workmen employed by the City, and no filling, seeding, or other work upon single graves or lots shall be done except by such employees. The use of wooden rough boxes or crypt-beds is prohibited in burials within the Cemetery and only sealed concrete vaults and sealed urns shall be used.
- (b) No interment of any body other than a human being shall be permitted or made in the cemeteries. No cremations may be spread on top of the ground within the cemeteries. No more than one (1) body may be interred in any one (1) grave, unless both are cremated, or one (1) traditional burial and the other cremated and put on top. The traditional burial must occur first.
- (c) The City must have received notice of an interment at least twenty- four (24) hours in advance of burial from April 1 to October 31, and forty-eight (48) hours from November 1 to March 31. Monday morning openings require notice to be given by noon (12:00 pm) of the preceding Thursday.
- (d) The City shall in no manner be liable for any delay in the interment of a body where a protest to the interment has been made or where it has been determined that non-compliance with the rules and regulations of the cemeteries has occurred. The City shall be under no duty to recognize, nor any duty to refuse to recognize, any protest of interment. The City shall not be responsible for errors resulting from orders or instructions given by telephone and the City may require such orders to be in writing before finalizing any action. All interment papers must be filled out and signed before the funeral.
- (e) The City shall not be liable for the interment permit nor for the identity of the body sought to be interred. The City reserves and shall have the right to correct any errors that may be made by it in making interments, disinterment's, or removals, or in description, by transferring, conveying, and/or substituting other interment property of similar value and similar location or, in the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the City reserves and shall

have the right to remove and/or transfer such remains so interred to other property of similar value and location.

- (f) There will be no Sunday or City-observed holiday interments or burials without obtaining permission from the public works director, which permission will be granted for emergencies only. The following are City-observed holidays:

New Year's Day  
Martin Luther King, Jr.  
Day Independence Day  
Veteran's Day  
Christmas Eve & Christmas Day  
President's Day  
Memorial Day  
Labor Day  
Thanksgiving Day  
Friday After Thanksgiving

If any of the above listed holidays fall on a Sunday, the cemeteries may be closed from the preceding Saturday through and including the following Monday.

- 12-109 DISINTERMENTS. The applicant for a disinterment shall provide a disinterment permit from the State of Kansas and must be present during disinterment. City employees shall exercise reasonable care in making a removal but neither they nor the City shall assume any liability for damages to any casket, vault or urn incurred in making the removal. The City shall not be obligated to perform disinterment's during Saturdays or Sundays, unless otherwise required by court order.

GRAVE DECORATIONS.

- 12-110 (a) Summer Months-April 15 through November 15. Fresh flowers, plants, artificial wreaths or flowers, and shepherd hooks (plant holders) may be used for decorating graves, but must be placed within the concrete foundation or on the monument or markers, except for Memorial Day. For a period of five (5) days preceding and fourteen (14) days following Memorial Day, the above-mentioned type of arrangements may be placed on graves provided they are in containers other than glass or pottery and set close to the monument or marker. City personnel will be permitted to remove all items after this period. Flowers and arrangements will be removed upon deterioration throughout the year. The City shall not be held accountable or responsible for any items so placed or removed.
- (b) Winter Months-November 16 through March 31. All permanent metal vases must be placed in the inverted position to prevent breakage. The City will not be held accountable or responsible for damaged vases. All flowers, decorations, wreaths, etc. wished to be salvaged must be removed by March 31, following which City

personnel will be permitted to remove all such items; provided, that such items may be removed upon deterioration throughout the year.

- (c) All bushes, plantings of floral pieces (either annual or perennial varieties) upon individual graves or lots shall be prohibited. All plantings may be removed by City personnel. No fences, benches, hedges, shrubbery, floral pieces (either annual or perennial varieties), landscaping or enclosures of any kind shall be permitted around any lots or spaces. No trees, shrubbery, markers, plantings or obstacles will be placed in the walkways or alleys between lots or spaces. The City shall otherwise have the discretion to determine whether any structure, planting, or appurtenance shall be permitted.

12-111 PRICES. The prices and costs for lots, interments, disinterment's, grave openings, grave closings, burials, cremations, and other City services for the shall be as the Governing Body may establish or allow to be established from time to time.

12-112 ABANDONED LOTS OR SPACES. Title to all abandoned lots or spaces shall revert to the City of Eudora in accordance with the provisions of K.S.A. 12-1440 or other applicable law. Upon completion of the abandonment of such lots or spaces, the City may sell the same and convey title thereto as provided by law.

#### VISITORS AND HOURS OF ACCESS.

12-113

- (a) The cemeteries shall be open during such days and hours as the Governing Body may establish or allow to be established from time to time. It shall be unlawful for any unauthorized person to enter into or on the grounds of any cemetery except during the hours posted at the entrance to the cemetery or otherwise established for cemeteries.
- (b) Any person within the cemeteries shall use only the roads, walks or alleys and at no time shall trespass on the lots of others, and shall at all times conduct themselves in a quiet and respectful manner.
- (c) Visitors shall not pick any flowers, injure any trees or plants or mar any stone or monument.
- (d) Vehicles are permitted on the driveways only. The speed limit within the cemetery is fifteen (15) miles per hour.
- (e) No dogs, cats, or other pets are allowed in the cemeteries.
- (f) Any person found guilty of violation of this section shall be subject to a fine not to exceed \$100.00 and a jail sentence not to exceed thirty (30) days, or a combination of such fine and such sentence.

#### ADDITIONAL RESTRICTIONS.

- (a) All work within the cemeteries shall cease while a funeral or interment is being conducted nearby, if such work would be visible or audible to funeral or interment participants. Work trucks and workmen within the cemeteries

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shall withdraw to a reasonable distance from the location of the funeral service.

- (b) Approaching the bereaved for the purpose of soliciting any business within the cemeteries will not be permitted.
- (c) Reference is hereby made to K.S.A. 21-6106 (Unlawful public demonstration at a funeral), the terms of which shall be and are applicable to the City.

**SECTION II.** This ordinance shall be in full force and effect from and after its adoption and publication as provided by law.

**PASSED AND APPROVED** this 28th day of March, 2011, by a majority of all of the members of the Governing Body of the City of Eudora, Kansas.

**APPROVED** by the Mayor this 28th day of March, 2011.

**APPROVED:**

By: Scott Hopson  
Scott Hopson  
Mayor

**ATTEST:**

By: Donna Oleson  
Donna Oleson  
City Clerk

