

Introduced by: Council Member Chris Hoffman

1st Reading: December 16, 2019

2nd Reading: January 21, 2020

ORDINANCE NO. 2019-8130

AN ORDINANCE AMENDING CHAPTER 8, “CEMETERIES”, OF THE CITY OF JACKSONVILLE BEACH, FLORIDA, CODE OF ORDINANCES BY AMENDING SECTION 8-1. “LOTS-PURCHASE EASEMENT FORM”; PROVIDING FOR FINDINGS; DELETING THE TERM “LINEAL”; ADDING THE TERM “COLLATERAL HEIRS”; REVISING THE PURCHASE EASEMENT FORM; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Jacksonville Beach has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida; Chapters 163 & 166, Florida Statutes; and

WHEREAS, Chapter 497 “the “Florida Funeral, Cemetery, and Consumer Services Act” of the Florida Statutes, does not use or define the term “lineal descendant”; and municipal cemeteries are generally exempt from the provisions of Chapter 497 relating to cemeteries; and

WHEREAS, “Collateral heir” means an heir who is related to the decedent through a common ancestor but who is not an ancestor or descendant of the decedent, which includes siblings, cousins, nieces, nephews, aunts and uncles of the decedent §731.201(6), Fla. Stat., and “Descendant” means a person in any generational level down the applicable individual’s descending line and includes children, grandchildren, and more remote descendants. §731.201(9), Fla. Stat. The term “descendant” is synonymous with the terms “lineal descendant” and “issue” but excludes collateral heirs. §731.201(9), Fla. Stat.; and

WHEREAS, research of many Florida municipalities shows that their Code of Ordinances and cemetery policies and regulations do not utilize the term “lineal” and don’t limit transfer of burial rights to lineal descendants, a sample of these municipalities include, Dunedin, Fernandina Beach, Fort Lauderdale, Fort Myers, Jacksonville, Kissimmee, Lake Wales, Melbourne, Ocala, Ocoee, Orange Park, Orlando, Palatka, Pompano Beach, and Tampa; and

WHEREAS, the City Council of the City of Jacksonville Beach finds the proposed ordinance will serve to protect the health, welfare and safety of residents and the regulation and use of municipal cemeteries, and the general exercise of burial easement rights.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE BEACH, FLORIDA:

SECTION 1. Recitals. The above recitals are ratified and confirmed as being true and correct and are made a part of this Ordinance and adopted as legislative findings.

SECTION 2. Amendment of City Code.¹ That Section 8-1 “Lots-Purchase easement form”, of Chapter 8 of the Code of Ordinances of the City of Jacksonville Beach, Florida, is hereby amended and ordained to read as follows:

Sec. 8-1. Lots-Purchase easement form.

For the consideration now or hereafter fixed by the city council for the purchase price, upon payment thereof, a conveyance in the form herein specified shall be made and issued to the purchaser of cemetery lots, executed in the name of the city by the mayor and city manager and attested by the city clerk under the seal of the city and duly acknowledged by such officer.

FORM OF BURIAL EASEMENT

Know all men by these present: That pursuant to the Code of Ordinances of Jacksonville Beach, Florida, and in consideration of \$ _____, the City of Jacksonville Beach, a municipal corporation, hereby grants and conveys to _____ as Grantee, a Perpetual Easement in the Cemetery Lot herein described, subject to the reservation of the fee in the said City for control of management and improvement and adoption of regulations essential to the uniform, orderly operation of the Cemetery; Section _____ Block _____ Lot _____ Grave No. _____ as shown on plat prepared by City of Jacksonville Beach Engineering Department and accepted by the City Council of Jacksonville Beach at its regular meeting on April 1, 1957, said plat being filed with the City Clerk of the City of Jacksonville Beach, Florida.

TO HAVE AND TO HOLD the same for the burial of grantee and family, deemed herein to be the surviving spouse and ~~lineal~~ descendants and collateral heirs of grantee; the surviving spouse being first vested during life with the exercise of easement in control and care of lot, and thence to the ~~lineal~~ descendants and collateral heirs; providing the grantee may by will or indenture appoint any person or corporation as executor or personal representative to exercise the right of easement limited or in perpetuity. The rights granted by this easement cannot be sold or assigned except back to the grantor.

IN WITNESS WHEREOF the Grantor has caused these presents to be made and executed by its officers, thereunto duly authorized this _____ day of _____ / _____ / _____, 19 20 _____.

Signed, sealed and delivered in our presence	CITY OF JACKSONVILLE BEACH (LS)
	By _____ Its Mayor
	By _____ Its City Manager

¹ (~~strikethrough~~ text indicates deletions, underline text indicates additions).

	Attest: _____ City Clerk
STATE OF FLORIDA COUNTY OF DUVAL	I hereby certify that on this day personally came and appeared before me the undersigned officer the following persons
	_____, Mayor
	_____, City Manager
	_____, City Clerk

SECTION 3. SEVERABILITY. It is hereby declared to be the intention of the City Council for the City of Jacksonville Beach that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable. If any phrase, clause, sentence, paragraph or section of this Code shall be declared to be unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code.

SECTION 4. CONFLICTING ORDINANCES. All ordinances, resolutions, official determinations or parts thereof previously adopted or entered by the City or any of its officials and in conflict with this ordinance are repealed to the extent of conflict or inconsistency herewith.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect upon final reading and approval by the City Council for the City of Jacksonville Beach.

AUTHENTICATED THIS 21st DAY OF January, A.D., 2020



 William C. Latham, Mayor



 Laurie Scott, City Clerk