

CEMETERY ORDINANCE

An ordinance to protect the public health, safety, and general welfare by establishing regulations relating to the operation, control, and management of cemeteries owned and operated within the confines of the City of Prichard, Alabama; to provide penalties for the violations of said ordinance and to repeal all ordinances or parts of ordinances in conflict with the provisions set forth herein.

Section 1 General Information and Provisions

A "cemetery" shall consist of burial spaces sufficient to accommodate from one to six burial spaces.

An "adult burial space" shall consist of a land area four feet wide and ten feet in length.

A "juvenile burial space" shall consist of a land area four feet wide and ten feet in length.

Sec. 1.1 Title and Application of article provisions.

The provisions of this article shall apply to all cemeteries in the city.

Sec. 1.2 Establishment of lawful operated cemetery; operation of cemetery without owner, board, persons or group unlawful; powers and duties.

- (a) Every cemetery, to be lawfully established and operated, shall make application to Cemetery Board Authority to appear before the city council
 - i. Contact CBA for Application
 - ii. Be able to provide requirements for subdivision ordinance
 - iii. Complete land use application for Mobile County Health Department for Sanitary Review.
 - iv. Information to be submitted to zoning committee and planning for recommendation.
 - v. CBA to complete packet to submit to City Council for Vote.
 - vi. No business license will be issued until all state requirements and any other requirement not formentioned in this ordinance are met.
- (b) It shall be unlawful for any cemetery in the city to operate without an owner, board, persons or group. Whose duty it shall be to enforce all laws and regulations affecting such cemetery and its operation.
- (c) Any city employee designated by the mayor shall have the power and authority to enforce all laws and regulations.
- (d) In the case where a cemetery is owned by a business entity such business entity shall designate the name and address of its chief executive officer or general manager who has primary responsibility for operating the cemetery. The name of the designee shall be filed by the person

It shall be unlawful for any person to bury or inter, or to assist in burying or interring or burying, the body or remains of any dead human being in the city except in a lawfully established cemetery.

Sec. 1.17 Unlawful to inter or bury without Notice; Administrative fee.

- (A) It shall be unlawful for any person to bury or inter, or assist in burying or interring or burying, the body of remains of any dead human being in the city without providing notice and administrative fee of interment or burial.
- (B) It shall be the duty of any person providing interment or burial in a cemetery in the city limits to provide notice to the owner, board, persons or groups of cemetery of proposed interment or burial therein, accompanied by information as to the lot and the particular place on the lot where the grave is to be dug or opened or the vault is to be located. Such notice shall be presented not less than eight working hours before the interment or burial.
- (C) Notice of burial shall be submitted with the burial form and an administrative fee of \$25.00 payable to the city to cover the cost of maintaining accurate record of all deaths and burials which occur in the city.
- (D) The burial form shall provide the name, date of birth, date of death, sex, race, place of birth, residence and place of time of death, of each person buried in the cemetery. The burial form shall also provide the actual location of the interment to include the cemetery name, location of the plot, etc.

Sec. 1.18 Interments in nighttime.

No owner, board, persons or group of a cemetery officials shall permit any interment between sunset and sunrise without express permission from the mayor. Such permit shall specify the reasons for its issuance.

Sec. 1.19 Violations of State Law

It shall be unlawful for any person in the city to violate any law of the state or rule or regulation promulgated thereunder relating to interments of human beings or the registration of deaths and burials.

Sec. 1.20 Crematories

Any crematory established after October 21, 1997, shall be prohibited from locating in any other zoned area with a use higher than M-1. All crematories shall be required to conduct a test of the facility once a year according to the requirements of the Method 9, Determination of Opacity of Emission from Stationary Sources tests. All crematories must be in compliance with the standards established by the state department of environmental management for emission of particulate matter.

Sec. 1.21 Preexisting Cemeteries

Any preexisting cemeteries will be allowed to operate under the administrative procedure until such time as the property may make substantial improvements to equal 50% of the value of the property.

owning or operating a cemetery with the city, on or before Jan. 1st of each year and each time a cemetery changes ownership. The designee shall be the person arrested and prosecuted for the violation of subsection (a) and (b) of this section. The cemetery is required to submit yearly individual interments and total burials.

- (e) In cases where a cemetery is owned by a church or other non-profit organization, such entity shall designate the name and address of the person who has primary responsibility for operating such cemetery. The name of the current designee shall be filed by the entity owning or operating such cemetery with the city, on or Jan. 1st each year, or at any time there is a change in designee.

Sec. 1.3 Register of Burials and Map

The owner, board, persons or group of each cemetery in the city shall keep a permanent register, alphabetically, indexed, of all burials in such cemetery, with the name, age, sex, ethnicity, place of birth, residence, and place and time of death, of each person buried in such cemetery. They shall also keep a map of such cemetery and shall mark on such map the place of each burial as soon as thereafter possible.

Sec. 1.4 Cemetery Maintenance

- (a) Every person owning or operating a cemetery in the city shall provide permanent maintenance and care for such cemetery to keep it clean and free from rubbish, waste, and weeds, shrubs and other vegetative growth higher than six inches.
- (b) It shall be the duty of every person owning or operating a cemetery in the city to cut or mow the weeds, shrubs and other vegetative growth and grass thereon to a height of not more than six inches.
- (c) Whenever maintenance of the cemetery is neglected and in violation of the provisions of ordinances 1919, 1080, 1712 may declare condition of the cemetery a public nuisance and abate the condition pursuant to those ordinances.

Sec. 1.5 All work performed under owner, board, persons or group.

All work done in the cemetery shall be performed under the supervision of the designee or owner, board, persons, or group.

Sec. 1.6 Digging and filling of graves.

It shall be unlawful to bury or inter the body of a human being in a grave or other excavation in the city which is less than four feet in depth, and every such body or the casket containing the body shall be covered with soil to a depth of not less than two feet below the natural level of the surface surrounding ground at the edges of the grave or excavation. All graves shall be kept filled with dirt to the level of the surface of the surrounding ground. The owner, operator or his designee of a cemetery shall see that provisions of this section are complied with.

Sec. 1.7 Construction of vaults.

All vaults shall be constructed of reinforced concrete of one-two-four mixture or of equally indestructible material approved by the health officer.

Sec. 1.8 Duties of Undertakers as to graves and vaults.

Undertakers acting at interments shall cause every grave to be properly filled and every tomb and vault properly opened and closed.

Sec. 1.9 Graves to be marked.

Each grave shall be marked with a marker made of indestructible material, and such marker shall contain such information as will readily identify the person buried there. Such markers shall be maintained so long as such cemetery is used for burials. Add after there to include urns.

Sec. 1.10 Monument foundation.

All monument foundations shall be placed on solid masonry or concrete, and all such foundation work shall be reinforced with wire or other satisfactory material in such manner as to prevent cracking.

Sec. 1.11 Construction of concrete slabs on graves.

Where graves are covered with concrete slabs, the concrete slabs, the concrete shall be of a one-two-four mixture and shall be reinforced with wire or other satisfactory material in such manner as to prevent cracking.

Sec. 1.12 Area used for burial not to be used for additional burials.

No body of a human being shall be buried in an area which has been used for a former burial or interment.

Sec. 1.13 Person erecting monuments, tombstones, statuary or vault, construction to be licensed.

No person owning, operating or in charge of any cemetery in the city shall allow any person to erect or construct within such cemetery any monument, tombstone, statuary or vault, unless such person has a license from the city to do so.

Sec. 1.14 Animals and trespass.

It shall be unlawful for any person to allow a dog to run at large in any cemetery in the city, or to molest squirrels or birds therein, or for any person to attempt to enter or enter any such cemetery after nightfall, without permission of the owner, board, persons or group thereof.

Sec. 1.15 Injuries to property or planting.

It shall be unlawful for any person willfully or maliciously to injure, deface, break or destroy any tomb, monument, gravestone, or memorial in any cemetery in the city, or without permission from the owner of the lot, to remove from any lot or other place in a cemetery any decoration flower or other thing deposited upon such lot, set therein or planted thereon.

Sec. 1.16 All burials to be in established cemeteries.

Sec. 1.22 Expansion of Preexisting Cemeteries

Any preexisting Cemeteries that make any expansion will be required to comply with all new regulations.

Sec. 1.23 Prichard Cemetery Board Authority

(a) Composition of the Authority

- I. The Prichard Cemetery Board Authority (also referred to as the PCBA) shall consist of five members who shall be appointed by the city council, and who shall serve at the pleasure of the council. The council will appoint the chairman and vice-chairman from amongst the five members appointed.
- ii. Members shall serve for three-year term, which shall be staggered after the first year. Upon creation for the PCBA, two members shall be appointed for one year, two for two years, and one for three years. Upon expiration of the initial terms, all members shall be appointed to three-year terms.
- iii. The council shall endeavor to appoint representatives of genealogical and historical societies and other citizens who have shown an interest in preserving cemeteries.

(b) Power of the Authority. The PCBA shall have the following powers:

- i. To identify, catalog and record burials in the Prichard Cemetery located within the city.
- ii. To survey said cemetery according to the standards set forth by the state historical commission and to forward all such surveys to the state historical commission for inclusion in the statewide inventory.
- iii. To provide for registration of Prichard Cemetery with the historical commission. The registration shall take place within one year.
- iv. To maintain Prichard Cemetery to city standards and according to preservation guidelines set forth by the state historical commission and to accept the assistance of private citizens, corporations, organizations, foundations, etc., in order to afford the restoration and upkeep of cemeteries designated as neglected.
- v. To establish a trust fund to supply the continuing needs of Prichard Cemetery.
- vi. To work with private landowners when necessary to determine the frequency of access, either for specified work days or visits by family or genealogical researchers.

WAIVER OF LIABILITY – Pursuant to Section 2(g) of Act No. 2007-408 of the Alabama Legislature, no person while providing good faith assistance in securing or maintaining Prichard Cemetery and actin under the proper action and duties of the Prichard Cemetery Board Authority direction maybe to civil liabilities or penalties of any type.

Sec. 2.0 Parking Requirements

There shall be no parking in the streets or any public right of way. There shall be a minimum of 200 square feet of parking per 2000 square feet of land use. All parking shall be on a non-pervious surface.

All parking shall comply with the American Disabilities Act

Sec. 3 Storm Water Drainage

Sec. 3.1 Licensed Drainage Site

All sites shall have an engineered licensed with the State of Alabama to designed the storm water runoff and drainage

All sites shall be designed as not to allow storm water run-off to affect any adjoining or other properties in the area.

Sec. 4 Wetlands and Flood Hazard Areas

4.1 Army Corps of Engineers Permits

Any lands or portion of lands that are deemed as wetlands as defined by the clean water act of Environmental Protection Agency shall be permitted by the Army Corps of Engineers.

4.2 National Flood Insurance Compliance

Any lands or portion of lands located in a special flood hazard area shall comply with all regulations as set forth by the National Flood Insurance Program and any other State or local regulations.

Sec. 5 Penalties

1. \$1000.00 per violation of provisions of this ordinance.

Sec. 5.1 Authorized Enforcement

Unless otherwise specified by the City of Prichard, the following officials shall have authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this ordinance:

1. City of Prichard Code Enforcement
2. City of Prichard Police Department
3. City of Prichard Zoning Department

Sec. 5.2 Penalties and Assessment

A violation of this ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance shall be responsible for a civil infraction.

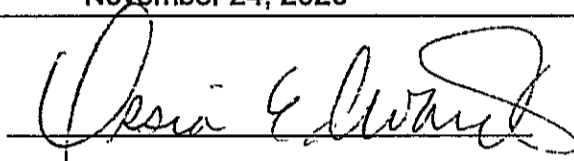
The civil fine for such infraction shall be \$1000.000, in addition to all other costs, damages, expenses, and remedies provided by law.

For purposes of this section, subsequent offense means a violation of the provision of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same admitted responsibility or was adjusted to be responsible. Each day during which any violation continues can/may be deemed a separate offense.

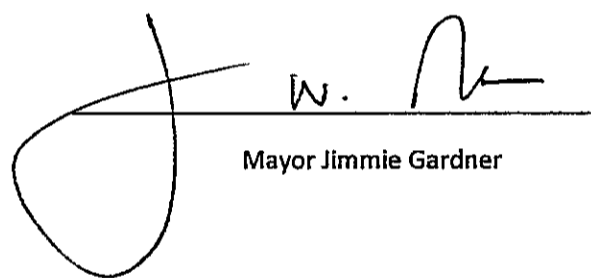
Sec. 6 Effective Date

This Ordinance shall take effect on publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Ordinance declared and adopted on November 24, 2020

A handwritten signature in black ink, appearing to read "Chris Edwards", written over a horizontal line.

Council President

A handwritten signature in black ink, appearing to read "W. N.", written over a horizontal line. A large, loopy flourish extends from the left side of the signature.

Mayor Jimmie Gardner