

ORDINANCE NO. 2464-A

AN ORDINANCE AMENDING ORDINANCE NO. 2464 : AN ORDINANCE FOR THE CITY OF SAN BENITO, TEXAS, GOVERNING THE SAN BENITO MEMORIAL PARK CEMETERY, PROVIDING A COMPREHENSIVE SCHEDULE OF FEES, RELATED POLICIES AND PROCEDURES, FACILITIES & GROUNDS FEES AND OTHER FEES AND POLICIES AS STIPULATED, AND REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, Ordinance No. 2464 of the City of San Benito, Texas was enacted on May 3, 2011 providing a comprehensive schedule of fees and related policies and procedures.

WHEREAS, the San Benito City Commission deems it necessary to further amend Ordinance No. 2464 in order to implement rules for the San Benito Memorial Park Cemetery, fees, and related policies and procedures.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SAN BENITO, TEXAS:

**SAN BENITO MEMORIAL PARK
City of San Benito**

SECTION 1. GENERAL RULES GOVERNING SAN BENITO MEMORIAL PARK OPERATION:

The following rules shall apply within the San Benito Memorial Park (SBMP).

- The SBMP is set apart for the interment of human remains subject to the rules established in this ordinance, and any applicable federal or state laws.
- All plots in the SBMP are owned and operated by the City of San Benito and interment rights are conveyed to the purchaser by deed for the purpose of burial only. The rights of the Purchaser are subject to such rules and ordinances as may be enacted or amended, from time to time, by the City Commission of the City of San Benito.
- The rules and regulations herein contained are designed for the protection of the rights of all. The rules adopted have been determined to be reasonably necessary and incidental to achieve the aforestated objectives.
- The City of San Benito will not be responsible for any property loss or damage at the SBMP.
- The speed limit is five (5) mph on roads inside the SBMP.

- Any person who destroys, defaces or commits any act of vandalism on any portion of the SBMP shall be guilty of a criminal offense punishable in accordance with State law and these rules.

SECTION 2. RULES SPECIFICALLY GOVERNING BURIAL PLOTS IN SAN BENITO MEMORIAL PARK

The following rules govern the use of burial plots in the San Benito Memorial Park:

- Burial plots are intended for the interment of human remains only; interment of pets or non-human remains is prohibited.
- All plots shall be sold in increments of one plot or more upon completion of an application in the form attached. Plots are sold for no purpose other than for the burial of human remains without regard to race, color, national origin, gender or religion.
- Plots shall be sold for use by the purchaser and certain family members only and shall not be purchased for resale. Only family members related to the purchaser within the second degree by affinity or within the third degree by consanguinity may be buried in a plot.
- When a plot is conveyed by city authorities to two persons, they take title as tenants in common; however, the remains of one person only may be interred in any plot.
- Any sale of a plot by a purchaser or his/her heirs shall be only to the City of San Benito and shall be only for the total amount paid by the purchaser at the time of his/her purchase from the City of San Benito.
- The deed to a plot conveys only the right of burial therein. The City of San Benito shall at all times remain the owner of the real property and the City or cemetery management shall retain control and supervision of all plots that have been sold. The City of San Benito or cemetery management of the SBMP shall have the right to enter any plot and modify or remove any structure, object, improvement or adornment on such plot which may be placed thereon in violation of these rules, or which may be considered unsightly, dangerous, or injurious to the plot, adjoining plots, or to the general appearance of the cemetery.
- No grave shall be opened on a plot except at the request of the purchaser, purchasers, or their qualified heirs. A request to open a grave to receive the remains of any persons other than the purchaser, purchasers, or their qualified family members as provided in this Ordinance shall be made in writing attested to by the purchaser, purchasers, or their qualified heirs, or shall be made through a court order.

- Upon the death or judicially declared incompetency of a plot owner, it is the duty of the heirs, devisees, or guardian to file with the cemetery management legally-accepted proof of their right to use the plot. Burial on a plot may not be permitted until such proof is presented.
- All plots shall be plainly marked by the cemetery management.

SECTION 3. RULES GOVERNING SAN BENITO MEMORIAL PARK MANAGEMENT

The purchase of a plot in the San Benito Memorial Park represents the buyer's right to utilize the burial plot for himself/herself, or a designated and qualified family member, but the real property itself remains the property of the City of San Benito, and is subject to the rules and regulations contained herein. The City agrees to provide perpetual care of the plots, as follows:

- The City of San Benito will be the managing authority for the San Benito Memorial Park.
- All administrative matters pertaining to the operation of the SBMP shall be under the direction of the City Manager or his delegate.
- The City of San Benito will maintain all appropriate records of purchases, deeds, maps and contracts.
- The City of San Benito will maintain a separate account for the deposits and financial records of the cemetery.
- The City of San Benito will assign a manager or sexton to oversee the operations of the cemetery.
- The City of San Benito shall provide for the continuing care, maintenance, operation, and improvements to the SBMP. In general, this shall include: road maintenance, mowing, pruning, landscaping or removal of plant material, policing of the grounds, pest control, leveling of monuments, and such other maintenance as may be necessary to keep the SBMP presentable at all times.
- Cemetery care does not include the purchase, erection, repair, or replacement of monuments, headstones, markers, or any other item on a space.
- Only the City of San Benito may open or close any gravesite.

SECTION 4. COSTS AND FEES

The following prices, costs, and fees for plots and certain services are adopted:

Burial Plots - Phase 1, Block 1 and 2 - Total 27 spaces

Adult: Size 4'X 9'

Price per space: \$2,000.00

Burial Plots- Other than Phase 1, Block 1 and 2

Adult: Size 4' x 9'

Price per space: \$ 950.00

Infant/Child: Size: not to exceed 42-inches long and 24-inches wide

Price per space: \$ 375.00

Purchasing of Plot(s)

Before Need. (before death occurs) Individuals may pay for the plot(s) by one of two methods, namely: 1) full payment at time of purchase or 2) twenty five (25%) percent down and the remaining balance in twelve or less equal monthly payments. Any outstanding balance must be paid in full before burial takes place.

At Need. (when death occurs) Plots must be purchased and paid in full before burial occurs.

Opening and Closing

The fee for opening and closing an adult gravesite is \$450.00. The City of San Benito will conduct the opening and closing for each burial. Opening and closing of an infant/child gravesite will be \$225.00. Fees must be paid in full before burial.

- Notice for opening a grave must be given to the cemetery management at least 12 working hours prior to time of interment.
- Notice for opening a grave for Saturday or Sunday interment shall be provided not later than 12:00 p.m. on the Friday preceding the burial.

SECTION 5. ADDITIONAL REQUIREMENTS

INTERMENT

All interments shall be made at the expense of the plot owner.

While a funeral or interment is being conducted all nearby work of any kind shall cease.

Visitors to the SBMP who are not members of a funeral procession or party are forbidden to intrude upon a funeral party or to loiter around an open grave.

Outer Burial Container

An outer burial container shall be required for each burial. Funeral directors performing the burial shall be responsible for the sale and delivery of the outer burial container. Outer burial containers made of wood shall not be permitted.

Burial Equipment

It shall be the responsibility of the funeral director to provide the cemetery burial equipment to be used during the burial ceremony, such as tents, chairs, lowering devices, etc.

DISINTERMENT

Disinterment shall be permitted only in accordance with applicable State and Local laws and rules.

The cost of the City's participation in disinterment will be charged to the plot owner or his duly authorized representative. The City shall have no liability for any damage resulting from interment.

Any disinterment shall be done under the direction and supervision of a licensed funeral director.

SECTION 6. PLANTING AND OTHER DECORATIONS AT THE SAN BENITO MEMORIAL PARK

- Grass, flowers, shrubs, trees, or other types of vegetation shall be planted only by or at the direction of the City Manager or his delegate in accordance with a landscape plan for the entire cemetery. Plantings by individuals are prohibited and shall be removed by the City.
- The placing of potted plants, cut flowers, baskets, floral pieces, funeral designs, decorations, and all other objects of a temporary nature is permitted adjacent to the monument only on the following occasions: Flag Day, Mother's Day, Father's Day, Memorial Day, Veteran's Day, All Soul's Day, and Christmas. Cut or artificial flowers must be placed in a vase. No glass containers are allowed, and the digging of holes for the placement of potted plants and baskets is prohibited.
- The City of San Benito may remove all such items twelve (12) or more days after placement.
- Funeral tributes placed at the time of burial will be allowed to remain on a plot for a minimum period of forty-eight (48) hours, after which they may be removed by city employees. Relatives and interested parties must recover any desired memento or tribute prior to that time. Funeral tributes may include floral designs and floral accents.
- The following are prohibited within the SBMP except as constructed by the City of San Benito: fences, curbing, enclosures, edgings, iron works and wire works.

- The City Manager or his delegate shall have the right to remove all flowers, potted plants, wreaths, baskets, floral pieces, funeral designs, decorations and all other objects of a temporary nature when they become withered, unsightly, a safety concern, or an obstruction to maintenance.
- The City Manager or his delegate is empowered to and may enter upon any plot and remove anything that may have been erected or placed thereon contrary to the provisions of this section, and may remove any dead or damaged tree, shrub or vine.

MONUMENTS

No above-surface monuments shall be permitted in the Phase 1 area. In all other areas where monuments are permitted, monuments made of granite or better quality material are required. Other than in the Phase 1 area, upright monuments with a flower vase are allowed at one (1) end of the gravesite. No more than one (1) vase per plot will be permitted.

All plans for memorials must be submitted to the cemetery management for approval before installation. The City shall not be liable for any damages resulting from the disallowance of monuments which did not receive prior approval.

An installation fee of \$50.00 shall be charged for any monument or marker to be placed in the SBMP.

Monuments and markers must be set during regular working hours. These hours are 8:00am through 4:00 p.m., Monday through Friday. Installment of any monument shall be done by a certified and bonded installer.

MEMORIAL BENCHES

Memorial benches will be allowed in all Phases other than Phase I. Memorial benches shall be placed at a plot only after burial has taken place.

All plans for memorial benches must be submitted to the management for approval prior to installation. The City has the authority to disallow and to remove memorial benches which did not receive prior approval.

Memorial benches must be installed during regular working hours. These hours are 8:00 a.m. through 4:00 p.m., Monday through Friday. Installment of memorial benches shall be performed by a certified, bonded installer. An installation fee of \$50.00 shall be charged for any memorial benches placed in the SBMP.

SECTION 7: Ordinance No. 2464 of the City of San Benito, Texas, enacted on May 3, 2011 is hereby amended by amending Section 5, Application, to read as follows "Exhibit A Contract"

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective on September 6, 2011 and after publication.

SECTION 9. PUBLICATION

The City Secretary of the City of San Benito, Texas is hereby authorized and directed to cause a true and correct copy of the caption of this Ordinance to be published in a newspaper having general circulation in the City of San Benito, Cameron County, Texas.

First Reading August 16, 2011

Second Reading September 6, 2011

ATTEST:

CITY OF SAN BENITO


LUPITA PASSEMENT, CITY SECRETARY


JOE HERNANDEZ, MAYOR

- (3) **CEMETERY RULES AND REGULATIONS.** Purchaser agrees that all rights conveyed under this Agreement are subject to, and Purchaser agrees to at all times comply with, the Rules and Regulations of Seller, which are available for examination in Seller's office, as they presently exist or may be hereafter altered, amended or adopted.
- (4) **INTERMENT RIGHTS.** Purchaser acknowledges that the Interment Rights to be conveyed upon payment of Total Price will authorize the burial of one Purchaser, or of a family member related to Purchaser within the third degree by consanguinity or within the second degree by affinity, in any plot in which Purchaser has interment rights. Purchaser further acknowledges that the Interment Rights sought to be purchased are not transferable by Purchaser and if not used can only be reconveyed back to Seller for the original price paid by Purchaser.
- (5) **SEPARATE INTERMENT FEE.** A charge for opening and closing the interment space is not included in the Total Price set forth herein and will be assessed at the time such service is requested.
- (6) **ISSUANCE OF INTERMENT RIGHTS.** Upon payment of the Total Price by the Purchaser, the Seller agrees to convey the above-described Interment Rights by issuance of a Certificate of Interment Rights to the Person(s) designated below:

NAME: _____
 ADDRESS: _____
 CITY: _____
 NEXT OF KIN: _____

Name	Address	City, State, Zip
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NAME: _____
 ADDRESS: _____
 CITY: _____
 NEXT OF KIN: _____

Name	Address	City, State, Zip
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BY SIGNING THIS AGREEMENT, PURCHASER CONFIRMS THAT HE HAS READ, UNDERSTANDS AND AGREES TO ALL TERMS OF THIS AGREEMENT AND THAT HE HAS RELIED ON NO VERBAL REPRESENTATION OF SELLER. PURCHASER DECLARES THAT THE INFORMATION PURCHASER HAS GIVEN ON THIS FORM IS TRUE AND CORRECT. PURCHASER WILL BE RESPONSIBLE FOR PAYING ALL FEES SET BY THE CITY OF SAN BENITO IN CONSIDERATION OF BEING GRANTED THE RIGHT OF INTERMENT IN THE ABOVE PLOT(S) LOCATED IN THE CITY OF SAN BENITO MEMORIAL PARK CEMETERY. PURCHASER FURTHER DECLARES THAT PURCHASER HAS BEEN GIVEN A COMPLETE AND ACCURATE COPY OF THE CITY OF SAN BENITO RULES AND REGULATIONS AND HEREIN AGREES TO ABIDE BY THEM. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS RECEIVED A COPY OF THIS APPLICATION AS A RECEIPT OF PURCHASE.

Date: _____

Signature of Purchaser

Approved by: _____

Date: _____