

## ORDINANCE

### AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF BIBB COUNTY, GEORGIA, TO AMEND THE CODE OF BIBB COUNTY, GEORGIA, BY ADDING A NEW CHAPTER 20 ENTITLED "CEMETERIES"; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL CONFLICTING ORDINANCES AND FOR OTHER PURPOSES

**BE IT ORDAINED** by the Board of Commissioners of Bibb County, Georgia, and it is hereby ordained by authority of the same as follows:

**Section 1:** The Code of Bibb County, Georgia, is hereby amended as follows:

- (1) By adding thereto a new Chapter 20 entitled "Cemeteries" which shall read as follows:

#### CHAPTER 20 "CEMETERIES"

##### ARTICLE I. IN GENERAL

###### § 20-1 Burials.

It shall be unlawful for any undertaker or any other person to bury or cause to be buried, or to in any manner aid or assist in the burial of the dead body of any human being in any cemetery or location in the unincorporated area of the county other than an authorized public cemetery or a private cemetery established and approved pursuant to this chapter.

###### § 20-2 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Cemetery* means any land or structure in this state dedicated to and used or intended to be used for interment of human remains. It may be either a burial park for earth interments or a mausoleum for vault or crypt interments or a combination of one or more thereof.

*EPD* means the Georgia Department of Natural Resources Environmental Protection Division.

*FEMA* means the Federal Emergency Management Agency.

*Marker* means a small individual memorial placed at either the head or foot of a grave. This is sometimes referred to as a headstone or footstone.

### **§ 20-3 Authority of County Engineer.**

The County Engineer shall be responsible for issuing permits and ensuring that the requirements of this article are satisfied. Other than maintaining in his office an original of the plat of survey of each cemetery and maintaining an inventory of cemeteries in the county, the County Engineer and county shall have no responsibility or duty to supervise the operation of any such cemetery.

### **§ 20-4 Records.**

The County Engineer shall maintain a record and inventory of the locations of all cemeteries established and permitted pursuant to this article.

### **§ 20-5 Enforcement officers.**

All law enforcement agencies, officers, certified peace officers, and/or officials of the state, or any county code enforcement officer, are hereby authorized, empowered, and directed to enforce compliance with this article.

### **§ 20-6 Penalties for violation of article.**

It shall be unlawful for any person to operate a cemetery in the unincorporated area of the county unless done so in compliance with the provisions of this chapter.

- (a) Violators of the provisions of this chapter shall be subject to the penalties set forth in section 1-11 of this Code.
- (b) In addition to any other remedy provided in this article, the county may seek injunctive relief to cease and remove any violations of this article in the appropriate court against the appropriate person or entity.
- (c) Any violation of this article is hereby deemed to be a continuing nuisance and may be abated by an application for injunction or other proceedings allowed by law in the appropriate court.

### **§ 20-7 Operation.**

It shall be the sole responsibility and duty of the owner, creator, trust or other legal entity which shall own, supervise or have control of a cemetery to ensure that the same shall not at any time constitute a health hazard or be or constitute a nuisance. The owner, creator, trust or other legal entity, which shall own, supervise or have control of a cemetery shall have the right and responsibility of creating rules and regulations necessary to or appropriate for the operation of such cemetery.

### **§ 20-8 Creation of nuisances.**

No owner, creator, trust or other legal entity which shall own, supervise or have control of a cemetery shall allow such cemetery to accumulate weeds, trash, junk, filth,

or other unsanitary or unsafe conditions so as to create a public health hazard or a general nuisance to those persons residing in the vicinity.

## ARTICLE II. SPECIFIC REQUIREMENTS

### § 20-9 Permits.

No cemetery shall be allowed in the unincorporated area of Bibb County without the owner, creator, trust or other legal entity having first applied for and obtained from the Bibb County Engineer, a permit approving the operation thereof. In addition to any other requirements set forth in this chapter, no permit will be granted without compliance with the following:

- (1) **Survey.** A plat of survey of the cemetery prepared by a state-registered land surveyor shall be submitted to the County Engineer along with the application. Upon approval of the survey by the County Engineer, the applicant shall file, or cause to have filed, two signed original copies of the survey with the Superior Court Clerk for recording.
- (2) **Minimum area.** No cemetery shall be approved unless the survey provided for in this chapter indicates that the cemetery contains not less than two acres, the entire area of which shall be dedicated to and used only for cemetery purposes.
- (3) **Land use compatibility.** The location of the proposed cemetery is to be compatible with adjacent land uses, existing or proposed highways and any other elements or factors deemed by the county to affect the public health, safety and welfare of the inhabitants of the area surrounding the proposed location, including but not limited to the effect on aquifers, wells and ground water, the potential for pollution of nearby streams, lakes and other waters and the suitability of the soil composition for such use. Under no circumstances shall a cemetery be allowed within 1000 feet from any known well, aquifer, lake or stream which in the determination of EPD requires a stream buffer.
- (4) **Buffer area.** The proposed location must contain a buffer area that is landscaped with trees and/or shrubbery on all sides of the site that is identified on the survey and is not less than ten feet in width.
- (5) **Flood prevention.** No cemetery shall lie in whole or in part within a floodplain and certification of the same must be provided upon the survey shown on the latest FEMA flood maps.
- (6) **Identification of boundaries.** The boundaries of the proposed cemetery must be clearly marked and delineated by concrete or metal pins or other permanent means of identification. No burials shall be permitted within 500 feet of adjacent property lines.

(7) **Ingress and egress.** Adequate access, ingress and egress to and from the cemetery must be available by public road or private drive.

**§ 20-10 Additional requirements.**

- (a) Fencing shall be installed around the perimeter of the cemetery of sufficient height and strength to keep dogs and wild animals from accessing the cemetery.
- (b) Any land disturbances in the construction of a cemetery must be subject to all sediment erosion and ground water run-off requirements applicable to other development projects as set forth in the ordinances and regulations of Bibb County, Georgia.
- (c) All graves must be marked with an appropriate marker as defined herein that will allow law enforcement authorities to locate graves if necessary for any lawful purposes after interment.
- (d) All cemeteries shall be subject to the requirements of state law and regulations in effect or as they may exist in the future with regard to perpetual care, reinterment of remains and any such other conditions as may require remediation.
- (e) All human remains shall be buried in a leak-proof casket or vault to protect against contamination of ground water, wells, and aquifers.
- (f) No human remains shall be buried less than the depth that is customarily used in the funeral industry in Georgia and in accordance with minimum standards for interment as may be adopted by the Secretary of State.
- (g) Remains of persons who die from communicable diseases must be buried by and under the supervision of a licensed funeral director in accordance with the rules and regulations of the State Funeral Service Board.
- (h) Human remains must be buried before they begin to decompose as evidenced by odor, or create a danger to the health, safety and welfare of others.

**§ 20-11 Prohibited acts.**

- (a) It shall be a violation of this chapter to willfully disturb, destroy, deface, mutilate, remove, excavate or expose a burial place without first obtaining a permit pursuant to O.C.G.A. tit. 36, ch. 72 (O.C.G.A. § 36-72-1 et seq.), or as amended from time to time, and following the requirements of this chapter.
- (b) It shall be a violation of this chapter to fail to report the discovery of human remains or to notify the local authority of the disturbance of a burial ground.

(c) It shall be a violation of this chapter should any person or entity seeking a permit to disturb a burial place pursuant to O.C.G.A. tit. 36, ch. 72 (O.C.G.A. § 36-72-1 et seq.), as amended from time to time, not follow the provisions of this chapter.

(d) It shall be a violation of this chapter for any person or entity to fail to comply with the provisions of an approved permit.

**§ 20-12 Health department approval.**

The approval of the proposed cemetery must be obtained from the Bibb County Health Department and submitted with the application.

**§ 20-13 Appeal from denial.**

Appeals from the denial of a permit authorized by this chapter shall be to the Board of Commissioners of Bibb County.

**§ 20-14 Exemption.**

Any cemetery which as of the effective date of this ordinance has received all necessary state, local and federal permits, has otherwise met all legal requirements to operate, is fully operational and is lawfully receiving human remains for burial, shall be exempt from the requirements of this chapter.

**Section 2:** This ordinance as amended shall be effective immediately upon its passage.

**Section 3:** All ordinances or parts thereof in conflict herewith are hereby repealed.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

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**CHAIRMAN, Bibb County Board of  
Commissioners**