

GENERAL OPERATING MANUAL
FOR
THE JAEGER WITTE CEMETERY
In Washington County, Texas

Adopted on August 3, 2019

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AUTHORITY TO OPERATE:

The cemetery shall operate under the authority of the Board of Directors elected pursuant to the bylaws of the cemetery organization. The directors may designate an individual to serve as caretaker or managing director who shall implement these rules and oversee the operations of the cemetery in the interim periods between meetings of the directors. The caretaker or managing director may also serve as a member of the board of directors.

OPERATIONAL RULES:

For Purposes of this Manual, words shall be defined pursuant to the provisions of Texas law and as fully set forth in Appendix A attached hereto. Specific definitions for the following words and phrases are included in the definitions set forth in Appendix A: Cemetery; Cemetery organization; Cemetery purpose; Directors, Grave, Entombment, Interment, Inurnment, Nonperpetual care cemetery, Perpetual care, Perpetual care cemetery, Plot, Plot owner, and Remains.

Burial-Transit Permit:

Acceptance of remains for burial from a place outside of this state shall be governed by Section 193.008 of Vernon's Texas Codes Annotated, Health and Safety Code, Part 1, Titles 1 to 5.

Burial Records and Records of Interment:

The Board of Directors shall designate a managing record-keeper who shall be responsible for compliance with Section 711.003 of Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End, relative to records of interments. This individual shall keep a record, open to official inspection at all times, of the bodies interred or otherwise disposed of on the premises, including the decedent's name and age if those facts can be obtained, place of death, date of interment, name and address of the funeral director, and other information required by the state registrar. Further, a record shall be kept of each interment including date the remains are received and the identity of the plot in which the remains are interred. The record-keeper may also serve as a member of the board of directors. The record-keeper and the caretaker or managing director do not have to be the same person.

Disposition of Remains:

The priority of persons having the right to control the disposition of a decedent's remains shall be governed by Section 711.002, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End. Generally, unless the decedent has left other directions, the following persons, in the priority listed, have the right to control the disposition, including cremation, of the person's remains, shall inter the remains, and are liable for the cost of interment: (1) the surviving spouse; (2) the decedent's surviving adult children; (3) the decedent's surviving parents; (4) the decedent's surviving adult siblings; or (5) the adult person in the next degree of kinship entitled to inherit the estate of the decedent.

Removal of Remains and Disinterment:

Removal of remains shall be governed by Section 711.004, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End. Disinterment shall further be governed by Article 49.09 and Article 49.25 of Vernon's Annotated Code of Criminal Procedure of the State of Texas, Volume 6, Articles 44 to End. Removal shall be with the consent of the cemetery organization and its directors, with the written consent of the plot owners, and with the consent of the persons named in priority with control over the right of disposition of remains as set forth in the preceding section of this manual.

Use of Funds for Special Care in Perpetual Care Cemetery:

Perpetual care funds may not be used for special care of a specific headstone or gravesite. However other funds may be used for special projects, such as restoration of a specific headstone, at the discretion of the Cemetery Organization.

Pre Burial Preparation

Individuals or family members who have reserved a specific plot using the Plot Reservation Agreement are permitted to install headstones, concrete borders, vaults, or complete other preparations prior to internment.

Authority of Caretaker:

The caretaker shall be designated by the Board of Directors. The caretaker shall have those powers delegated by the Board of Directors. Additionally such person shall have such powers granted under Section 711.009, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End, specifically allowing such person the authority of a law enforcement officer for purposes of maintaining order and enforcing the rules of the cemetery organization.

Subdivision of Cemetery Property:

The directors shall divide the cemetery property into lots and subdivisions for cemetery purposes. The directors shall recognize existing lots and subdivisions within the cemetery property. The directors may divide unused portions of the cemetery as appropriate for future use of the cemetery. The directors may designate portions of the cemetery grounds for use for parking, for luncheon or meeting areas, for park areas, and for burial areas.

Master Plat:

The directors shall create a master plat for the cemetery grounds pursuant to Section 711.034, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End. Further, the master plat shall set forth designated parking areas, public use areas for picnic grounds and park areas, a memorial or tabernacle area, and burial area(s).

The effect of dedication and restrictions placed on any change of purpose shall be governed by Section 711.035, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End.

Assessments:

The directors may charge assessments on the use of property for the purposes of general improvement and maintenance. The directors may not charge assessments as to burial spaces which are used at the time of the platting of the cemetery grounds.

Price Schedule:

The directors shall not require payment for plots; however, family members may give a monetary donation to the cemetery organization before or after the time of burial. A portion of these donations will be assigned to the perpetual care fund for cemetery operations and maintenance.

Acquisition of Title:

Only Human Beings shall be permitted interment rights or be possessed of any cemetery plot or plots and such plot or plots shall be used for no other purpose than the burial of human remains.

Pre-existing Use:

As of the date of the adoption of the plat for the cemetery use, any plot which is not used but which is adjacent to a plot occupied by a deceased spouse shall be offered to the surviving spouse for their eventual use. If the surviving spouse does not wish to retain this plot, they may indicate this in writing and the plot will be made available to others.

Rights of Interment in Plot:

An individual may request up to two plots by submitting a Jaeger Witte Cemetery Plot Reservation Agreement (see Attachment A) to the office of the cemetery organization. If the plot(s) are available, they shall be reserved for the eventual use of the individual making the request and the individual's spouse or another person who has been named by the individual. The rights of other family members in the event of any dispute shall be governed as the individual may direct, either in writing filed and recorded in the office of the cemetery organization or as may be expressly set forth in the decedent individual's will. In the event of no directions, the rights of other family members shall be governed by law as set forth in Section 711.039, Vernon's Texas Codes Annotated, Health and Safety Code, Part 11, Titles 6 to End.

Legal guardians may submit a request on behalf of the individual on whom they have guardianship.

In the event that the family or legal guardian of a decedent for whom a plot has not been reserved requests that the decedent be buried in the cemetery, the cemetery caretaker shall work with the family to select a suitable plot.

Depth of Grave:

The depth of a grave shall be governed by Section 714.001, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End. The outside top surface of the container must be at least two feet below the surface of the ground if the container is not made of an impermeable material; or not less than one and one-half feet below the surface of the ground if the container is made of an impermeable material.

Unused Plots:

Unused plots which are abandoned for twenty years, upon notice to the last known address of individual who requested it and any known heirs of the plot owner(s), shall be subject to forfeiture by the cemetery organization and shall be made available to other individuals.

Abandonment shall require not only a failure to maintain the lot or a failure to maintain an interest in the cemetery upkeep and maintenance but also a failure to contribute to the upkeep and maintenance of the cemetery during such twenty year period. The abandonment of a plot or plots in accordance with the foregoing standard shall allow the cemetery organization through its directors to proceed with an action as allowed by law to forfeit the plots and to make the plots available to other individuals. Any such action of forfeiture shall be governed by Section 714.003, Vernon's Texas Codes Annotated, Health and Safety Code, Part 11, Titles 6 to End.

Rules; Civil Penalty:

Any individual violating any of the rules adopted by the Board of Directors and as set forth in this manual shall be subject to a penalty as allowed pursuant to Section 711.031, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Titles 6 to End. A person found in violation of a rule adopted herein shall be subject to a civil penalty of not less than \$100.00 or more than \$2,000.00. The amount of the penalty shall be subject to the discretion of the directors who may sue to enforce and collect such penalty according to the severity of infringement of the particular rule.

Discrimination:

No rules set forth herein or that may be adopted in the future shall prohibit interment because of the race, color, religion, or national origin of a decedent.

Funeral Regulations:

Funerals, after entering the gates of the cemetery, shall be subject to the direction of the cemetery caretaker. If the caretaker is not available, the cemetery organization board of directors may appoint a representative who will function on behalf of the caretaker.

Memorials and Structures:

Only one grave memorial shall be permitted per grave space except a companion or a family memorial. All memorials shall be set on uniform lines as prescribed by the cemetery organization, to conform to the general plan of the cemetery.

The following types of memorials are not permitted:

1. Headstones or statuary in excess of four feet in height
2. Headstones or other memorials which produce light or sound
3. Above ground crypts or mausoleums
4. Headstones or memorials which contain inscriptions or images that may be deemed obscene or offensive by normal social standards

Restrictions 1, 2, and 3 do not apply the original ¼ acre burial site described in Washington County Deed Records Volume 39, page 559 (1899).

If any memorial, any structure whatsoever, or any inscription placed or to be placed on a memorial or structure, shall be determined by the cemetery organization to not abide by the aforementioned guidelines, the organization shall notify the owner in writing of the problem and the owner shall be given 30 days to correct or remove the improper or offensive memorial(s), inscription(s), or item(s). After 30 days from which the notice was mailed, if the owner has not rectified the situation, the cemetery organization shall have the right and it shall be its duty, to enter upon such plot and remove, change or correct the improper or offensive memorial(s), inscription(s), or item(s) at the expense of the owner.

Memorial benches or statuary no larger than four feet in height may be installed with prior approval from the cemetery organization, at the expense of the owner. The owner shall be responsible for upkeep or repairs outside of the routine maintenance provided by the cemetery organization. If the memorial bench or statuary falls into disrepair, the organization shall notify the owner in writing of the problem and the owner shall be given 30 days to correct or remove the memorial bench or statuary. After 30 days from which the notice was mailed, if the owner has not rectified the situation, the cemetery organization shall have the right and it shall be its duty, to remove and dispose of the memorial bench or statuary at the expense of the owner.

Memorial benches are not permitted in the original ¼ acre burial site described in Washington County Deed Records Volume 39, page 559 (1899).

Solar lights shall not be permitted on burial lots within the cemetery, either affixed to memorials or as stand-alone fixtures.

Maintenance of Cemetery Grounds:

The cemetery organization shall direct generally all improvements within the grounds and upon all plots and graves, before as well as after interments have been made therein. The organization shall have charge of the planting, sodding, surveying and improvements generally. All such action shall be taken by the directors.

No one other than the proper officers of the organization or their agents shall be allowed to perform any work on any grave or lot within the grounds without a permit from the organization or its officers.

If any tree, shrub or plant standing upon any lot by means of its roots, branches, or otherwise, shall be or become detrimental to adjacent plots or avenues, or if for any reason its removal is deemed necessary by the directors, the directors shall have the right and it shall be its duty to remove such tree, shrub, or plant, or any part thereof, or otherwise correct the detrimental condition existing as the board of directors in its judgment deems best.

Holdings containing flowers or other decorations will be removed as soon as the flowers or decorations wither and/or fade and the right is reserved by the cemetery organization to make such removal through the direction of the cemetery caretaker.

Holdings containing flowers or other decorations made of any materials other than clay, ceramic, metal, concrete, plastic, or cement will be removed by the caretaker. *Glass holders are not permitted in any part of the cemetery.*

Use of Cemetery for Gatherings:

Families interested in the cemetery may hold reunions or other gatherings during daylight hours on the cemetery grounds in the areas dedicated for such public use, including holding picnics. Such meetings shall be under the supervision of the cemetery caretaker and shall conform to accepted standards for taste and decorum. Proper respect for the burial areas shall be maintained or the group shall be asked to leave the cemetery grounds. No alcoholic beverages shall be permitted on the cemetery grounds. No fees will be charged for the use of the cemetery park areas for such gatherings.

General Regulations:

No person shall be permitted to enter or exit the cemetery grounds except by the public gates between the time of sunrise and sunset throughout the year, according to the season. Any person found on the grounds after sunset shall be deemed a trespasser subject to prosecution for trespass.

The cemetery caretaker shall have the authority to enter upon any plot and to remove any objectionable item that may have been placed there contrary to the regulations of the organization, subject to the discretion and acting at the direction of the board of directors of the cemetery organization.

No person shall be permitted to use profane or boisterous language or in any way disturb the quiet and good order of the cemetery.

All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that provisions and penalties of the law, as provided by statute, will be strictly enforced in all cases of wanton injury, disturbance, and disregard of the rules.

AMENDMENT OF RULES:

This manual and the rules and regulations set forth herein may be amended, altered, and/or repealed and new rules adopted at any time by the Board of Directors of the cemetery organization, subject to compliance with applicable laws. The Board of Directors reserves the right to amend, alter, repeal or adopt new rules at any of the organization meetings. The general business, management, control, and operation of the cemetery are vested in the elected Board of Directors pursuant to the bylaws.

Special cases may arise in which the literal enforcement of a rule or regulation may impose unnecessary hardship. The Board of Directors shall have the right, without notice, to make exceptions, suspensions, or modifications in any of the rules and regulations, when the same appears advisable. Any such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of these rules and shall be permitted only as specifically allowed and approved by a majority of the Board of Directors of the Cemetery Organization.

This operations manual containing the rules and regulations for the operation of the Jaeger Witte Cemetery of Burton, Washington County, Texas, adopted by majority vote of the Board of Directors this 3rd day of August, 2019.

President

Secretary

Attest:

Director

Director

Director

APPENDIX A

Definitions

Definitions as Set Forth under Section 711.001, Vernon's Texas Codes Annotated, Health and Safety Code, Part II, Title 6 to End.

- (1) "Burial park" means a tract of land that is used or intended to be used for interment in graves.
- (1-a) "Campus" means the area:
 - (A) within the boundaries of one or more adjacent tracts, parcels, or lots under common ownership;
 - (B) on which the principal church building and related structures and facilities of an organized religious society or sect are located; and
 - (C) that may be subject to one or more easements for street, utility, or pipelines purposes.
- (2) "Cemetery" means a place that is used or intended to be used for interment, and includes a graveyard, burial park, mausoleum, or any other area containing one or more graves.
- (2-a) "Cemetery element" means a grave, memorial, crypt, mausoleum, columbarium, or other item that is associated with the cemetery, including a fence, road, curb, wall, path, gate, or bench and the lighting and landscaping.
- (3) "Cemetery " means:
 - (A) an unincorporated association of plot owners not operated for profit that is authorized by its articles of association to conduct a business for cemetery purposes; or
 - (B) a corporation, either for profit or not for profit, that is authorized by its articles of incorporation to conduct a business for cemetery purposes.
- (4) "Cemetery purpose" means a purpose necessary or incidental to establishing, maintaining, managing, operating, improving, or conducting a cemetery, interring remains, or caring for, preserving, and embellishing cemetery property.
- (5) "Columbarium" means a durable, fireproof structure, or a room or other space in a durable, fireproof structure, containing niches and used or intended to be used to contain cremated remains.
- (6) "Cremated remains" means the bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.
- (7) "Cremation" means the irreversible process of reducing human remains to bone fragments through extreme heat and evaporation, which may include the processing or the pulverization of bone fragments.

- (8) "Crematory" means a structure containing a furnace used or intended to be used for the cremation of human remains.
- (9) "Crematory and columbarium" means a durable, fireproof structure containing both a crematory and columbarium.
- (10) "Crypt" means a chamber in a mausoleum of sufficient size to inter human remains.
- (11) "Directors" means the governing body of a cemetery association.
- (12) "Entombment" means interment in a crypt.
- (13) "Funeral establishment" means a place of business used in the care and preparation for interment or transportation of human remains, or any place where one or more persons, either as sole owner, in copartnership, or through corporate status, are engaged or represent themselves to be engaged in the business of embalming or funeral directing.
- (14) "Grave" means a space of ground that contains interred human remains or is in a burial park and that is used or intended to be used for interment of human remains in the ground.
- (15) "Human remains" means the body of a decedent.
- (16) "Interment" means the permanent disposition of remains by entombment, burial, or placement in a niche.
- (17) "Interment right" means the right to inter the remains of one decedent in a plot.
- (18) "Inurnment" means the placement of cremated remains in an urn.
- (19) "Lawn crypt" means a subsurface receptacle installed in multiple units for ground burial of human remains.
- (20) "Mausoleum" means a durable, fireproof structure used or intended to be used for entombment.
- (20-a) "Memorial" means a headstone, tombstone, gravestone, monument, or other marker denoting a grave.
- (21) "Niche" means a space in a columbarium used or intended to be used for the placement of cremated remains in an urn or other container.
- (22) "Nonperpetual care cemetery" means a cemetery that is not a perpetual care cemetery.

- (23) "Perpetual care" or "endowment care" means the maintenance, repair, and care of all places in the cemetery.
- (24) "Perpetual care cemetery" or "endowment care cemetery" means a cemetery for the benefit of which a perpetual care fund is established as provided by Chapter 712.
- (25) "Plot" means burial space in a cemetery owned by an individual or organization that is used or intended to be used for interment, including a grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.
- (26) "Plot owner" means a person:
(A) in whose name a plot is listed in a cemetery organization's office as the owner of the exclusive right of sepulture; or
(B) who holds, from a cemetery organization, a certificate of ownership or other instrument of conveyance of the exclusive right of sepulture in a particular plot in the organization's cemetery.
- (27) "Prepaid funeral contract" means a written contract providing for prearranged or prepaid funeral services or funeral merchandise.
- (28) "Remains" means either human remains or cremated remains.