

THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL

IN AMENDMENT OF TITLE 8 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED "HEALTH AND SAFETY" (Cemeteries)

No.

Passed:

Christopher G. Paplauskas, Council President

Approved:

Kenneth J. Hopkins, Mayor

It is Ordained by the City of Cranston City Council as follows:

Section 1. Title 8 is hereby amended by adding the following Chapter:

Chapter 8.01 – Cemeteries and Burial Places

8.01.010 Purpose and Authority

The purpose of this Chapter is for the city to exercise those rights conferred on it and enabled by the Rhode Island General Laws to address the preservation and care of burial places and memorials for the dead, including neglected burial grounds and cemeteries.

8.01.020 Definitions

The following definitions shall be for purposes of this chapter only, unless specifically adopted in another section of the Cranston Code of Ordinances:

"Abandoned Cemetery" means cemetery which is no longer subject to the management or control of an agency and has fallen into a state of neglect and for which either (1) no ready source of perpetual care funds exists or (2) the perpetual care funds are insufficient to care for the cemetery.

"Agency" or "Agencies" means a cemetery, religious or ecclesiastical society cemetery, cemetery association, or a person, or firm, corporation, or unincorporated association previously or hereafter engaged in the business of conducting a cemetery or operating a community mausoleum or columbarium.

"Burial ground authority" means the city, ecclesiastical society, or cemetery association.

"Burial place" means any tract of land within the city that is or has been used or has been in existence as a burial ground.

49 “Cemetery” means land reserved for the interment of human remains and shall include all burial
50 grounds, burial places, columbaria, graveyards, mausoleums, and other similar places. Cemetery is
51 not intended to include any active building used for the main purpose of conducting religious
52 celebrations or ceremonies.

53 “Columbarium” means a structure or room, or other space in a building or structure of durable or
54 lasting fireproof construction, containing niches, used, or intended to be used, to contain human
55 remains.

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57 “Community mausoleum” means a structure or building of durable or lasting construction, used or
58 intended to be used, for the permanent disposition in crypts or spaces therein of the remains of
59 deceased persons, provided in crypts or spaces and their use are available to or may be obtained by
60 individuals for a price in money or other form of security.

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62 “Crypt” means the chamber in a mausoleum of sufficient size to contain the remains of a deceased
63 person.

64
65 “Family Burial Ground” means land designated as a burial ground for members of the same family
66 and for which the care and control remains with a living member, in a corporation, in an association
67 or in trust, and has not been accepted by the city pursuant to R.I. Gen. Laws § 45-5-11.

68
69 “Historic Cemetery” means any tract of land which has been for more than one hundred (100) years
70 used as a burial place, whether or not marked with an historic marker, including but not limited to,
71 ancient burial places known or suspected to contain the remains of one or more Native Americans
72

73 “Mausoleum” shall mean a building, housing a tomb or tombs. Mausoleum is not intended to
74 include any active building used for the main purpose of conducting religious celebrations or
75 ceremonies.

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77 “Niche” means a recess in a columbarium or other structure, used or intended to be used, for the
78 permanent disposition of the cremated remains of one or more deceased persons.

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80 “Public Cemetery” means a cemetery under the care of the city.

81
82 “Private Cemetery” shall mean a cemetery not under the care of the city or a religious or
83 ecclesiastical society.

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85 “Religious or ecclesiastical society cemeteries” means a cemetery under the care of an entity
86 recognized by the Internal Revenue Service as a church or religious organization.

87
88 8.01.030 Regulation of new cemeteries, expansion of existing cemeteries and the disposition of
89 bodies

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91 (a) No cemetery, or any expansion of an already existing cemetery, shall hereafter be
92 established in the city without the consent and approval of the city council pursuant to
93 Section 8.01.060.

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97 (b) All burials of the bodies of deceased persons must occur in a cemetery and registered
98 pursuant to Section 8.01.080 and the burial of bodies of deceased persons in other places is
99 prohibited, except for a burial lawfully made within an active building used as a church,
100 temple or other active building used in regular and active religious celebrations or
101 ceremonies or as may be provided by a majority vote of the city council upon the
102 submission of a petition seeking exemption from the restriction contained in this section or
103 within a crypt, vault or burial plot maintained within an active building used as a church,
104 temple or other active building used in regular and active religious celebrations or
105 ceremonies.

106
107 (c) No person shall bury a human body or place the same in any vault in the city unless such
108 body shall be first placed in a box or casket, the top, bottom and all sides of which shall be
109 securely fastened, and no person shall bury any such box or casket unless in such manner
110 that every part and portion of such box or casket shall be at least 4' feet below the natural
111 surface of the ground where the same is buried or such further distance below the surface of
112 the ground as is required by the Rhode Island Department of Health.

113
114 8.01.004 Approval of construction plans – Supervisory control – Mausoleums
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116 (a) Before any person or entity commences the building, construction, or erection of any
117 mausoleum or columbarium, the agency constructing the structure shall make and file plans
118 and specifications of the structure with the city and secure the approval of the city to erect
119 the mausoleum or columbarium. Before the approval shall be granted, the Inspector of
120 Buildings shall be satisfied that the proposed new structure or any alterations or additions to
121 an old structure for that purpose, shall be built in accordance with the standards set forth in
122 the Code of Ordinances, and shall comply with any further requirements as to perpetual care
123 and maintenance provided by this chapter. The city shall have supervisory control over the
124 construction.

125
126 (b) Every community mausoleum, other than structures containing crypts erected or
127 controlled by churches and religious societies, and every columbarium, or other similar
128 structure intended to hold or contain the bodies or remains of the dead, the spaces, crypts, or
129 niches of which are available to the public, shall be located only within the confines of an
130 established cemetery.

131
132 (c) Except for burials exempted under the Rhode Island General Laws, no structure shall be
133 used for the purpose of depositing therein human remains until the structure is finally
134 completed, nor until provision for maintenance of the structure has been provided in
135 accordance with the requirements as provided by the city.

136
137 (d) No crypt, room, or space in the structure shall be sold or offered for sale before the
138 structure is entirely completed, unless and until the agency selling the crypt or niches, enters
139 into an agreement whereby it agrees to refund to each and every purchaser all sums of
140 money paid by each, together with legal interest on all sums of money, in the event it fails to
141 complete the structure within the time which shall have been limited by the city, which
142 agreement shall be entered into with some federally insured financial depository or other
143 organization as trustee for the persons as directed by the city, nor until the agency shall also

144 have made, executed and delivered to the trustee, its bond, with adequate security, if
 145 required, conditioned upon paying to the trustee a sum of money sufficient to provide for the
 146 refund previously provided and to provide for the repair, maintenance, and replacement of
 147 the structure, or shall have paid or delivered to the trustee a sum of money or other property
 148 sufficient for these purposes, the amount of the bond, payment, or delivery of property and
 149 the security on the bonds, if any shall be required, to be fixed and determined by the city or
 150 town wherein the structure is located. A copy of any such bond shall be filed with the City
 151 Clerk within ten (10) days of its issuance.

152
 153 8.01.050 Approval of construction plans and layout – Burial grounds
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155 (a) Before commencing the improvement of any land or the building, construction, or
 156 erection of any roads, paths, fences, gates, markers or other man-made item for the purpose
 157 of establishing or building a new burial ground or cemetery, or expanding one previously in
 158 existence but not on file with the city, the agency seeking to undertake the improvement or
 159 construction shall make and file plans compliant with this chapter with the city clerk, and
 160 secure the approval of the city. Before the approval shall be granted, the Inspector of
 161 Buildings shall be satisfied that the proposed new cemetery or burial ground or any
 162 alterations or additions to an old structure for that purpose, shall be built in accordance with
 163 the standards set forth in the Code of Ordinances, and shall comply with any further
 164 requirements as to perpetual care and maintenance provided by this chapter. The city shall
 165 have supervisory control over the construction.

166
 167 (b) Plan requirements. Any plan filed to satisfy subsection (a) of this Section shall contain at
 168 least the following minimum information:

169 (1) Any application for the establishment of a cemetery or for the establishment of an
 170 extension to an existing cemetery shall set forth the name and post office address of the
 171 owner of the land, the part or parts thereof to be used for burial purposes, and the part or
 172 parts thereof to be used for screening purposes, and such other information as may be
 173 helpful to the zoning board of review in its consideration of the application. Such
 174 applicant shall pay to the zoning board of review a sum sufficient to pay for the cost of
 175 advertising the application; and

176 (2) Detailed site plans drawn to scale by a licensed professional registered land surveyor or
 177 professional engineer as applicable, at a minimum scale of 1":40', showing the
 178 boundaries of the property in question, existing topographical contour intervals of no
 179 more than two feet, a surveyed boundary of the cemetery and a setback area of no less
 180 than 25'; and

181 (3) A plan denoting the locations and size of for burial places and the number and
 182 arrangement of burial plots within each burial place, ash scattering areas, roads and
 183 paths, buildings, and any other permanent fixtures, changes or improvements to the land;
 184 and

185 (4) A plan for landscaping and the setting aside of part of the proposed area for screening
 186 purposes; and

187 (5) A budget for the perpetual care fund proceeds to ensure sufficient operating cash flow to
 188 ensure the cemetery does not fall into neglect.

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8.01.060 Location of new cemeteries.

Before any permit to approve a new cemetery may be granted, the agency sponsoring the new cemetery under Sections 8.01.030 and 8.01.040 of this chapter must file a petition with the city council and after hearing thereon the city council must vote to approve the location and boundaries of such cemetery. While considering the petition, the city council shall give due consideration to the size and suitability of the location, the density of building on surrounding properties, any health and safety plans formulated by the agency proposing the cemetery, traffic concerns surrounding the property, the availability of cemetery lots within cemeteries already in operation elsewhere in the city, the nature of the agency as profit, not-for-profit, religious, public or otherwise, the history of the agency in managing other cemeteries, and any other factors deemed to be of import by the city council. Any reports, recommendations, changes, amendments or approvals made by the Inspector of Buildings or as a result of discussions with the Department of Building Inspection shall be considered by the City Council.

8.01.070 Requirements for perpetual care of cemeteries and mausoleums

(a) The proceeds from the sales of crypts, niches, or any space in a mausoleum, shall be used for the repayment of loans for the purpose of construction thereof with reasonable interest on the loans and for the construction, maintenance, and perpetual care of the structure, and may not be divided among any persons as profits. Such restrictions shall not relate to services for interment, preparation of a site, or other services and/or charges.

(b) The sale of cemetery lots or plots, or the sale of crypts or niches in a community mausoleum, or niches in a columbarium, crematory, or any other similar structure, for speculative purposes, or upon the promise, representation, or inducement to the purchaser that the structure may be resold at a financial profit, is prohibited.

(c) All funds paid to or held by an agency for the purpose of funding the perpetual care of cemetery lots, crypts, or niches shall be maintained in a separate perpetual care fund, and shall not be commingled with any other funds of the agency.

(d) Not less than twenty percent (20%) of the sale price of a cemetery lot, crypt, or niche sold with perpetual care shall be deposited by the agency in the perpetual care fund.

(e) All private cemeteries which are not considered abandoned cemeteries shall on an annual basis on or before July 1 submit a filing with the City Clerk of the financial condition and status of the cemetery. The statement shall contain:

(1) a listing of the monies held in the account as of the date of the statement, the revenues and expenses for the year; and

(2) a budget for the following twelve (12) months; and

(3) the enumeration of the number of burial plots or niches remaining available for sale; and

(4) a certification by the person making the filing that the cemetery:

(i) shall remain active for the next twelve-month period;

(ii) that there are no notices of violation by the building or housing departments;

and

237 (iii) that the cemetery is not a defendant in a municipal court, district court,
 238 superior court or supreme court proceeding.

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 240 (f) The City Clerk shall review such filings and provide notice to the City Council and the
 241 Mayor of any cemetery that required to file under this Section whose disclosure indicates
 242 that: (1) there will be insufficient revenues to meet budgeted expenses, (2) who has less than
 243 twenty-five (25) plots or niches, as applicable, remaining available for sale, (3) fails to make
 244 the certification required in subsection (a) that the cemetery will remain active for the next
 245 twelve (12) months; or (4) had received a notice of violation or is a defendant in any matter
 246 pending in any of the applicable courts.

247
 248 (g) The purposes of the disclosure in subsection (e) is to ensure that the health and safety of
 249 people entering the cemetery is maintained by ensuring that perpetual care funds are
 250 sufficient to ensure maintenance and the avoidance of neglect or risk that the cemetery will
 251 become abandoned.

252 8.01.080 Records of Disposition

254 Agencies are responsible for the proper maintenance of all records of disposition of human remains,
 255 and all burials shall be accompanied with appropriate records or combination of records giving
 256 location and name of deceased, date of burial, record of property owner, and a geographic
 257 schematic indicating the specific location of final disposition. The agencies have the ability to cross
 258 reference this material as the agencies deem necessary as long as the records ensure the accuracy
 259 and quality control of the location and name of the deceased. No less than annually, agencies shall
 260 file this information annually with the City Clerk and a summary filing may be made that contains
 261 the information required by this Section.

262 8.01.090 Scattering of Ashes

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 265 (a) The scattering of cremated human remains within a cemetery shall be prohibited except
 266 within a specific area designated for that purpose.

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 268 (b) Nothing in this section shall be construed to require a cemetery to authorize the
 269 scattering of ashes when that practice is contrary to the regulations of the agency or the
 270 religious beliefs of the agency associated with the cemetery.

271 8.01.100 Exemptions

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 274 (a) The following cemeteries and/or agencies shall be exempt from the provisions of
 275 Sections 8.01.070 (e)(1) through (3) of this chapter:

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 277 (1) Religious and ecclesiastical societies who maintain burial grounds;
 278 (2) The Cranston Historical Cemeteries Commission;
 279 (3) Public cemeteries;
 280 (4) Abandoned cemeteries;
 281 (5) An active building used in regular and active religious celebrations or ceremonies
 282 maintaining a crypt, vault or burial plot within the confines of the building.
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- (b) Any agency claiming an exemption under section (a)(1) shall be required to:
 - i. file a one-time statement of exemption with the City Clerk stating the legal name of the entity, contact information for the entity; registered agent for service; date the exemption was granted by the Internal Revenue Service; proof of the exemption from the Internal Revenue Service; the assessor’s plat(s) and lot(s) that would otherwise be subject to this chapter along with appropriate contact information for the entity; and
 - ii. annually file any IRS Form 990, IRS Form 990-EZ, IRS Form 990-N , IRS Form 990-T, IRS Form 990-W, IRS form 1096 and/or any other form required to be filed by the entity within ninety (90) days of filing with the Internal Revenue Service except for forms solely related to employment and payments to independent contractors such as IRS Forms W-2, W-3 and/or 1099; and
 - iii. file any certification required by Section 8.01.070 (e)(4).

8.01.110 Remedy for Violations

- (a) The City shall have the authority to take all appropriate legal action to ensure enforcement of the obligations under this Chapter.
- (b) Any person, member of a firm, or any officer or director of a corporation, failing to comply with any of the provisions of this chapter, upon each and every conviction of any of the provisions of this chapter, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) or by imprisonment for not less than sixty (60) days nor more than six (6) months, or by both fine and imprisonment.
- (c) Upon an order of the municipal court, the district court, the superior court, the supreme court, or another court of competent jurisdiction pursuant to any finding of a violation of this chapter or of any other ordinance, the court may order that in addition to the provision of 8.01.050(d) the agency shall be required to place up to fifty percent of the (50%) of the sale price of a cemetery lot, crypt, or niche sold into the registry of the court until the amount of any order or judgment is satisfied and to file reports of all sales, internments or other dispositions of final remains in the care of the agency on a periodic basis along with the standard court costs imposed for violations of zoning ordinances.

Section 2. This Ordinance shall take effect upon its final adoption.

Positive Endorsement:

Negative Endorsement: (Attach reasons)

City Solicitor

Date

City Solicitor

Date

Sponsored by Councilwoman Vargas and Council President Paplauskas

Referred to Ordinance Committee October 14, 2021