



MEMORANDUM

TO: Mayor and City Council

FROM: Kimberly A. McNeeley, CPRP, Acting Director
Austin Parks and Recreation Department 

DATE: January 26, 2018

SUBJECT: Cemetery Rules and Regulations Update

The Cemetery Rules and Regulations (Rules) revision process was initiated on October 17, 2013, when City Council approved Resolution No. 20131017-042, directing the City Manager and by extension the Parks and Recreation Department (PARD) to conduct a public engagement process to evaluate the Rules. The Rules' purpose is to maintain the public's health, safety, comfort and welfare in the municipal Cemeteries, while showing respect for those interred.

In 2013, PARD reviewed the existing Rules and developed a dispute resolution process. In July 2014, PARD prioritized the completion of the Cemetery Master Plan in order for the plan to provide a framework for the Rules revision. In 2015, Austin City Council approved the Historic Cemeteries Master Plan.

In the summer of 2015, McDoux Preservation, LLC, finalized a Cemetery Rules Report. The report focused on grave ornamentation practices in the five municipal cemeteries, and included a summary of public responses related to grave ornamentation and recommendations. While the report recommended a working group to consider grave ornamentation, the Department believed that a small group was not an appropriate process for a subject matter this important to a diverse community. As such, in March 2016, the Cemetery Manager developed a public process for gathering the maximum feedback related to updating and enforcing the Rules, with a focus on grave ornamentation.

Following the initial March 2016 meeting, the following community engagement opportunities were implemented:

- **October 27, 2016** – The first community meeting was held, and public feedback was accepted via Speak-Up Austin
- **February to April, 2017** – Conversation Corps led guided discussions in two locations, Yarbrough Library and Britton, Durst, Howard, and Spence Building. The conversations focused on grave ornamentation, associated religious and cultural practices, and the maintenance requirements that restrict ornamentation placement and materials. The goal was to gather input from stakeholders of many different professions, ethnic backgrounds, and religious communities. A summary of input through the facilitated conversations, and Speak-Up Austin discussion was shared with stakeholders.
- **June 2017** – The draft Rules were completed. This draft incorporated recommendations from the 2015 Cemetery Rules Project Report, stakeholder feedback, as well as safety and maintenance challenges. PARD considered carefully ornamentation to determine practices that could be permitted that are now restricted in the currently adopted Rules. The draft Rules were subsequently reviewed by the City of Austin Law Department.

- **October 2017** – The updated Rules were presented to stakeholders during two public engagement meetings. Additional input and feedback was received and was incorporated into the final draft of the Rules. Following the two community meetings in October, PARD added section 14.4.12-General Regulations, (F) Appeals that outlines the process for anyone wishing to appeal a decision made by the Cemetery Administrator under the Rules.

The proposed Cemetery Rules were posted at the City Clerk's office and public review began on Tuesday, December 12, 2017 and ran through midnight January 11, 2018. *Process, Chapter 1-2. Adoption of Rules* establishes the administrative process and authority to establish the Rules.

A link to the *Process, Chapter 1-2. Adoption of Rules* is provided below:

(https://library.municode.com/tx/austin/codes/code_of_ordinances?nodeId=TIT1GEPR_CH1-2ADRU)

To Summarize Chapter 1-2, the rule adoption process outlines PARD's responsibility to post public notice of the proposed Rules, allow for a comment period, and respond to the comments before adopting the Rules. At the conclusion of the public comment period, the PARD Director will file a notice of rule adoption with the City Clerk. The adopted Rules are subject to an appeal process that is also outlined in Chapter 1-2. A person may appeal the adoption of the Rules to the City Manager within 30 days after the notice of rule adoption is posted by the City Clerk.

The comments received during the public comment period will be reviewed by PARD. Responses to all comments received will be posted on PARD's webpage and emails will be sent to all citizens that provided comments by February 16, 2018.

In addition, due to an inadvertent omission during the posting and public comment period, the PARD Director has decided to extend the public review of the proposed Rules. Extending the review requires letting the final rule adoption date of February 19 for this proposal to pass, and requires a re-posting of the proposed Rules with any updates or changes, based on public comments, to begin a new 31-day public review. The new posting is expected to occur before the end of February 2018.

After this review, a recommendation will be made to the Cemetery Administrator for adoption. This will be the final stage of a multi-year public engagement progression.

Once the new Rules have been adopted, a ninety (90) day notification period will begin. Notifications will include direct mail and email to Cemetery stakeholders, press releases, signage at the five (5) cemeteries, notification to partner agencies, and social media/print advertising. Enforcement of the Rules will begin after the notification period is complete. At that time, any outstanding non-compliant issues in the cemeteries will receive tags on the gravesites notifying plot owners that they will have 30 days to become compliant.

It is worth noting that the proposed Rules are less restrictive than the existing Cemetery Rules adopted in 1978. During a lengthy public engagement process, the Parks and Recreation Department received, reviewed and incorporated public input pertaining to ornamentation practices and religious accommodations.

In case the proposed Rules are not approved, the existing Rules will remain in effect and they will be enforced in order to maintain the public's health, safety, comfort and welfare.

Should you have any questions, please contact my office at (512) 974-6722.

cc: Elaine Hart, Interim City Manager
Sara Hensley, Interim Assistant City Manager