

AN ORDINANCE

AN ORDINANCE AMENDING THE CODE OF GRIFFIN, GEORGIA, AT CHAPTER 30, CEMETERIES, BY REPEALING THE CURRENT CHAPTER IN ITS ENTIRETY AND ADOPTING IN LIEU THEREOF A NEW CHAPTER 30, CEMETERIES, UPDATING THE PROVISIONS THEREOF PROVIDING FOR BURIAL OF HUMAN REMAINS WITHIN THE CITY; DISTURBANCE OF CEMETERIES, BURIAL GROUNDS, HUMAN REMAINS, AND BURIAL OBJECTS; AUTHORIZING THE BOARD OF COMMISSIONERS TO PROMULGATE RULES AND REGULATIONS FOR USE AND MAINTENANCE OF THE CITY OWNED AND MAINTAINED CEMETERIES, BY RESOLUTION; TO PROVIDE AN EFFECTIVE DATE; TO PROVIDE FOR SEVERABILITY; TO RESTATE AND REAFFIRM THE CODE OF GRIFFIN, GEORGIA, AS MODIFIED HEREBY; TO REPEAL ALL CODE PROVISIONS, ORDINANCES, OR PARTS THEREOF, IN CONFLICT HERewith; AND FOR OTHER PURPOSES.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF GRIFFIN, GEORGIA, AND IT IS ESTABLISHED AS FOLLOWS:

Section 1. The Code of Griffin, Georgia, is hereby amended at Chapter 30, CEMETERIES, by deleting the present Chapter in its entirety and enacting in lieu thereof the following:

“Chapter 30 - CEMETERIES

ARTICLE I. - IN GENERAL

Sec. 30-1. – Purpose and Intent of Regulation.

The care accorded the remains of deceased persons reflects respect and regard for human dignity as well as cultural, spiritual, and religious values. The General Assembly of Georgia has declared that human remains and burial objects are not property to be owned by the person or entity which owns the land or water where human remains and burial objects are interred or discovered, but human remains and burial objects are a part of the finite, irreplaceable, and nonrenewable cultural heritage of the people of Georgia which should be protected. It is the intent of this Chapter that the regulations contained herein be construed to require respectful treatment of human remains in accord with the equal and innate dignity of every human being and consistent with the identifiable ethnic, cultural, and religious affiliation of the deceased individual as indicated by the method of burial or other historic evidence.

Sec. 30-2. - Definitions.

As used in this chapter, the term:

- (1) “Abandoned cemetery” means a cemetery or known burial ground which shows signs of neglect including, without limitation, the unchecked growth of vegetation, repeated and unchecked acts of vandalism, or the disintegration of grave markers or boundaries and for which no person or entity can be found who is legally responsible for and financially capable of the upkeep and maintenance of such cemetery or burial ground.
- (2) “Burial ground” means an area used for interment of human remains, outside of a dedicated cemetery as hereinafter defined.
- (3) “Burial object” means any item reasonably believed to have been intentionally placed with human remains at the time of interment, or any memorial, tombstone, grave marker, or shrine which may have been added subsequent to interment. Such term shall also include any coping, curbing, enclosure, fencing, pavement, shelter, wall, stonework, pottery, or other grave object erected or deposited incident to or subsequent to interment.
- (4) “Cemetery” means any land or structure within the City dedicated to and used for interment of human remains. It may be either a burial plot for earth interments, a mausoleum for vault or crypt interments, a columbarium (a structure consisting of multiple spaces or “niches” for the permanent storage of cremated remains or “ashes”), or a combination thereof. Cemeteries shall either be publicly-owned by the Federal, State, or a local government, privately-owned by an entity licensed by the State to operate a perpetual care cemetery, or by a church or religious institution who is legally responsible for and financially capable of the upkeep of such cemetery. Private, family-owned cemeteries are no longer permitted in the City. All new cemeteries, other than those owned by the City, shall be permitted in accordance with the Unified Development Code of Griffin, Ga.
- (5) “Human remains” means the bodies of deceased human beings in any stage of decomposition, including cremated remains.

Sec. 30-3. - Burial in cemetery required; disinterment or disturbance without permit prohibited.

- (a) No human remains shall be interred at any place within the corporate limits of the city other than in the cemeteries established by the city, a church cemetery, or a perpetual care cemetery licensed by the State of Georgia.
- (b) No person, including the owner or occupier of land on which a cemetery or burial ground is located, or immediately adjacent thereto, shall knowingly disturb a cemetery, burial ground, human remains, or burial objects, unless a permit is first obtained from the Board of Commissioners of the city, under the procedure set forth in Chapter 72 of Title 36, O.C.G.A.
- (c) Any willful or knowing violation of this section shall constitute a misdemeanor of a high and aggravated nature, punishable upon conviction in the Superior Court of Spalding County, by a fine not to exceed \$5,000, and incarceration not to exceed 6 months, or both.

Sec. 30-4. – Authority to preserve and protect abandoned cemeteries and burial grounds.

Whenever the Board of Commissioners of the city finds and determines that a cemetery or burial ground within the city has become abandoned, it shall be within the authority of the City Manager or his designee to preserve and protect such abandoned cemetery or burial ground, through the expenditure of public funds, to keep it safe from destruction, peril, or other adversity. Such action may include the placement of fencing, signs, markers, or other appropriate features so as to identify the site as a cemetery or burial ground and may include the periodic cleaning, maintenance, and upkeep of the site so as to aid in its preservation and protection. The City Manager is authorized to retain the services of an archeologist, a genealogist, attorney, or accountant, as required, to determine the person or entity legally responsible for the upkeep and maintenance of the cemetery or burial ground and whether or not that person or entity is financially capable of doing so. If such person or entity is determined to be legally responsible and financially capable, the City Manager shall seek reimbursement from such person or entity, using all legal means at his or her disposal.

ARTICLE II. - RULES AND REGULATIONS FOR CITY OWNED AND MAINTAINED CEMETERIES.

Sec. 30-5. - Applicability.

The rules and regulations in this article shall apply to all city cemeteries, except where otherwise specified.

Sec. 30-32. – Designation of City Cemeteries.

The City owns and maintains the cemeteries known as Oakhill Cemetery, Rest Haven Cemetery, Veterans Memorial Cemetery, and the Historic Confederate Cemetery. The original cemeteries were laid out by the City and burial lots were sold, in fee simple, as evidenced by the delivery of deeds to those lots; many of those deeds were never recorded in the land records, which in many cases has today caused their legal ownership to become unclear or uncertain.

By Ordinance, enacted February 28, 1961, no future lot sales were to be made in the City Cemeteries and all burial spaces sold thereafter, including in future portions of the existing cemeteries and any new cemeteries, were to be perpetual care, evidenced by a burial rights contract delivered to the buyer. Provision was made in said Ordinance for the owners of existing cemetery lots to convert their lots to perpetual care by redelivering title to the lot to the City and payment of a perpetual care fee. Perpetual care fees from the sale of burial rights, including conversion of existing cemetery deeds, are deposited into the City of Griffin Cemetery Trust Fund.

While many lot owners took advantage of the opportunity to place their lots under perpetual care, many others did not. At this time, the City provides a consistent level of general maintenance throughout its cemeteries, without distinction as to ownership of the underlying fee. This Board of Commissioners finds and concludes that individual ownership of lots remains scattered throughout the older, original sections of Oakhill Cemetery and Rest Haven Cemetery, where those persons buried in said lots no longer have descendants now living and therefore, no person or entity is now legally responsible and financially capable of providing for their upkeep and maintenance. Thus, this Board concludes that those lots in its cemeteries which were earlier sold to buyers in fee simple, but for which no conversion later occurred under the Ordinance of February 28, 1961, are deemed the equivalent of an abandoned cemetery, thus warranting the use of public funds for future upkeep and maintenance.

Sec. 30-33. – Rules and Regulations; amendments.

The Board of Commissioners may, from time to time, adopt, by resolution, such rules and regulations as they shall deem necessary for the use and maintenance of the city's cemeteries. Such regulations may be amended or repealed, as needed. When the Board has adopted rules and regulations as established by this section, a copy thereof shall be maintained in the City Manager's office and in the Cemetery office for public inspection and copying.

Secs. 30-34 – 30-50. Reserved.

Section 2. All ordinances and Code sections, or parts thereof, in conflict with the foregoing are expressly repealed.

Section 3. Should any provision of this ordinance be rendered invalid by any court of law, the remaining provisions shall continue in force and effect until amended or repealed by action of the municipal governing authority.

Section 4. Except as modified herein, The Code of Griffin, Georgia, is hereby reaffirmed and restated. The codifier is hereby granted editorial license to include this amendment in future supplements of said Code by appropriate section, division, article or chapter.

Section 5. This ordinance shall become effective immediately upon adoption on second and final reading.

First Reading: May 24, 2016

Second Reading: June 14, 2016