

ROBESON COUNTY ZONING ORDINANCE

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ROBESON COUNTY CEMETERY ORDINANCE

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ROBESON COUNTY CEMETERY ORDINANCE

SECTION 1 LEGAL PROVISIONS

1.1 PURPOSE

The purpose of this Ordinance is to regulate the construction, management, operation, and platting of cemeteries, the burial of human corpses, and other cemetery uses and activities in the County.

An Ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control and management of "Private Cemeteries" owned by the landowner; to provide penalties for the violation of said Ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

1.2 TITLE

This ordinance shall be known and may be cited as the "Robeson County Cemetery Ordinance."

1.3 JURISDICTION

This provision of this Ordinance shall apply within the areas designed as zoning districts on the official zoning map(s) by the Board of Commissioners of Robeson County.

1.4 AUTHORITY

The Robeson County Board of Commissioners, pursuant to the authority conferred by N.C. GEN. STAT. 160D-702 et seq.; adopts, approves, enacts, and ordains, this ordinance.

1.5 SEVERABILITY

If for any reason any one or more sections, sentences, clauses or part of this Ordinance is for any reason held to be invalid, such decision shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses, or parts of this Ordinances in any one or more instances shall not affect or prejudice in any way the validity of this Ordinance in any other instance.

1.6 FEES

See Fee Schedule

1.7 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the date of its adoption.

1.8 ADOPTION

Duly adopted by the Board of County Commissioners of the County of Robeson, North Carolina, this the 16th day of November, 2020.

Robeson County Board of Commissioners
Lance Herndon, Chairman

Tammy S. Freeman, Clerk

SECTION 2 CUSTOMARY USES

2.1 SIGNAGE/EXPANSION/SETBACKS

Robeson County Zoning Ordinance 4.3 (Matrix) Churches and their customary related uses, including a (4'x8') sign not to exceed thirty-two (32) square feet in area and expansion of existing cemeteries, provided that all buildings, and graves shall be set back at least twenty (20) feet from any property lines.

SECTION 3 APPLICATION:

3.1 STEPS FOR A SPECIAL USE PERMIT

- A. Whenever it is proposed to establish a cemetery or to extend the boundaries of an existing cemetery, the party that is proposing shall make written application to the Robeson County Planning Board and the Robeson County Board of Commissioners, according to whether the cemetery, or extension of a cemetery is to be established. The written description shall describe accurately the location and boundaries of the proposed cemeteries or extensions as described in the Robeson County Zoning Ordinance Section 11.2.
- B. Before acting upon the application, The Robeson County Community Development Administrator shall refer the application to the Department of Health for investigation from a sanitary standpoint. In making such investigation the department shall take into consideration the proximity of the proposed cemetery or extension of a cemetery to human habitations, the nature of the soil, the drainage of the ground, the danger of pollution of valuable springs or streams of water, and such other conditions as would bear upon the situation.
- C. Having completed its investigation, the Robeson County Health Department shall submit the report to the Robeson County Community Development Administrator as exhibits for the Legislative Hearings.

3.2 PROCEDURES & HEARINGS

After a meeting is conducted by the Robeson County Planning Board & a duly advertised "Legislative Hearing" by the Robeson County Board of Commissioners, if the request for the "Special Use Permit," is granted; it shall be permitted with the following requirements:

- A. The Cemetery is to consist of the number of plots as drawn to scale on a required detailed site plan per Robeson County Zoning Ordinance Section 2.5;

- B. All "Plots" are to be setback a minimum of twenty (20) feet from the property line of the cemetery; and the new cemetery property lines are to be a minimum of twenty (20) feet from the original property line per **Section 9**;
- C. The Cemetery is to be named in accordance with the standards of the Robeson County Zoning Ordinance;
- D. The Cemetery is to be continuously maintained by the heirs of the family and everyone buried there is to be an heir;
- E. Cemetery plots are not to be sold to family or public;
- F. A fence as defined in the **Robeson County Zoning Ordinance Section 5.14** is to be erected around the perimeter of the cemetery or once established (body placed);
- G. A sign, identifying the Cemetery not to exceed 32 square feet (4'x8') is to be erected at the entrance of the Cemetery a minimum of seventy (70') feet from the center of a state-maintained highway or forty (40') feet from the owner(s) front property line;
- H. The landowner of the said Cemetery established may designate the frequency of access, hours and duration of the access and the access route if no traditional access route is obviously visible by view of the property;
- I. A ten (10') foot easement ingress, egress, and regress granted to persons specified in **Section 9** shall be reasonable and limited to the purposes of visiting graves, maintaining the gravesite or cemetery, or conducting genealogy research. The right of ingress and egress shall not be constructed to provide a right to operate motor vehicles on the property for accessing a cemetery or gravesite unless there is a road or adequate right-of-way that permits access by motor vehicle and the owner has given written permission to use the road or right-of way of necessity;
- J. The Cemetery is to be surveyed into its own parcel; a Plat Map & Deed must be recorded before the Special Use Permit can be recorded;
- K. Private Cemeteries must meet the minimum required bulk regulations per **Robeson County Zoning Ordinance Section 3.6.**
- L. Back-yard burials are not permitted; and it shall be unlawful to bury a dead body outside of a registered cemetery in the County of Robeson;
- M. The number of "Private Cemeteries" in a general area are not to exceed two (2) Cemeteries within a **one (1)** mile radius;

- N. No burials are to be permitted without a recorded "Special Use Permit;" and
- O. These permits are subject to any restrictive covenants that might appear of record.

SECTION 4 MARKERS & MEMORIALS

4.1 SPECIFIC TYPES

- A. All markers or memorials must be of durable compositions. Markers may not be homemade;
- B. All monuments must be located upon a suitable foundation to maintain the same in an erect position;
- C. Only one (1) monument, marker or memorial shall be permitted per burial space;
- D. No monument, effigy, or structure of any inscription shall be placed in or upon any lot which shall be determined by Robeson County Community Development to be offensive, improper or injurious to the surrounding lots, grounds or public shall be allowed.

SECTION 5 INTERMENT REGULATIONS & RECORDS

- A. Only one (1) person may be in a burial space except for a parent and infant or two (2) infants buried at the same time;
- B. Not less than thirty-six (36) hours' notice shall be given in advance of any time of any funeral to the Community Development Administrator;
- C. The appropriate permit for the burial involved together with appropriate identification of the person to be buried therein, where necessary, must be presented to the Community Development Administrator prior to interment. Where such permit has been lost or destroyed, the Community Development Administrator shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- D. All plots/graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

SECTION 6 RELOCATION

6.1 PROCEDURES FOR THE REMOVAL OF GRAVE(S), INCLUDING WHO MAY DISINTER, MOVE, AND REINTER

- A. The party moving effecting the disinterment, removal, and interment of a grave(s) containing decedent's remains must give at least thirty (30) days, written notice of such intention to the next of kin of the decedent, if known. Notice must also be published at least once per week for four successive weeks in a newspaper published in the county in which the proposed removal is to take place. N.C. GEN. STAT. 65-106(b)
- B. Removal expense is incurred by the mover with some expense (not over \$200) to be incurred by the next of kin. N.C. GEN. STAT. 65-106(d)
- C. The removal shall be made under the supervision and direction of the Robeson County Board of Commissioners, local Health Director, and Funeral Director.
N.C. GEN. STAT. 65-106-(g)
- D. The party removing or causing the removal of all such grave(s) shall, within thirty (30) days after completion of the removal and reinterment, file with the Register of Deeds of the County from which they grave(s) were removed and with the Register of Deeds of the County in which reinterment is made, a written Certificate of the removal facts.
N.C. GEN. STAT. 65-106(c)

SECTION 7 ABANDONED & MAINTENANCE OF HISTORIC CEMETERIES

7.1 COUNTY CARE OF RURAL CEMETERIES

N.C. GEN. STAT. 65-111, N.C. GEN. STAT. 65-112, and N.C. GEN. STAT. 65-113 outlines the duties of the County Commissioners: They are required to keep a list of all abandoned public cemeteries on file with the Register of Deeds. A copy is also to be sent to the Secretary of State's Office. The County Commissioners are also required to take control of all abandoned Public Cemeteries and may appropriate whatever sums are deemed necessary for their upkeep.

1. All human remains receive equal protection under North Carolina law, regardless of land ownership;
2. Land owners are prohibited from disturbing human remains and graves on their land;
3. Relatives and descendants may request the private landowners to provide reasonable maintenance;

4. Relatives and descendants have a right to maintain a cemetery if the landowner fails or refuses to do so;
5. If there is a dispute about access or maintenance, contact local law enforcement; The State Archaeologist has no responsibility or authority concerning access or maintenance of marked or previously marked grave(s); contact local law enforcement instead;

SECTION 8 PENALTIES & ENFORCEMENT

8.1 CITATIONS & PENALTIES

- A. Any person, firm or corporation who violates any of the provisions of this Ordinance shall be charged with a municipal civil infraction and shall be subject to a fine of up to one hundred fifty dollars (\$150.00) per day that the violation continues to exist shall constitute a separate offense. Any prosecutions here under shall not prevent civil proceedings for abatement and termination of the activity complained of.
- B. All law enforcement agencies, officers, certified police 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.

SECTION 9 AREA AND BULK REGULATIONS

The following regulations limiting the bulk arrangements of buildings shall govern all permitted and Special Uses in this district:

- A. Twenty-thousand (20,000) square feet minimum required lot area per Cemetery;
- B. One hundred ten (110) feet minimum required lot width per Cemetery;
- C. Seventy (70) feet from the center of highway required front yard (State maintained road) & Forty (40') feet from front property line required for front yard (soil road);
- D. Minimum required side yard shall be twenty (20') feet;
- E. Minimum required rear yard shall be twenty (20') feet;
- F. All "Plots" are to be setback a minimum of twenty (20) feet from the property line of the cemetery;
- G. The new Cemetery property lines are to be a minimum of twenty (20) feet from the original property line;

- H. A ten (10') foot easement ingress, egress, and regress granted to person(s) shall be reasonable and limited to the purposes of visiting graves, maintaining the gravesite or cemetery, or conducting genealogy research. The right of ingress and egress shall not be constructed to provide a right to operate motor vehicles on the property for accessing a cemetery or gravesite unless there is a road or adequate right-of-way that permits access by motor vehicle and the owner has given written permission to use the road or right-of way of necessity.

- I. The Permit is subject to any restrictive covenants that might appear of record.

SECTION 10 DEFINITIONS

Abandoned: Ceased from maintenance or use by the person with legal right to the real property with the intent of not again maintaining the real property in the foreseeable future.

Annual Fee: An annual inspection pertaining to the maintenance & regulations as set forth in the Ordinance.

Burial: Entombment, inurnment, or interment.

Burial Lot: Shall apply to numbered divisions as shown on the recorded plat, each of which consists of two, four, eight, or more graves spaces.

Burial Space: A plot or portion thereof in the cemetery designed and intended for the interment of a human body, but not already in use for such purpose, nor is the space to be used any other purpose except that which is incidental to the interment of a human body and the continued and/or subsequent care of the lot thereof.

Burial Vault: a required outside burial container as specified by the cemetery to incase human remains.

Burial Permit: Zoning Permit issued by the Community Development Department granting the burial of the deceased after all requirements of the ordinance has been met, to intended Funeral Home.

Cemetery: As defined in Chapter 65, Article 9 of General Statues of North Carolina, any one or a combination of more than one of the following in a place used or to be used and dedicated or designated for cemetery purposes:

- a. A burial park, for earth interment;
- b. A mausoleum; or
- c. A columbarium

Cemetery Authority: Named individual or individuals responsible for meeting the County and State requirements for a Family Cemetery.

Coffin: A box for holding a body at burial, made of wood, metal or concrete.

Collateral Heir: Relatives who are not direct decedents of a deceased person, but would inherit from the deceased if no direct decedents existed.

Columbarium: A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person.

Crematorium: A place housing a furnace for cremating.

Crematory: A furnace for cremating

Cremation: To reduce remains to ashes by burning.

Cremation burial: A burial of ashes of a cremated body.

Crypt: A subterranean chamber or vault used as a burial place for the deceased.

Descendant: A person or group of persons related to the deceased human by blood or accordance with N.C. GEN. STAT. Chapter 29.

Entombment: To deposit remains of the deceased.

Family Cemetery: Cemetery that is used only by a family or families where the deceased are related to the cemetery authority by either blood, marriage, stepchildren, or adoption.

Gravesite or "Plot": A place of burial for a single decedent.

Heirs: Any person entitled to take real or person property upon the death of persons without will (intestate).

Human remain or remains: the bodies or deceased person, and includes the bodies in any stage of decomposition, and cremated remains.

Interment: the permanent disposition of the remains of a deceased person by cremation, entombment or burial.

Inurnment: To place remains in an urn.

Lineal Heir: An individual who inherits in a line that ascends or descends from a common ancestor. The heir can be above or below the decedent in the direct line of descent. (i.e. Grandparent, Parent, Child, Grandchildren.)

Lot: numbered divisions as shown on the recorded plat, each of which consists of two, four, eight, or more grave spaces.

Mausoleum: a structure or building substantially exposed above ground intended to be used for the entombment of remains of a deceased person.

Marker: a memorial flush with the ground.

Monument: a tombstone or memorial of granite or other materials, which shall extend above the surface of the ground.

Neglected: Left unattended or uncared for through carelessness or intention and lacking a caretaker.

Non-Resident: Any individual not meeting one of the requirements for "Resident."

Occupied Space: Burial space in which a human body has been and remains therein interred.

Owner: Person or person(s) owning the privilege, license or right to interment of a human body in any burial space in a cemetery.

Perpetual Care: Continuing or continued without intermission or interruption; ceaseless.

Resident: An individual:

- A. Presently living within the County as primary place or residence or
- B. Presently owning real property within the County; or
- C. Having a verifiable association with the Town over a significant period of time.

Urn: A case or container for holding the ashes of the cremated dead.

Vault: a crypt or underground receptacle which is used for interment in the ground and which is designed to encase and protect caskets or similar burial devices.