

FORT MYERS CEMETERY RULES AND REGULATIONS

Effective Date: **August 1, 2007**

I. INTRODUCTION

1. The Fort Myers Cemetery is divided into the following sections:
 - a. Fort Myers Cemetery
 - b. Garden of Memories
 - c. Beth-El
 - d. Calvary Gardens
 - e. Oakridge
 - f. Oakridge Block T
 - g. Woodlawn
 - h. Second West Addition
 - i. First North Addition
 - j. Second North Addition
 - k. Third North Addition
 - l. Fourth North Addition
 - m. Brecht's Creek Gardens
 - n. Replat of Second West Addition
 - o. Garden of Angels

2. The rules and regulations for the Fort Myers Cemetery are designed for the protection of owners and interment rights as a group. The rules are intended, not as restraining, but rather as preventing the inconsiderate from taking unfair advantage of others. The enforcement of these

rules will help protect the Fort Myers Cemetery and create and preserve its beauty. The Rules and Regulations of the Fort Myers Cemetery are hereby adopted, and all owners of interment rights, visitors, and contractors performing work within the Fort Myers Cemetery, shall be subject to said rules and regulations; amendments or alterations as may be adopted by City Council from time to time.

II. DEFINITIONS

1. “Burial or Grave Space” shall mean a single space within a platted lot designed for interment in the ground of the remains of one deceased human being and/or cremated remains of one deceased human being.
2. “Cemetery” shall mean the Fort Myers Cemetery.
3. “City” shall mean the City of Fort Myers, the legal entity that owns and controls the Fort Myers Cemetery.
4. “City Official” shall mean City Manager, City Clerk or Cemetery Supervisor.

5. "Columbarium" shall mean an above ground structure containing niches for interment of cremated human deceased remains.
6. "Contractor" shall mean any person, firm or corporation or anyone engaged in placing, erecting or repairing any memorial, or performing any work in the Cemetery grounds, other than an employee at the Cemetery.
7. "Crypt" shall mean a space of sufficient size to accommodate at least one casket holding remains.
8. "Disentombment" shall mean the permanent disposition of the remains of a deceased person in a vault, niche in the columbarium, or within a mausoleum.
9. "Disinterment" shall mean the removal of remains or cremains of a deceased person in earth burial.
10. "Entombment" shall mean the permanent disposition of a deceased human being in a vault, niche in the columbarium, or within a mausoleum.
11. "Interment" shall mean the act or ceremony of depositing the remains of a deceased human

being in a grave, niche in the columbarium, or mausoleum.

12. "Interment Right" shall mean the right conveyed by a deed to use an in earth grave space or niche in the columbarium for the interment of deceased human remains; the City retains title to the real property.
13. "Marker" shall mean a memorial constructed of approved stone or metal containing names, dates, or other engraved lettering used identification of one or more persons and placed at the head of a lot or plot or on the niche.
14. "Niche" shall mean a space of sufficient size to accommodate one or two urns holding human cremated remains in the columbarium.
15. "Owner" shall mean the owner of rights of interment.
16. "Supervisor" shall mean the Cemetery Supervisor, or his designee.
17. "Vault" shall mean a prefabricated container typically of concrete into which a casket is placed at burial

and may be partially or entirely underground.

III. GENERAL INFORMATION

1. Pets shall not be permitted in the Cemetery except in the case of service animals used to assist disabled persons.
2. Beer or intoxicating liquors within the Cemetery are strictly forbidden.
3. Peddling or soliciting of flowers, plants or soliciting the sale of any item is prohibited within the boundaries of the Cemetery.
4. Boxes, shells, toys, glassware, sprinkling cans, receptacles or similar articles shall not be permitted on any grave, lot or tree.
5. The City is not responsible for anything placed on graves or lots including grave markers due to theft, damage by the elements, thieves, vandals, maintenance operations, or by any other causes.
6. A minimum standard concrete grave liner vault shall be required for all burials. Urn vaults shall be required for the burial of cremains.

The top of the vault shall be a minimum of twelve (12) inches underground. Only concrete vaults shall be allowed and shall be approved by the Cemetery Supervisor prior to interment. Brass urns shall be required for interment in the columbarium and shall be purchased from the City.

7. No bench, chair, ornament or any type of trellis shall be permitted to be placed on any grave.
8. The City reserves the right to remove all cut or potted flowers, plant containers, plants, weeds, trees, shrubs, plants or herbage of any kind, wreaths, ornaments, boxes, balloons, or any other decorations when in the judgment of the Cemetery Supervisor they fade or wither, become unsightly, dangerous, detrimental or diseased or when they do not conform to the standard maintained. These items are subject to damage by maintenance equipment and are therefore considered to be the sole responsibility of the owner of interment rights.
9. The digging of holes in the Fort Myers Cemetery for any purpose whatsoever is strictly prohibited.

10. No enclosures of any kind, such as a fence, scrollwork, coping, hedge, real or artificial, or ditch shall be permitted around any grave or lot.
11. Planting on lots and graves is strictly prohibited.
12. The Cemetery personnel and their agents and contractors have authority to enter upon any lot and to remove any objectionable thing or any erection that may have been placed in the Cemetery contrary to these regulations, and may remove any dead or damaged tree, shrub, flower arrangement, vine or any object that interferes with maintenance of the Cemetery.
13. No person shall be permitted to enter or leave the Cemetery except by the public gates.
14. The Cemetery grounds shall be open during daylight hours. Any person found on the grounds after dark will be considered a trespasser.
15. No person shall be permitted to use profane or boisterous language or in any way disturb the quiet and good order of the Cemetery.

16. All persons are forbidden to hunt, trap, fish, feed or disturb the fish, fowl, or other animals in the Cemetery.
17. All persons are strictly forbidden to break or injure any tree or shrub, or mar any landmark, marker or memorial or in any way deface the grounds of the Cemetery.
18. No money shall be paid to the employees at the Cemetery. The entire time of the persons employed at the Cemetery belongs to the City. Visitors and owners must not otherwise engage them. All inquiries and complaints must be filed at the Cemetery Office in the City Clerk's Office.
19. The Cemetery grounds are sacredly devoted to the burial of the dead and the provisions and penalties of the law, as provided by the City Code of Ordinances, will be strictly enforced in all cases of wanton injury, disturbance of the peace, vandalism and disregard of the rules.
20. Strict observance of all the proprieties due the Cemetery is of utmost importance, whether

embraced in the rules and regulations or not, and no impropriety will be tolerated.

21. Strict decorum shall be observed at all times within the Cemetery grounds whether set forth in these rules or not and any breach shall be brought to the attention of the Cemetery Supervisor.
22. Visitors to the Cemetery shall not touch or remove anything that does not belong to them.
23. Possession of fire arms is prohibited within the Cemetery except by duly authorized law enforcement officers, or Military Guard of Honor, and then only when in charge of an officer and during a military service.
24. Littering is expressly prohibited anywhere within the cemetery and its buildings.
25. No signs, notices or advertisements of any kind shall be allowed in the Cemetery unless placed by the City.
26. Only authorized personnel, and visitors, owners and relatives shall be permitted on the Cemetery grounds.

27. No bicycles or motorcycles shall be admitted to the Cemetery except as may be in attendance at funerals or on official business.
28. No roller skates, in-line skates or skateboards shall be permitted in the Cemetery.
29. No private columbarium or mausoleum shall be permitted to be constructed in the Cemetery as of the effective date of these rules.
30. Disinterment
 - a. Any person desiring to remove deceased human remains from a grave space or a niche must present a written burial transit permit form signed by the Owner for such disinterment, and also sign a request to have such disinterment made. All requests for disinterment must be made in writing and received by the City Clerk's Office no later than forty-eight (48) hours in advance. All requests shall remain on file in the office of the City Clerk.

- b. Cemetery personnel shall exercise due care in making a removal; however, the City does not assume any liability for damage to the casket, burial container, vault or outer box, memorial or urn incurred in making the removal.

31. Markers

- a. Each grave space, lot, and niche is required to have a permanent marker reflecting the name of each person interred in said space or niche as hereinafter provided. Upright markers are permitted in the Garden of Memories north of Galilee Way only. Only one (1) grave marker will be permitted on one (1) grave space. All markers shall be set in concrete. Written approval and verification of lot location by the Cemetery Supervisor must be secured before any marker may be delivered to the Cemetery for installation. All permanent markers shall be ordered and set within four (4) months from date of the funeral. If the grave marker is not placed on the

grave site within four (4) months from the date of the funeral, the City Clerk's Office shall order a gravemarker with the name, birth and death year of the deceased inscribed thereon for placement on the gravesite. Payment of said gravemarker shall be made from the funds placed on deposit at the time of payment of the opening and closing fee. There shall be no refund of the deposit for gravemarkers after the end of the four (4) month period from the date of the funeral if a gravemarker is not set. All niches shall have an engraved niche cover. Homemade markers shall not be permitted in the Cemetery.

- b. No memorial or marker may be set to embrace two (2) or more grave spaces except a companion or a family marker, nor shall more than one family name be permitted on any marker, unless approved in writing by the Cemetery Supervisor at the time of sale of the interment right.

- c. The marking of each lot, grave or graves, except in the Garden of Memories north of Galilee Way only, is restricted and limited to flat granite markers or bronze tablets.
 - d. All memorials or markers shall be set on uniform lines as prescribed by the City to conform to the general plan of the Cemetery.
 - e. Only families of the deceased are permitted to clean the gravemarker.
32. All fees for interment rights and, opening and closing shall be paid in full no later than 2:30 p.m. two (2) days prior to the day of the burial.
33. All decisions made by employees or representatives of the City in connection with the operation of the Cemetery shall be made without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, disability or age.
34. In the event of a disaster which results in numerous interments, or entombments being required

the Cemetery staff shall work the hours as deemed necessary by the Cemetery Supervisor to accomplish the required work. Inurnments shall be made after all interments and entombments are completed. The Cemetery Supervisor has the full authority to void any and all regulations necessary in order to complete the interments as orderly and as expeditiously as possible.

IV. SUPERVISION OF CEMETERY

1. The City reserves the right to compel all persons entering the Cemetery to obey all rules and regulations adopted by City Council. The rules and regulations may be changed without notice to any owner of interment rights by the City Council.
2. The Cemetery personnel shall take reasonable precaution to protect the owners of interment rights within the Cemetery from loss or damage; but the City distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, an Act of God, common enemy, terrorism, thieves, vandals,

malicious mischief makers, explosions, or unavoidable accidents, other than as herein provided.

3. The City reserves and shall have the right to correct any errors that may be made by it either in making interments, disinterments, transfers or conveyances and substituting and conveying in lieu thereof other interment rights of similar location as near as possible, as may be selected by the Cemetery Supervisor, or in the sole discretion of the City, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Cemetery Supervisor reserves and shall have the right to remove and transfer such remains so interred to such other property of similar location as may be substituted and conveyed in lieu thereof.
4. Persons visiting the Cemetery grounds shall use only the avenues, walkways, and roads.
5. Vehicles shall not be driven through the Cemetery grounds at a greater speed than ten (10) miles

per hour, and must always be kept on the right side of the Cemetery roadways. Vehicles shall not be permitted to turn around on the driveways or roadways or park or to come to a full stop in front of an open grave unless the passengers of said vehicles are in attendance at the funeral.

6. The right to enlarge, reduce, replat or change the boundaries or grading of the Cemetery or a section or sections, from time to time, including the right to modify or change the locations of/or any part thereof or remove or regrade roadways, driveways and walks, is hereby expressly reserved. The right to lay, maintain and operate, or alter or change pipelines or gutters for sprinkling systems, drainage, lakes, creeks, etc., is also expressly reserved, as well as is the right to use Cemetery property, not sold for interment rights, for Cemetery purposes, including the interring and preparing for interment of deceased human remains, or for anything necessary, incidental or convenient thereto. The Cemetery reserves to itself and those lawfully entitled thereto a perpetual right of ingress and egress over lots for the

purpose of passage to and from other lots.

V. SALE AND PURCHASE OF INTERMENT RIGHTS

1. The sale or transfer of any interment rights or contract for purchase of interment rights by any owner or purchaser, shall not be binding upon the City unless same shall first be duly approved in writing by the proper city official of the Cemetery and then such interment right must be reconveyed to the City. The Clerk's Office shall issue a conveyance to the new owner. The same rule shall apply in all cases of assignment of purchase contract for interment right. This procedure is required in order that the Cemetery may at all times have a complete and accurate record of all owners and purchasers.

2. Any and all transfers of any interment right, whether same be by conveyance or assignment of purchase contract, are subject to all rules and regulations of the Cemetery, which are currently in force and effect or which may hereafter be enacted. The City may refuse to consent to a transfer

or to an assignment as long as there is any indebtedness to the City from the owner so recorded in the records of the Cemetery at the City Clerk's Office. All transfers of ownership shall be subject to a charge as adopted by resolution of City Council, which charge must be paid to the City when transfer is recorded.

3. The subdivision of interment rights is not allowed without the consent of the City and no one shall be buried in any lot not having an interest therein, except by written consent of all parties interested in such lots and of the City.
4. All work done on lots will be done by the employees of the Cemetery under the direction of the City Clerk except when permission is otherwise granted. All grading, landscape work, care of lots, excluding maintenance or repairs to headstones or vaults, all trees, shrubs and herbage of any kind planted, trimmed, cut or removed and all openings and closings shall be made by the Cemetery personnel.
5. Interment rights in the Cemetery can be purchased only with

written approval of City Officials and are subject to the Rules and Regulations of said Cemetery currently in effect or hereafter adopted for the operation of the Cemetery and for the purpose of interment only. This provision applies to all sales, whether made directly by the City or sales made by owners.

6. All agreements for the purchase of Cemetery interment rights must be on the form approved, provided and signed by the appropriate City Officials. All terms and conditions for the purchase of interment rights must be recited in the purchase contract; verbal agreements or representations will not be recognized or honored.
7. The City may exchange interment rights when desired by owners, but not for interment rights of lesser value. When such an exchange is made, the original conveyance must be surrendered by proper assignment, or by reconveyance if considered necessary before any change is effected.
8. Each owner is vested with the ownership of his or her interment right for the sole purpose of

interment of deceased human remains. The owner of interment rights may dispose of same by will, subject to the Cemetery Rules and Regulations, which are currently in force and effect or which may hereafter be enacted. If the owner dies intestate, the interment rights will descend to his or her heirs according to the laws of descent.

9. No conditional or partial transfer of interment rights and no sale of an undivided interest, except to a person or persons who are already part-owners will be recorded as the City cannot be responsible for carrying out the intent of the grantor. No burial shall be made in any lot until the purchaser has paid the lot fee, marker fee, opening and closing fee, and recording fee in full as required by the City.

10. In the event the owner of record desires to sell interment rights back to the City, the City shall pay only the original purchase price paid by the owner, less a deduction of the transfer charge as set out in the most current resolution adopted by City Council. If the owner of record is deceased, and the request for sale is made by the estate, proof of the

owner's death shall be required along with a notarized request for the contract for interment rights from the executor or the personal representatives. All repurchases require the return of the original deed and all repurchase payments shall be made only to the original owner or his or her estate. No transfer or assignment of any cemetery lot or plot or interest therein shall be valid without the consent in writing of the City.

11. The general care of the Cemetery grounds and lots is assumed by the Cemetery Supervisor under the provisions of the annual budget of the City. This, however, does not provide for any special care which includes repair or replacement of mausoleums, niche covers, vaults, vault lids, headstones or markers.
12. The Cemetery shall direct all improvements within the grounds and upon all lots, graves, and the columbarium before as well as after interments have been made therein. The Cemetery shall have responsibility of the planting, sodding, surveying, and improvements generally.
13. No person other than the employees of the City or the

Cemetery shall be allowed to perform any work on any grave or lot within the grounds without written permission from a City Official.

14. If any memorial, or any structure whatsoever, or any inscription to be placed on same, shall be determined by City Officials to be offensive, they shall have the right and it shall be their duty to enter upon such lot and remove, change or correct the offensive or improper objects or objects.
15. If any tree, shrub or plant on any lot, by means of its roots, branches or otherwise, be or become detrimental to adjacent lots or avenues, or if for any other reason its removal is deemed necessary, the Cemetery Supervisor shall have the right and it shall be his duty to remove such tree, shrub or plant, or any part thereof, or otherwise correct the conditions existing as in his judgment seems best.
16. No person shall pluck or remove any plant or flower, either wild or cultivated, from any part of the Cemetery.

VI. FUNERAL REGULATIONS

1. Funerals, after entering the gates, shall be subject to the direction of the Cemetery Supervisor.
2. Notice of forty-eight (48) working hours before the announced time of the burial is required. There shall be no interments, entombments, or disinterment services of any kind on Sundays or any of the legally declared City holidays, except in cases where religious beliefs dictates such action. A special charge will be made for funerals scheduled at 2:30 o'clock p.m or later. Exceptions to this rule will be made only in cases of death from a contagious disease or when so ordered by the City.
3. When one or more than one grave site is owned, the deed holder or the deed holder's legally authorized representative must designate in writing and sign an interment order to confirm which lot is to be used for burial. Upon application by any person for interment of a body in a given burial space, the burden of proof of ownership of the grave site must be provided at the time of scheduling a burial.

4. When a disinterment is to be made from one grave to another grave, the formerly occupied grave space and all rights therein revert to the City. If concrete vault or minimum standard concrete grave liner has not been used for the interment, one must be furnished. The fee for disinterment shall be established by resolution adopted by City Council and is subject to change without notice. Application for a disinterment permit, which may be obtained from a funeral home, must be signed by the authorized next of kin and properly notarized prior to the time of disinterment. The disinterment permit shall be placed on file with the City Clerk's Office prior to disinterment.

5. No more than the remains of one body shall be interred in any one plot or single crypt, except in the case of a mother and her infant, unless the plot has been purchased with the written agreement that one body and one cremain shall be interred therein, provided that proper identification is made of such interment or interments on one regular marker. The interment right to add one cremain to an occupied adult

single lot shall be allowed upon payment of the interment right for a cremain and opening and closing. The contract shall provide the name of the person authorized to designate the identity of the person other than the purchaser of the lot whose remains may be interred in a lot.

VII. MODIFICATIONS AND AMENDMENTS

1. The City may, and it hereby expressly reserves the right, at any time or times, with or without notice to owners, to adopt new rules and regulations, or to amend, alter and/or repeal any rule, regulation and/or article, section, paragraph and/or sentence in these Rules and Regulations.
2. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The City, therefore, reserves the right, without notice to make exceptions, suspensions or modifications in any of the Rules and Regulations of the Cemetery when, in its judgment, the same appear advisable; and such temporary exceptions, suspension or modifications shall in no way be construed as

affecting the general application of such.

VIII. MEMORIALS CALVARY GARDENS

1. The Cemetery will permit only the use of bronze urns or vases approved by the Cemetery Supervisor, and they shall be contained in their own receptacle when not in use, the base of which shall be a concrete foundation.

IX. INSTALLATIONS AND FOUNDATIONS

1. All markers or memorials shall be installed by a memorial retailer, who has a valid local business tax receipt, at the cost of the Owner, and the memorial retailer shall assume responsibility for the proper construction of the foundation and the proper installation of such marker or memorial.
2. All foundations shall be the size and material specified by the City. (Note: Rules "1" and "2" under Section IX shall not apply to memorials for Veterans furnished by the Federal or State Government.)