

ORDINANCE NUMBER 2020-1

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TEMECULA CEMETERY DISTRICT RESTRICTING THE USE OF CEMETERY DISTRICT PROPERTY TO PROTECT THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC, PUBLIC INVESTMENT, AND PUBLIC PROPERTY

WHEREAS, the Temecula Cemetery District (the "District") is an independent special district duly organized and existing under and by virtue of the California Public Cemetery District Law, codified in Health and Safety Code Sections 9000 et seq.; and

WHEREAS, pursuant to Health and Safety Code Section 9020, the Board of Trustees (the "Board") serves as the legislative body of District; and

WHEREAS, pursuant to Health and Safety Code Section 9024, the Board shall establish policies for the operation of the District; and

WHEREAS, pursuant to Health and Safety Code Section 9030, the Board may adopt ordinances; and

WHEREAS, there is a need to restrict the use of District property in order to protect the health, safety and welfare of the public, public investment, and public property owned, leased or operated by the Temecula Cemetery District; and

WHEREAS, members of the public who visit the Temecula Cemetery District have a reasonable expectation to be able to visit a public cemetery that provides a peaceful and tranquil environment without fear of disruptions and without fear of harm caused by others present at the cemetery; and

WHEREAS, there is a need to adopt various restrictions on the use of the cemetery to mitigate the risk that member of the public who visit the Temecula Cemetery will be subject to unwanted disruptions and possible harm due to certain conduct and activities that are inconsistent and inappropriate to occur in a cemetery; and

WHEREAS, there is also a need to adopt various restrictions on the use of the cemetery to prevent harm and even death to those persons who may engage in any conduct and/or activities that are considered inconsistent or inappropriate in a cemetery.

NOW THEREFORE, THE BOARD OF TRUSTEES OF THE TEMECULA CEMETERY DISTRICT ORDAINS AS FOLLOWS:

Section 1. RECITALS

The above recitals are true and correct and are incorporated as though fully set forth herein.

Section 2. POLICY AND PURPOSE

There is a need to adopt a policy to impose certain restrictions on the use of District property for the purpose of protecting the health, safety and welfare of the public, public investment, and public property owned, leased or operated by the Temecula Cemetery District.

Section 3. USE RESTRICTIONS POLICY

The following use restrictions shall apply to the public's use of any property owned, leased or operated by the District:

(1) Operation of Vehicles.

No person, except for peace officers and District employees acting in the course and scope of their employment, shall drive any motorized vehicle on any surface of District property which is not specifically designated for public use as roadway or parking lot.

(2) Commercial Activities.

No person shall practice, carry on, or conduct any business or profession or other commercial enterprise, nor sell or offer for sale any service, merchandise, food, or beverage on or in any District property.

(3) Animals.

(a) No person shall cause, permit, or allow any animal owned or possessed by them, or any animal in their care, custody, or control to be present on District property except a "service animal" or "service dog" which means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or retrieving dropped items.

(b) No person shall cause, permit, or allow any animal owned or possessed by them, or any animal in their care, custody, or control to be present on District property which is not under physical restraint by leash of a size and material appropriate to the size and temperament of the animal and which is held by a person capable of restraining the animal, or is not otherwise physically restrained by some other device or instrument, except that such device or instrument shall not include voice control, eye control or signal control of the animal by any person, device or instrument.

(c) Any person having the custody or control of any dog as may be

permitted by ordinance or any applicable law shall have in their immediate possession a bag for picking up and disposing of dog feces and shall remove and dispose of in a sanitary manner any feces left by any dog in their custody and control.

(4) Glass Containers.

No person shall possess any glass container on District property lawns, sidewalks, patios, fountain areas, interment areas, parking areas or roadways.

(5) Hours.

No person, other than a District employee acting in the course and scope of their employment, shall enter or remain on District property any time before or after the District's posted business hours.

(6) Fires.

No person shall kindle a fire on any District property.

(7) Damaging Property.

No person shall cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, fence, bench, monument or other structure situated upon or within any District property.

(8) Amplified Sound.

No person shall use or operate an audio radio, loudspeaker or any sound amplifying equipment on any District property.

(9) Sport Activities.

No person shall play or engage in any sport activities including, but not limited to driving of golf balls, archery, baseball, softball, football, roller skating, skate boarding, playing soccer, volleyball or any other sport upon or within any District property.

(10) Bicycles.

No person shall ride any cycle, whether powered by a motor or human power, within or upon any District property, except on paths, roads or drives designed and provided for such purpose.

(11) Camping.

No person shall camp at any time within any District property.

(12) Alcoholic Beverages.

No person shall be in possession of any can, bottle, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which has been partially removed, upon or within any District property.

(13) Picnicking.

No person shall engage in any picnicking activities upon or within any District property.

(14) Loitering.

No person shall loiter on the grounds of the cemetery. As used in this section, loitering means and includes entering and remaining on the grounds of the cemetery without lawful business thereon and under such circumstances that a reasonable person would conclude that the person who has entered and remains on the grounds of the cemetery does not have a purpose connected with the lawful and ordinary use of the cemetery, does not have a bona fide intent to exercise a constitutional right, and is causing public inconvenience and annoyance.

(15) Supervision of Children

No person shall fail to supervise children who accompany that person to the cemetery. No children under the age of 12 shall be permitted unless accompanied by an adult who shall be responsible for their conduct.

(16) Bathing or Wading

No person shall bathe, wade, or otherwise immerse any part of his or her body in any fountain, pool, or other body of water located on District property.

Section 4. SPECIAL EVENTS EXCEPTION

The use restrictions described in this ordinance may be waived or modified pursuant to a special events permit issued by the District.

Section 5. VIOLATIONS

Any violation of the provisions of this ordinance by a member of the public shall be deemed an infraction punishable by: (a) a fine in an amount not to exceed one hundred dollars for a first violation; (b) a fine in an amount not to exceed two hundred dollars for a second violation of the same provision within a twelve month period commencing on the date of the first violation; and (c) a fine in an amount not to exceed five hundred dollars for the third violation of the same provision within a twelve month period commencing on the date of the first violation. A fourth violation and subsequent violations of the same

provision within a twelve month period from the date of the first violation shall be deemed a misdemeanor.

Section 6. PROTECTIVE MEASURES

The purpose of adopting and implementing these use regulations is to prevent and mitigate the risk of harm to those who may violate any of these use regulations and to prevent and mitigate the risk of harm to others who have a reasonable expectation of visiting the cemeteries owned and operated by the District without any fear for their safety.

Section 7. SEVERABILITY

The Board of Trustees declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 8. REPEAL OF CONFLICTING PROVISIONS

All the provisions of any resolution or ordinance as heretofore adopted by the Board of Trustees that are in conflict with the provisions of this ordinance are hereby repealed.

Section 9. EFFECTIVE DATE

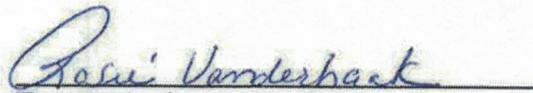
This ordinance shall take effect thirty days after its second reading.

Section 10. CERTIFICATION

The Secretary of the Board of Trustees shall certify to the passage of this ordinance.

The foregoing Ordinance was approved and adopted at a meeting of the Temecula Cemetery District Board of Trustees held on October 15, 2020, by the following vote:

Ayes:
Noes:
Abstain:
Absent:


Temecula Cemetery District, Chair

ATTEST:

Cindi Beaudet
Temecula Cemetery District, Secretary

APPROVED AS TO FORM:

Steven B. Quintanilla
Steven B. Quintanilla, General Counsel