

ORDINANCE NO. 2018-03

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, AND MANAGEMENT OF DEKLE CEMETERY, OWNED BY THE CITY OF LAKE BUTLER, UNION COUNTY, FLORIDA; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE, AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCE IN CONFLICT, PROVIDING SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE

Chapter 59

ARTICLE 1. IN GENERAL

Sec. 59.1 Reserved rights

It shall be unlawful for any undertaker or any other person to bury or cause to be buried, or to in any manner aid or assist in the burial of the dead body of any human being in any cemetery or location in the City of Lake Butler other than an authorized public cemetery or a private cemetery.

The City of Lake Butler reserves the right to enlarge, reduce, replat, or change the boundaries or grading of the sections from time to time, and the right to modify and change the locations of or remove or re-grade roads, drives and walkways, or any part thereof, is hereby expressly reserved. The right to lay, maintain, and operate or alter pipe lines is expressly reserved, as is the right to use cemetery property, not sold as burial space(s).

The City Commission is authorized to adopt new rules and regulations, or amend, alter or repeal these rules for the operation of Dekle Cemetery, a copy of which shall be maintained in the office of the City Manager.

Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The city therefore reserves the right, without notice, to make exceptions, suspensions, or modifications in any of these rules and regulations when, in its judgment, the same appear advisable; and such temporary exception, suspension, or modification shall in no way be construed as affecting the general application of such rule.

The City Commission shall have sole authority to subdivide the cemetery into blocks, sections, burial spaces, mausoleums, and streets and to determine the dimensions and location of each.

The City Manager has the right, without prior approval of the burial space(s) owner or his/her legal representative, to correct errors made in good faith, in any phase of cemetery administration, operation or maintenance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE BUTLER, FLORIDA, AND IN SESSION LAWFULLY ASSEMBLED, AS FOLLOWS:

Sec. 59.2 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block and/or section shall mean a platted area within the cemetery that consists of more than one burial space.

Burial space shall mean a single space within a platted section and/or block designed for the interment of human and cremated remains. (Regular burial spaces are approximately 3 ½' × 10'.

Cemetery or municipal cemetery, when used in this chapter, means the municipal cemetery of the City of Lake Butler commonly referred to as "Dekle Cemetery".

Cemetery personnel refers to the individual(s) designated to maintain the cemetery grounds, mark for burials, monuments, and report code violations.

City refers to the City of Lake Butler.

Contractor means any person, firm, corporation or anyone engaged in placing, erecting or repairing any monument/marker/memorial, or performing any work on the cemetery grounds, other than an employee of the City of Lake Butler.

Department means Florida Department of Financial Services

Disinterment shall mean the removal of human or cremated remains from a burial space for relocation.

Double interment shall designate two stacked regular burials in the same space.

Human remains shall mean the bodies of deceased persons and includes bodies in any stage of decomposition and cremated remains.

Immediate family refers to father, mother, wife, husband, brother, sister, son, daughter, stepson, stepdaughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandchildren, grandparents, or a related person named via notarized affidavit.

Interment shall mean the final disposition of the remains and cremated remains of a deceased person by earth burial.

Monument/marker/memorial shall designate a monument, marker, tablet, or headstone for a family or individual for the purpose of identification or in memory of the interred.

Mausoleum or columbaria refers to a structure or building which is substantially exposed above the ground and intended to be used for the entombment of human remains and/or cremated remains in crypts or niches.

Non-resident refers to a person not residing within the incorporated limits of the City of Lake Butler.

Owner refers to an individual to whom a right of interment has been issued, or to whom a right of interment has been transferred, or by signed affidavit by the prior owner(s).

Resident refers to a person residing within the incorporated limits of the City of Lake Butler.

Right of interment certificate refers to a document issued by the City Manager's office upon payment of the established fee evidencing a right of burial in a certain space in the cemetery.

Section shall mean platted property within the cemetery which consists of more than one block.

Vault refers to a primary receptacle made of concrete which is sealed and has a domed or step up top for the placing of a casket containing a deceased person.

Sec.59.3 Penalties for violation of article

It shall be unlawful for any person to operate a cemetery in the City of Lake Butler unless done so in compliance with the provisions of this chapter, or in a case of a private cemetery, state law.

- (1) Violators of the provision of this chapter, except for the provision in Section 59.19 may be punished for any violation of this chapter not already a violation of the laws of the State of Florida up to six months in jail and a fine of \$1,000, or both, each day's violation constituting a sperate offense.
- (2) In addition to any other remedy provided in this article, the City of Lake Butler may seek injunctive relief to cease and remove any violations of this article in the appropriate court against the appropriate person or entity.
- (3) Any violation of this article is hereby deemed to be a continuing nuisance and may be abated by an application for injunction or other proceedings allowed by law in the appropriate court.

Sec. 59.4 Responsibilities of Department of Public Works

The department of public works shall take charge of the Dekle Cemetery and keep the grounds and fences and other appurtenances there to belonging in proper order and condition.

Sec. 59.5 Removal of trees

The City Manager shall have the right and power to have removed from any owner's lot any tree deemed unsafe and likely to injure any of the improvements in the cemetery.

Sec. 59.6 Sale of spaces

(a) A person may purchase a burial space in the city cemetery, at prices adopted by the City Commission, and procures a right of interment certificate from the City Manager. Fees are subject to change annually during the budget process.

(b) The city will sell burial spaces in the cemetery only for the fees adopted by the City Commission. Spaces must be paid in full prior to interment or placement of grave markers.

Sec. 59.7 Legal Notices

Notice by mail, sent to the burial space owner or their legal representatives or heirs, at the last address on file in the office of the City Manager shall be deemed sufficient and proper legal notification. It shall be the duty of the burial space owner to notify the city of any changes in their mailing address.

Sec. 59.8 Burial permits

(a) The right of interment certificate to a cemetery burial space vests in the burial space owner/heir the right to use such burial space for burial purposes only, for themselves or their immediate family.

(b) All burial rights for cemetery property purchased from the city occupy the same position as real estate at the death of the owner. Only such person(s) as named or appears on the cemetery records of the city will be recognized as owner(s) of the cemetery property. If the death of the property owner occurs, and if the cemetery property is disposed of by a will, a certified copy of the will must be delivered to the City Manager's office before the city will recognize the change in ownership. If the deceased property owner left no will, the heir(s) must present proof that they are the only living heir(s). If more than one heir, all heirs have equal rights to the property.

(c) In order to eliminate any errors in burials, authorization in the form of a burial permit for said burial of human and cremated remains shall be obtained from the City Manager's office.

(d) The city shall not be held responsible for any information provided by telephone, or for any mistakes occurring from the lack of precise written instructions from cemetery property owners, funeral directors, or their representatives.

Sec. 59.9 Internment

(a) All burial spaces must be open to such a depth that upon closing there shall remain a minimum of 18 inches of soil above the vault to the average ground level.

(b) The city will not be responsible for the opening or closing of any grave site. Opening and closing of grave sites shall be performed by a State approved vault company only.

(c) A burial permit must be completed at least 24 hours prior to burial. Such permit is issued by the city clerk's office. No interments shall be made until the burial permit is signed by the funeral director or family representative, and the appropriate fees paid.

(d) When designating the location of the interment, the owners or representatives should confer with the City Manager to designate the location of the burial space. The city shall not be responsible for errors in the location of burial spaces arising from improper instruction from burial space owners. (Orders from funeral directors shall be construed as orders from owners.)

(e) Cremated remains are to be buried in a sealed permanent container of non-biodegradable material. Concrete liners are not permitted.

(f) Such right of interment certificate shall be properly executed by the mayor, or his designee, and attested by the City Manager. All burial spaces shall be sold subject to the rules and regulations in force. Such spaces shall be used for no other purpose than the burial of human remains or cremated remains.

(g) It shall be unlawful for any person to inter a body or remove a body which has been or shall hereafter be interred from its place of internment, without the authorization of the City Manager.

(i) When a burial space is held jointly, a permit for interment may be granted to either owner or heirs if applicable. Any owner, or joint owner, of a burial space has the right to grant right of interment by means of an affidavit.

(h) Each regular burial space may be used for the following:

(1) One adult interment and one cremated remains, or

(2) Two cremated remains, or

(3) One adult interment and one infant, age one year old or under.

(i) One cremated remains burial shall be allowed in a cremation space, except two cremation burials shall be allowed in a single cremation space, in the event a marker containing niches for the two cremated remains is pre-installed. A burial permit is required for placement of each cremated remains.

(j) The city shall not be liable for damages for any delay in the interment of a body where a protest, just or unjust, to the interment has been made, or where the regulations have not been complied with, or where a burial space has not been fully paid, or where the burial permit has not been authorized. The city reserves the right, under such circumstances, to refuse to accept the body for interment.

Sec. 59.10 Double Internments

Double interments may take place when a double depth vault specifically designed for that purpose has been installed.

Sec. 59.11 Disinterment's

(a) The body of any person buried in Dekle Cemetery shall not be disinterred without first obtaining a permit so to do from the board of health or other State of Florida enforcement agency.

(b) No disinterment will be made without a court order of a court of competent jurisdiction, or written permission from a person having authority to permit same. No disinterment can be made for autopsy purposes without a court order. All disinterment's must be monitored by city and law enforcement personnel.

Sec. 59.12 Transfer of right of interment

Cemetery property owners who wish to transfer or convey the right of interment to another person shall have the appropriate affidavit(s) executed with the City Manager. An affidavit will be executed as transfer documentation and appropriate fees paid. The affidavit shall be attached to the original right of interment certificate (a cemetery deed) to assure the right of interment is on record.

Sec. 59.13 Fees

The current cemetery fees, as adopted by Ordinance Chapter 59 are approved and revised during the annual budget cycle and shall remain in force until such time they are amended by the City Commission by means of adoption of a resolution.

Cemetery burial spaces may be purchased before, or at time of need and full payment is required at time of purchase. A right of interment certificate shall be issued by the City Manager upon receiving payment in full.

Sec. 59.14 Repurchase of lots by City

Owners of a burial space may make application to the City Manager's office for the repurchase of their space. Repurchase of burial spaces will be at 75 percent of the city's current burial fee. The City Manager will determine if the burial space can be repurchased by the city.

Sec. 59.15 Proceeds from sale of lots

The money collected from the sale of lots shall be paid to the City of Lake Butler and the Director of Finance shall faithfully keep a correct account of all receipts and disbursements. City personnel shall be responsible reporting violations of ordinances, rules, regulations, policies, and procedures pertaining thereto. The public works personnel shall also supervise all workers within the boundaries of the cemetery grounds.

Sec. 50.16 Acceptance of fees prohibited

No employee of the City of Lake Butler shall receive any compensation for cleaning lots or collecting fees for the sale of lots.

Sec. 59.17 Burial of paupers

The Director of Public Works shall bury all paupers, when so directed by the City Commission and/or the City Manager. A section of the cemetery will be reserved for paupers burial site.

Sec. 59.18 Defacing monuments

It shall be unlawful for any person to mutilate or in any manner deface a monument, fence or other enclosure in the cemetery, or dig up, remove or destroy any shrubbery or trees, except with permission from the Director of Public Works. City personnel shall be responsible reporting violations of ordinances, rules, regulations, policies, and procedures pertaining thereto. The city personnel shall also supervise all workers within the boundaries of the cemetery grounds.

Sec. 59.19 Rules and Regulations

- (a)** The cemetery gates will be open and available to the public.
- (b)** The city is not liable for the identity of the remains brought for interment, nor for the embalming of the body.

(c) A map or plat of the survey of the cemetery which shall set forth each burial space shall be maintained in the City Manager's office.

(d) All persons are requested to refrain from gathering flowers, either wild or cultivated, or breaking trees, shrubs or plants on the cemetery grounds.

(e) No person shall be permitted to sit on monuments within the cemetery. In addition, it shall be a violation of this chapter as well as state law to willfully disturb, destroy, deface, mutilate, remove, excavate or expose a burial place without first obtaining a permit.

(f) Loud talking should be refrained upon the cemetery grounds. The use of profane language is discouraged.

(g) Rubbish is to be removed from the cemetery. It shall be disposed of properly in waste containers provided by the city.

(h) Automobiles shall not be driven through the cemetery at a speed greater than five miles per hour. No person shall park any automobile or any vehicle so as to obstruct cemetery driveways, and no person shall drive or park vehicles on burial spaces, except for burial equipment or grounds maintenance equipment. Motorists damaging any cemetery property shall be responsible for all costs incurred in restoring damaged property to its original condition.

(i) The city reserves the right of ingress and egress on and over any space(s) not occupied or previously purchased. All plats recorded, subsequent to, the adoption of this chapter shall document any said ingress and egress.

(j) The sounding of horns, sirens, or other automobile signals within the cemetery is prohibited except in an emergency.

(k) The playing of loud music from any amplifying device is prohibited, unless approved by the cemetery personnel as a part of the burial ceremony.

(l) Heavy hauling trucks or commercial vehicles of any kind are not permitted within the cemetery grounds, except those on business in connection with cemetery work, and only by permission of the City.

(m) Peddling of flowers, plants, or soliciting the sale of any commodity is prohibited within the boundaries of the cemetery.

(n) No signs or notices of advertisements of any kind shall be permitted within the cemetery.

(o) Pets shall not be allowed on the cemetery grounds except in the case of a companion animal to assist a challenged visitor.

(p) The City Manager, code enforcement officer, or their designee, are hereby expressly empowered to enforce these rules and regulations, and to expel from the cemetery grounds any person violating the same including employees of outside agencies, burial space owners, and visitors.

(q) Employees within the cemetery shall conduct themselves with decorum at all times and with strict accordance with these rules and regulations, this applies to outside workers, stone masons, florists, etc., as well as to those persons directly employed by the city.

(r) No person may consume alcoholic beverages within the cemetery or carry such onto the premises.

(s) All orders, inquiries, and complaints by property owners or visitors shall be reported to the City Manager.

(t) There shall be no loitering on the cemetery grounds.

(u) It shall be a violation of this chapter to fail to report the discovery of human remains or to notify the local authority of the disturbance of a burial ground.

Sec. 59.20 Funerals—Duties of Undertakers

(a) Funeral processions entering the cemetery shall be under the control of the funeral director with direction from the city personnel. Funeral directors shall be present and conduct the services as provided by F.S. § 497.372 and city ordinances.

(b) When two or more funerals arrive at the cemetery at the same time, the funeral in advance shall have precedence in entering the cemetery.

(c) The funeral directors are responsible for insuring that the burial spaces are opened and closed, the surplus soil is removed, as necessary, to designated areas following the closing of the burial space. Any costs incurred for these functions are the sole responsibility of the funeral director or designee. The city will not bear any of these costs.

(d) A licensed funeral director is required to be present for any cremains burial.

(e) The cemetery workers shall suspend their labors in the cemetery within the immediate vicinity of a funeral until the conclusion of all services.

(f) Funeral directors, vault companies and monument companies will be held responsible for the actions of their drivers and other employees within the cemetery.

(g) The City Manager shall not permit any burials until a burial permit has been issued.

Sec. 59.21 Monuments, markers, memorials

(a) A permit must be obtained for any work performed in the cemetery, except maintenance performed by city personnel in the course of their official duties.

(b) Maximum marker sizes:

Single Marker - not more than 3' 6" wide

Double Marker - not more than 6' wide

Baby-land - flat only, 12" X 24"

- (c)** Minimum marker size shall be a 12" x 24" bronze plaque with a concrete or granite base.
- (d)** All coping and ledgers must be of polished granite or marble and installed even with the ground after the date of adoption of this ordinance.
- (e)** The use of tiles, bricks, rocks, gravel, crushed rock, oyster shells, mulch, cinders or other material on any burial space in the cemetery is strictly forbidden for internments, subsequent the adoption of this ordinance. The cemetery personnel may remove unauthorized material without notice to the burial space owner.
- (f)** Homemade markers, coping, or ledgers of any kind, including that associated with countertop granite or yard decoration is prohibited.
- (g)** Persons erecting monuments, other structures, or work of any kind, will not be permitted to scatter material or rubbish over adjoining lots. All rubbish is to be removed at once and in the case of neglect, such removal will be made by the city at the expense of the burial space owner/heir or contractor.
- (h)** Private contractor firms will be held responsible for any damage done by them, whatsoever, in the cemetery.
- (i)** Private contractor firms and others are prohibited from placing their names on any signs with a view of advertising within the limits of the cemetery other than on mobile vehicles.
- (j)** Any memorialization of a second interment in a double interment space must be by way of a single, flat marker at the foot of space, installed at grade level, if not memorialized on the monument at the head of the space.
- (k)** Symbols, as of faith, hope and love, as well as religious symbols, and emblems of fraternal and military organizations contribute to the significance of a memorial. The addition of symbols, epitaphs and historical inscriptions added to monument, markers and memorials whenever possible are encouraged.
- (l)** Only one monument, marker, or memorial will be allowed at the head of each burial space and one flat marker is permitted at the foot of the space.
- (m)** Monuments shall be etched, grooved or embossed with the deceased name to create a durable record of the deceased. Memorials or inscriptions deemed to be in violation by the city shall be removed or corrected at no expense to the city.
- (n)** Burial spaces must be paid in full before the installation of monuments, markers, or memorials will be allowed.

(o) The City of Lake Butler will assume no responsibility for the correct location of the monument, marker, or memorial. Any changes ordered by the owners will be made at their expense.

(p) Should any monument, marker, or memorial become damaged, or a menace to safety, the city may, at the expense of the burial space owner/heir, repair, improve or remove it, after an attempt to contact the burial space owner/heir has been made, the City shall incur no expense of removal or replacement of monument.

(q) Private contractors shall set monuments in conformity with cemetery requirements and in accordance with the trade standards of proper methods of handling and setting. All monument installation policies must be adhered to by the private contractor installing the monument.

(r) No curbing, plantings or walks of any kind shall be allowed to be built or placed on any burial space in the cemetery subsequent the adoption of this ordinance. The city reserves the right to remove or add the same without recourse.

(s) The bottom of every stone should be dressed to an even level bed so that it will stand plumb, resting firmly and level on a foundation. All joints shall be sealed against moisture and with non-staining material.

(t) No permanent monuments, markers, memorial will be permitted in the cemetery when made of wood, iron, Plaster of Paris, cement, limestone, soapstone, artificial stone, slate, metal composition, or PVC piping. All monuments shall be constructed of granite, standard bronze, marble, or like material and set upon a base.

(u) The provisions of this article shall not be construed to be retroactive, and any existing monuments, markers, or memorial which conforms to the regulations in effect when such monuments, markers, or memorials were installed, shall not be rendered illegal or in violation through the adoption of these regulations. If any nonconforming or "grandfathered" monuments, markers, or memorials are replaced, for any reason, the nonconforming or "grandfather" use shall be deemed abandoned and shall not thereafter be permitted to continue.

Sec. 59.22 Decoration of lots

(a) Artificial or fresh cut flowers may be placed in a metal or plastic vase at the top/head of the space at any time. However, they will be discarded when wilted, faded, broken, or anything of a similar nature.

(b) Sprays, wreaths and baskets made from fresh cut flowers will be allowed up to two weeks, or when they no longer conform to the decorum of the cemetery, or become a safety hazard.

(c) Items placed on cemetery spaces in celebration of a holiday must be removed within ten days following the holiday. The exception of Christmas, which items must be removed within 30 days following the holiday.

(d) Fences around burial spaces are prohibited, subsequent to this ordinance adoption and if installed after ordinance adoption will be removed by the city and may not be replaced.

(e) The planting of any kind of trees, vines or shrubs is strictly prohibited.

(f) Sod may be installed at grade level only.

(g) Burial space owners/heirs are responsible for the appearance of their burial space; however, the city reserves the right to regulate the method of decorating burial spaces and reserves the right, without notice, to prohibit, or remove benches, chairs, settees, hanging plant hooks, vases, artificial flowers, ceramic figurines, picture frames containing glass, grave corners, toys, or any articles that do not conform to the decorum or rules and regulations of the cemetery, or becomes a safety hazard.

(h) The city shall not be held liable for lost, misplaced or broken vases, any other decorations, or damage by the elements, thieves, vandals, or by causes beyond its control.

(i) Any furnishings or structures that are deemed unsafe by the cemetery personnel shall be removed after prior notice is given or attempted to be given to the burial space owner/heir.

(k) The City Manager shall have the authority to order the pruning or removal of trees, shrubs, vines, plants or anything growing upon a burial space when they may consider such action in the best interest in the cemetery.

Sec. 59.23 Owners to provide addresses.

(a) Owners of burial rights in Dekle Cemetery shall keep the city informed in writing of their residence addresses.

Sec. 59.24 Liability

The city shall take reasonable precaution to protect the property rights of owners within the cemetery from loss or damage. The City shall not be held liable and distinctly disclaims all responsibility for loss or damage to plants, markers, monuments, corner markers, vases, or other property or rights of burial space owners arising from causes beyond its reasonable control. This includes damage caused by the elements, an act of God, vandals, strikers, malicious mischief, explosions, unavoidable accidents, insurrections, riots or order of any military or civil authority, whether the damage be direct or deliberate.

Any person, while on any portion of the cemetery grounds other than the roads, drives, or walks, are hereby declared trespassers and shall in no way hold the city liable for any injury sustained.

Sec. 59.25 Severability

If any provision or portion of this ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

Sec. 59.26 Conflict

All ordinances or portions of ordinances in conflict herewith are hereby repealed to extent of such conflict.

Sec. 59.27 Effective Date

This ordinance shall become effective upon adoption.

Sec. 59.28 Authority

This ordinance is adopted pursuant to the authority granted by Section 166.021, Florida Statutes, as amended, and Section 163.3161 through 163.3248, Florida Statutes, as amended.

The said ordinance was read for the first time by title only at the public meeting in regular session duly assembled on the _____ day of _____, 2018, and placed on the agenda for final passage on the _____ day of _____, 2018.

Commissioner _____ moved that the said ordinance be passed at the public meeting on the day of _____, 2018. Seconded by Commissioner _____.

So the said ordinance was read for the second time by title only and the vote for the adoption of the said ordinance was as follows:

YEAS: _____

NAYS: _____

ABSENT AND NOT VOTING: _____

This ordinance was declared duly adopted in regular session assembled on this 21st day of August, 2018.

Attest:

CITY COMMISSION OF THE CITY OF LAKE BUTLER

Dale M. Walker

Fred Sirmones, Mayor