

ORDINANCE NO. 818

AN ORDINANCE OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING CHAPTER 18, ARTICLE II BROOKSVILLE CITY CEMETERY OF THE CITY OF BROOKSVILLE CODE OF ORDINANCES, PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Brooksville, Florida is vested with home rule authority pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes, to enact ordinances; and,

WHEREAS, amendments to the Code are necessary to comply with Chapter 497, Florida Statutes; and,

WHEREAS, at its regular meeting on February 7, 2011, the City Council of the City of Brooksville considered a proposal to add a green burial component to cemetery services currently offered at the Brooksville Cemetery; and

WHEREAS, the City Council desires to incorporate Green Burials into the Cemetery.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL MEMBERS OF THE CITY OF BROOKSVILLE, AS FOLLOWS:

SECTION 1. AUTHORITY. This Ordinance is enacted pursuant to Article VII, Section 2 of the Constitution of the State of Florida and Chapter 166, Florida Statutes (2010), to enact ordinances and under the home rule powers of the City in the interest of the health, peace, safety and general welfare of the people of the City of Brooksville.

SECTION 2. AMENDMENT TO CHAPTER 18. The Code of the City of Brooksville, Florida, Chapter 18 "Cemeteries", Article II Brooksville Cemetery is hereby amended and restated as follows:

Sec. 18-31. Public cemetery of city.

The legal description tract of land being part of the city cemetery shall be on file in the city clerk's office. (Code 1988, § 13-26)

Sec. 18-32. New lands acquired by city for cemeteries.

Any land hereafter acquired by the city for cemetery purposes and constituting a cemetery and all burials therein shall be subject to all the provisions of this article. (Code 1988, § 13-27)

Sec. 18-33. Use of cemetery.

The city cemetery is for the burial and interment of human remains, cremation remains, and the scattering of cremains. Use of Cemetery grounds may be authorized by the Cemetery sexton to facilitate City projects or purposes.

Sec. 18-34. Burials restricted to specified areas.

Except as provided in this section, no body of a deceased person shall be buried within the city in any place other than a cemetery or other specifically designated area of ground set apart for burial of the dead. (Code 1988, § 13-29)

Sec. 18-35. Lot prices to be fixed by city council.

The city council shall by resolution fix the prices of the various lots or plots, and services of the city cemetery. The same shall be subject to change and revision by the city council at any time.

Sec. 18-36. Plan of cemetery and prices of lots or plots to be kept in office of sexton; furnish deeds to purchasers.

A map or plat of the survey of the city cemetery, which shall set forth each individual lot or plot in the entire cemetery, shall be maintained by the sexton. The sexton shall indicate on the map or plat which lots have been sold. The sexton shall sell such blocks or lots accordingly, furnishing to the purchaser upon complete payment of the purchase price a deed to the lot or plot which shall be executed by the mayor and attested by the city clerk, with the seal of the city attached, and duly acknowledged according to law. The sexton shall not furnish a burial permit for the interment of any person for whom space in the cemetery has not been purchased except as hereinafter provided in this article. (Code 1988, § 13-31)

Sec. 18-37. Records of rights to interment.

It shall be the duty of the sexton to keep on file proper records in regard to the city cemetery. The records shall contain a record of all sales of rights to interment, with the names of the grantees to whom the same are conveyed and of all burial certificates issued permitting use of lots, plots, and cremation niches or other rights of interment within the city cemetery.

Sec. 18-38. Sale or transfer of burial spaces; fee.

The sale or transfer of any burial space or right to interment within the city cemetery by any owner shall not be binding upon the city unless it shall first be approved in writing by the sexton or his designee, and then such burial space or right to interment must be reconveyed to the city. The city shall then issue a quit claim deed to the new owner. This procedure is required so that the city may have a complete and accurate record of all owners. The city council shall by resolution set the prices of the sale or transfer of burial space or right to interment. (Code 1988, § 13-33)

Sec. 18-39. Cemetery rules and regulations.

The city council shall adopt rules and regulations for the city cemeteries by ordinance, resolution or administrative directive as the case may be which rules shall regulate the operation and management of such properties. (Code 1988, § 13-34)

Sec. 18-40. Management of cemetery.

All city cemetery lands shall be in the charge, care and management of the city council and shall be subject to such rules and regulations relating to the management of such cemeteries as shall be made by the city council. (Code 1988, § 13-35)

Sec. 18-41. Burial certificate required.

(a) No interment shall be made in any city cemetery, nor any body removed therefrom, except by authority of written permit or certificate obtained from the proper state registrar of vital statistics or such other person as may be authorized by law to issue such permit. Before interment of any dead body, the sexton shall be furnished proper evidence of issuance of a certificate from the proper state registrar of vital statistics.

(b) The cemetery sexton or his designee must be presented with evidence of ownership of the burial right in cemetery before interment will be permitted. The city shall have the exclusive right and responsibility for the same of all cemetery spaces and lots except as outlined in section 18-38. (Code 1988, § 13-36)

Sec. 18-42. Emergency burial certificate.

In cases of emergency, due to briefness of time or other reason, the proper person, upon application to the sexton or his designee, and for good and sufficient reasons stated, may obtain an emergency burial certificate. The application shall be accompanied by such fee as may be regularly required. The issuance of such certificate and the acceptance of such fee, if required, shall be reported at the beginning of the next working day to the sexton together with all information necessary to complete the records normally kept in such matters by the city sexton. (Code 1988, § 13-37)

Sec. 18-43. Permit required to exhume bodies.

A body shall not be exhumed from any city cemetery without a permit from the sexton. (Code 1988, § 13-38)

Sec. 18-44. Temporary marking of graves.

In order to secure the recognition of graves and prevent mistakes, each grave upon interment shall be marked by placing at the head a stake or other marker inscribed with the name of the deceased, and such stake shall remain until a permanent monument or headstone is erected by the friends or relatives of the deceased. (Code 1988, § 13-39)

Sec. 18-45. Depth required for graves.

All graves, except green burials, must be dug to a depth that upon proper closing there shall remain a minimum of 12 inches of soil above the grave liner or vault to the average ground level. Green burials shall have a minimum of 36 inches of soil above the remains to the average ground level. In unique cases or cases of a hardship, the undertaker or other interested party may, upon proper petition to the sexton or his designee, obtain a variance of the requirements of this section in keeping with the hardship or unique situation encountered.

Sec. 18-46. Liner or vault required.

All graves for deceased persons except cremation lots, scattering gardens and green burials must have a liner or vault properly installed in the following or more stringent specifications:

- (1) *Concrete liner or vault.* All concrete liners or vaults shall have six sides each not less than one inch in thickness, reinforced with steel mesh or other like or similar reinforcing material.
- (2) *Steel liner or vault.* All steel liners or vaults shall have six sides and shall be constructed of 14 gauge material or thicker.
- (3) *Fiberglass or similar material liner or vault.* All liners or vaults made of fiberglass, polypropylene or similar material shall have six sides and shall be constructed of nonbiodegradable material with strength substantially equivalent to concrete or steel liners.
- (4) *Size.* All liners or vaults regardless of material shall be no less than 86 inches inside length, 30 inches inside width and 25 inches inside depth.
- (5) *Liner or vault for infant children.* Liners or vaults installed for the burial of infants or children shall be of the same or better quality as that required by the other subsections of this section, but of a size sufficient only to accommodate the casket. (Code 1988, § 13-41)

Sec. 18-47. Preinstallment of liner or vault prohibited.

No person shall install or cause to be installed any grave liner or vault, except upon a basis of need at the time of burial. (Code 1988, § 13-42)

Sec. 18-48. Stones and monuments.

(a) *Permit required.* No stone, monument or other edifice, memorial or structure shall be placed, constructed or erected upon any gravesite or within or upon any city cemetery property unless and

until a monument permit allowing the same shall have been obtained from the sexton, or his designee.

(b) *Issuance of permit.*

(1) A monument permit shall be construed to be a license to proceed with the work and shall not be construed as an authority to violate, cancel, alter or set aside any of the provisions of this Code, nor shall such issuance of a permit prevent the sexton or his designee from thereafter requiring a correction of error in placement or construction or in violations of this Code.

(2) Any permit issued shall become invalid within six months after its issuance.

(c) *Foundation required.* All foundations for monuments shall be not less than six inches in thickness and shall extend in width and length not less than two inches on all sides in excess of the dimensions of the base of the monument to be placed thereon. In the case of an unusual size or shape, foundations for monuments shall be constructed in manner and specifications other than those set forth above, but of sufficient dimension to properly base such monument intended to be placed thereon, and must have prior approval of the sexton.

(d) *Inspection.* Inspection by the city will take place within a reasonable time after the setting of such stone, monument or other edifice.

Sec. 18-49. Direction of stones, monuments.

All stones, monuments or other edifices, memorials or structures shall be placed at the head of the grave with the primary inscription facing the foot of the grave (east). The family name only may be on the back (facing westerly) of such stone or monument. (Code 1988, § 13-49)

Sec. 18-50. Lots and graves, improvement of lot by owners; permit.

(a) Owners of lots or rights to interment in any city cemetery and members of the family and friends of deceased persons interred therein may make proper improvements to the respective lots after obtaining an improvement permit from the sexton.

(b) All plans for special work must be submitted to the sexton or his designee in advance for approval before an improvement permit will be issued. (Code 1988, § 13-50)

Sec. 18-51. Indigent burial; exception.

Upon the death of an indigent person, the funeral director shall bring evidence of such indigence to the cemetery sexton. If indigence shall be determined, that person shall be buried in the city cemetery at no charge at a location to be determined by the sexton or his designee. (Code 1988, § 13-51)

Sec. 18-52. Interference with funerals.

It shall be unlawful for any person to interfere, without legal cause, with the proper conduct of a funeral or the burying or exhuming of a body in any city cemetery. (Code 1988, § 13-52)

Sec. 18-53. Driving vehicles in cemetery.

Except for official purposes and as authorized by sexton, no person shall drive any vehicle within any city cemetery except upon the driveways prepared and designated for that purpose. No through traffic is allowed in the cemetery. (Code 1988, § 13-53)

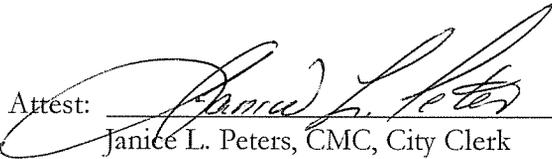
SECTION 3. CONFLICTS AND REPEALER. All ordinances, or parts thereof, and resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

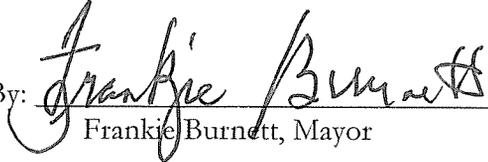
SECTION 4. AMENDMENT TO CODE. This Ordinance shall be and become a part of the Code of the City of Brooksville, Florida, to amend and supplement Chapter 18 "Cemeteries" as directed herein.

SECTION 5. CODIFICATION. It is the intention of the City Council of the City of Brooksville that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Brooksville, Florida and the word "ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of the ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the Brooksville City Council.

CITY OF BROOKSVILLE

Attest: 
Janice L. Peters, CMC, City Clerk

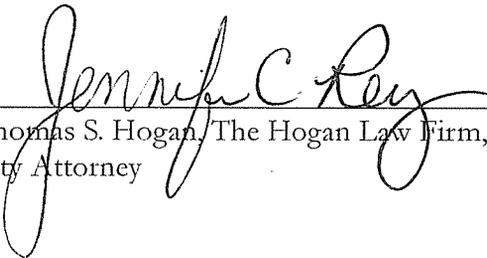
By: 
Frankie Burnett, Mayor

PASSED on First Reading May 2, 2011
NOTICE Published on May 6, 2011
PASSED on Second & Final Reading May 16, 2011

APPROVED AS TO FORM FOR THE RELIANCE
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini AYE
Bradburn AYE
Burnett AYE
Johnston AYE
Pierce AYE


Thomas S. Hogan, The Hogan Law Firm, LLC
City Attorney