Chapter 1-8 CEMETERIES

Sec. 1-8-1. Short title.
This chapter shall be known as and may be cited as the Cemetery Rules and Regulations Ordinance of Hendry County.

(Ord. No. 2004-17, § 2, 10-26-2004)

Sec. 1-8-2. Definitions.
The following words when used in this chapter shall have the following meanings:

Babyland lots shall mean lots that are no more than half the size of memorial lots within a cemetery and which are further restricted to use solely for the interment of babies and stone markers which are flat and set flush with ground elevation.

Babyland section shall mean those areas of county cemeteries set aside for the interment of babies that are subject to the restrictions set forth in the definition of "babyland lots."

Burial shall mean the interment or entombment of a casket containing the remains of a deceased human being.

Burial lot shall mean a platted or designated lot in a county owned cemetery used exclusively for interment of the remains of a deceased human being.

Cemetery shall mean all property owned or operated by the county where dead bodies or cremated remains are interred, and any and all platted or designated lots within the cemetery whether owned by the county or any person.

Certificate of interment shall mean the document by which the county conveys a right of burial of a deceased human being in a designated burial lot in a cemetery.

Columbarium shall mean a structure containing niches for inurnment of cremated remains in a place used, or intended to be used, and dedicated or designated for cemetery purposes. These structures shall be included in the mausoleum section of the cemetery.

Contractor shall mean any person, having the appropriate licensing if required, engaged in placing, erecting or repairing any memorial, monument, mausoleum or performing any work in a cemetery, other than an employee or agent of the county.

County shall mean Hendry County, Florida.

County commission shall mean the Board of County Commissioners of Hendry County, Florida.
Cremated remains shall mean the remains of a deceased human being reduced to residue by direct flame or intense heat.

Grave cover shall mean a granite or concrete slab, ledger or slate, which covers the majority of a burial lot.

Human remains or remains shall mean the bodies of deceased persons, and shall include the bodies in any stage of decomposition, and cremated remains.

Interment shall mean the entombment or burial of the remains or the cremated remains of a deceased human being.

Lot marker means a concrete post used by the county to locate a burial lot.

Mausoleum shall mean a structure or building on those lots restricted to the construction of above ground structures intended for the interment of human remains in crypts or vaults in a cemetery.

Mausoleum section shall mean those areas of county cemeteries set aside for interment subject to the restrictions set forth in the definitions of "mausoleum" and "columbarium."

Memorial lots shall mean lots restricted to the use of markers, which are flat and set flush with the ground elevation.

Memorial section shall mean those areas of county cemeteries set aside for interment that are subject to the restrictions set forth in the definition of "memorial lots."

Monument lots shall mean lots allowed to use stone markers extending above ground elevation.

Monument section shall mean those areas of county cemeteries set aside for interment subject to the restrictions set forth in the definition of "monument lots."

Owner shall mean the owner of a burial lot or certificate of interment.

Person shall mean any person, firm, corporation, association or other legal entity.

Sec. 1-8-3. Restriction on ownership; use and transfer of burial lots or certificate of interment.

(a) Only a permanent resident of the county, a county taxpayer, a member of the resident's immediate family (parent, child, stepchild, grandparents or grandchildren or spouse) shall be permitted to acquire title to a burial lot or certificate of interment or any interest therein. Upon refusal of the county to permit interment because of the above provision, the county may refund to the owner the original price of the burial lot or certificate of interment, and the extent of the liability of the county shall be said amount. No mortgages or other encumbrances shall be placed upon a burial lot or certificate of interment.

(b) The county shall have the right to correct any errors made by it, either in making interments, disinterments or inscriptions. In the event the county errs in the conveyance of a burial lot via deed or certificate of interment, it shall have the right to substitute a burial lot of equal value and similar location in lieu thereof. The county shall have the right to correct any erroneous description, including an incorrect name or date, on a memorial or on a container for cremated remains.

(c) The sale or transfer of any burial lot or certificate of interment therein by an owner shall not be binding upon the county unless the same shall first be duly approved in writing by the county. The same rule shall apply in all cases of assignment of purchase contract for burial lots or certificates of interment. The county may refuse to approve the transfer or assignment as long as there is any indebtedness due the county on the purchase of the burial lots or certificate of interment or in the
event that the person to whom the lot or certificate of interment does not meet the residency requirements of this section.

(d) Any and all transfers of any burial lots or certificate of interment, whether by conveyance of deed or certificate of interment or assignment of purchase contract or certificate of interment, are subject to all rules, regulations and ordinances of the county which are now in effect or which may be hereafter enacted.

(e) The county reserves the right to disinter any remains of a deceased human being when the contract for the burial lot or certificate of interment has not been completed or is in default and to replace the remains in such burial lot in the cemetery as the county may determine, without liability on its part to refund the amount theretofore paid on account of such burial lot or for having made such removal.

(f) All applications for the purchase of burial lots or certificate of interment rights must be made to the Clerk of the Circuit Court of Hendry County. Burial lots will be sold at a price set by the county commission.

(g) If the owner of a burial lot or certificate of interment rights is alive, no person shall be interred in a burial lot without the written consent of the owner. If the owner dies leaving an unused burial lot, a certified copy of the last will and testament of the owner must be presented to the county commission to show who is entitled to the remaining interments rights. In the absence of an express disposition by the owner in his last will and testament, the following person shall be recognized as having the right to direct any interment rights in the unused burial lot or certificate of interment:

1. The surviving spouse, shall have the first right.
2. When there is no surviving spouse, the heirs at law, according to the order of succession under the Florida Statutes, of the owner may, by an agreement in writing, determine who among them shall have the right of interment or direction, which written agreement shall be delivered to the county commission.

(h) When interment is to be made in a burial lot where the joint owners of the burial lot or certificate of interment are living, the county shall have the right to recognize the order of either owner.

(i) The county's written consent, through its designated agent or employee, shall be in all cases obtained before interment is permitted. The county, its agent or employee may rely on an affidavit in making such determination and no liability whatsoever shall be incurred by the county with respect to such decision.

(j) No interment shall be made in any burial lot until the full price for the burial lot or certificate of interment has been paid to the county.

(k) When interment is by burial in the ground, there shall be used in connection with said burial the minimum of a concrete grave liner or steel or concrete burial vault. Any alternative to the minimum requirements must be approved by the county engineer prior to issuance of county's written consent to interment.

(l) When a removal is to be made from an interment space, an application for a removal permit must be signed by the next of kin and properly notarized prior to the time of removal and submitted to the county attorney's office for approval prior to disinterment.

1. If the removal is to be made from an interment space to another interment space within a county cemetery, in the case of ground burial, if no steel or concrete vault has been used, one must be furnished and used. If there is a steel or concrete vault and the same is in a removable condition, it shall be removed and used in a new burial space. Someone other than the county must make arrangements for the vault removal or relocation.

2. If the removal is to be made from an interment space to another interment space not within a county cemetery, in the case of ground burial, any steel or concrete vault must be removed. Someone other than the county must make arrangements for the vault removal and disposal.
(m) No multiple burials shall be allowed (two or more burials in one burial lot), except as follows:
   (1) A mother and infant in one casket;
   (2) The burial of siblings all of whom were infants (under the age of one) at death;
   (3) The burial of two or more cremated remains on lots designated by the owner for the burial of cremated remains only; and
   (4) The burial of cremated remains on lots in which a burial has already taken place.

(n) Burial of pets of any kind shall not be allowed in a cemetery unless the animal is cremated and enclosed in the casket with a human decedent.


Sec. 1-8-4. Memorials, monuments, columbaria, and mausoleums.

(a) No memorial, monument, foundation, grave cover or other permanent structure shall be erected in cemetery without first obtaining a permit from the county engineer. No fee for such permit shall be required, and the requirements for the issuance of a permit shall be as simple as possible to comply with the requirements of Chapter 497, Florida Statutes.

(b) No memorial, monument, mausoleum or columbarium may be set to cover two or more burial lots except a companion or family memorial. Only persons who are related by blood or marriage or who resided together in the same dwelling may be interred in a mausoleum or columbarium. Spaces in a mausoleum or columbarium may not be sold. All memorials, monuments, mausoleums or columbaria must be set on uniform lines as prescribed by the county engineer, to conform to the general plan of the cemetery.

(c) Only a flat bronze, granite or other tablet set flush with the turf may be placed on a burial lot in the memorial section. The county engineer must approve the dimension of the memorial.

(d) All memorials, monuments, grave covers, or other permanent similar structures shall be installed by a contractor, be of the size and materials approved by the county engineer, and be installed at the cost of the person ordering the construction. The contractor shall be responsible for the proper installation of the structures. The county shall not be liable for any defective materials furnished by or installation done by the contractor.

(e) If any monument, mausoleum, memorial, columbarium, grave cover, structure or other thing or any inscription placed on same, shall be determined by the county to be offensive, the county, its agents and employees shall have the right to remove any offensive or objectionable structure or other thing, or to change or correct the offensive or objectionable object or objects, or cause such changes or corrections to be made.

(f) Persons or contractors installing monuments, mausoleums, memorials, columbaria, grave covers, foundations, or other permanent structures in a cemetery must be registered with the county engineering department to obtain a required permit. The licensee must have on file a current proof of $50,000.00 liability insurance with the county engineer at all times. The county must be named as an additional insured on such insurance policy.

(g) Mausoleums, columbaria, or other permanent vertical buildings shall be constructed in accordance with F.S. § 497.271, and the Florida Building Code. Such a structure shall not be over 13 feet tall at its highest point including any architectural appurtenances from the highest surrounding grade. A building permit is required from the authority having jurisdiction and construction must be performed by a licensed contractor, and at the cost of the person ordering the construction. The contractor shall be responsible for the proper construction of the mausoleum, columbarium, or other permanent vertical building. The county shall not be liable for any defective materials furnished by or construction done by the contractor.
(h) No mausoleum, columbarium or other permanent vertical building shall be constructed in a cemetery without first obtaining a permit from the county engineer.


Sec. 1-8-5. General regulations.

(a) The county through its county commission, agents and employees shall have exclusive control over cemeteries and all monuments, mausoleums, memorials, improvements, burial lots, plantings, trees, shrubs, sodding and other things and objects within the cemeteries.

(b) The county will take reasonable precaution to secure the monuments, memorials and mausoleums within the cemetery but is not responsible for loss or damage from causes beyond its control, including, but not limited to, damage caused by the elements, acts of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasion, insurrections, riots, or order of any military or civil authority, whether the damage be direct or indirect.

(c) Persons within a cemetery shall use only the avenues, walkways and roads. Vehicles shall not be driven through a cemetery at a speed greater than 15 miles per hour. Vehicles shall not turn around on the driveways or roadways and shall not park or come to a full stop in front of an open grave unless such vehicle is in attendance at the funeral. No person shall ride or drive a vehicle upon a cemetery lawn, except for those vehicles owned or operated by or at the direction of the county or a licensed funeral director which are reasonably necessary for the interment or disinterment of a deceased human being in a burial lot or the maintenance, repair, or restoration of cemetery lawns.

(d) The county reserves the right to enlarge, reduce or change the boundaries or grading of a cemetery or of a section or sections thereof, including the right to modify or change the location of or to remove or re-grade, roads, drives and walks. The county also reserves the right to lay, maintain, operate and alter pipelines or gutters for sprinkling systems, drainage, lakes and similar things. Both of the above reservations shall be permitted so long as such changes and alterations do not interfere with the use of any burial lot or certificate of interment, which has been sold. The county expressly reserves the right to use unsold cemetery property for cemetery purposes, including the interring and preparing for interment of dead human bodies, or for anything necessary, incidental, appurtenant or convenient thereto. The county reserves a perpetual right of ingress and egress over burial lots or for the purpose of passage to and from other lots.

(e) Except for perimeter coping of marble, granite, or poured concrete no more than six inches high in areas designated for monument or mausoleum use, no enclosure of any kind, such as a fence, coping, hedge or ditch shall be permitted around any burial lot. Any coping installed in accordance with this provision must be maintained in a way which is not adverse to the beauty and repose of a cemetery in the determination of county staff. Any coping that is not maintained in accordance with this subsection may be removed by county staff after 30 days’ notice to the last known address for the owner of the lot or certificate of interment. Except for an initial grave mound of eight inches or less, grave mounds shall not be allowed and no burial lot shall be raised above the established grade. After settling has occurred the original grave mound must be leveled to the surrounding grade.

(f) If any tree, shrub, vine or plant standing or growing upon any burial lot, by means of its roots, branches or otherwise, shall become detrimental to adjacent burial lots, walk-ways, roads or avenues, or it is dead or damaged, the county shall have the right to remove such tree, shrub, vine or plant, or any part thereof, or otherwise correct the condition existing as in its judgment seems best.

(g) Planting of any kind on burial lots is prohibited. Cut or artificial flowers may be used at any time. The county reserves the right to remove all flowers, potted plants, summer wreaths, baskets of flowers, artificial flowers or other decorations, when they become withered, deteriorated, obstruct or hinder
the maintenance of the cemetery or interfere with the operation of the cemetery or become unsightly in the judgment of county.

(h) Metal or other tablets, baskets, boxes, easels, arbors, wire screens, designed rustic work, benches, vases, glassware, china, shelves and bric-a-brac, are considered injurious to the beauty or repose of a cemetery and shall not be allowed except at the time of a funeral, or unless placed on a slab, grave cover or headstone. Any of the above items may be removed without notice to the owner thereof.

(i) No signs or advertising matter of any kind shall be allowed in a cemetery.

(j) No person other than a county agent or employee shall pick, pluck or remove any plant, flower, whether wild, cultivated or artificial from any part of a cemetery.

(k) No benches, chairs, or trellis shall be placed anywhere within the boundaries of a county cemetery without prior written approval of the county.

(l) No pets shall be permitted in the cemetery.

(m) No person shall bring any food, beer, wine or other intoxicating liquor within a cemetery.

(n) No person shall go in a cemetery after sunset.

(o) No person shall hunt, fish or feed or disturb the fish, fowl or other animals about a cemetery.

(p) No person shall break or injure any tree, shrub, vine or bush or mar any landmark, marker, memorials, monuments or mausoleums or in any way deface the grounds of a cemetery.

(q) No interment in any burial lot shall be permitted in a cemetery until all laws and ordinances pertaining to burials, as may be enforced in the County of Hendry have been complied with.

(Ord. No. 2004-17, § 6, 10-26-2004; Ord. No. 2010-25, § 1, 8-24-2010; Ord. No. 2011-14, § 1, 8-23-2011)

Sec. 1-8-6. Penalty.

Any person who shall violate the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed $1,000.00.

(Ord. No. 2004-17, § 7, 10-26-2004)