

(Summary Published in the McPherson Sentinel _____, 2018, once)

ORDINANCE NO. 3268

**AN ORDINANCE OF THE CITY OF MCPHERSON, KANSAS
ADDING NEW SECTION 46 TO CHAPTER 22, ARTICLE II OF
THE CODE OF THE CITY OF MCPHERSON, KANSAS (2003)
PERTAINING TO DISINTERMENT.**

WHEREAS, on November 21, 2016 after receiving recommendations from the Cemetery Advisory Board, the McPherson City Commission adopted modifications to internal department policies regarding “Disinterment Requests and Procedures” for the McPherson Cemetery;

WHEREAS, staff now recommends that the Disinterment Policy be made a part of the Code of the City of McPherson, Kansas (the “**Code**”); and

WHEREAS, the City Commission has found and determined that it is appropriate to amend the Code in order to conform the provisions thereof to existing practice and previously adopted internal policy and modify the Code.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MCPHERSON, KANSAS:

Section 1. Addition of Code Section 22-46. From and after the effective date of this Ordinance, new Section 22-46 of the Code is added as follows:

Section 22-46. Disinterment Requests and Procedures.

- (a) Requests for disinterment of an individual interred or inurned at the McPherson Cemetery must be submitted in writing to the City on authorized forms, pursuant to this Section.
- (b) Disinterment will only be approved if:
 - (1) All living heirs at law of the decedent and the person who initiated the interment, if living (whether or not an heir at law), give their written consent; or
 - (2) Pursuant to a court order of competent jurisdiction directing the disinterment.

“**Heirs at law**” are defined as surviving spouse, even if remarried, all children of the decedent and the issue of any predeceased children of the decedent. In the event any individual required to consent herein is a minor or not legally competent, the legal guardian, agent under an appropriate durable power of

attorney or court appointed representative shall be required to consent in writing. In the absence of a surviving spouse or children, the decedent's living parents will be considered "heirs at law."

- (c) All disinterments will be without expense to the City and all fees for a disinterment charged by the City are due before a disinterment will be scheduled. Fees will be set from time to time by Resolution of the governing body. A request must include the following requirements:
 - 1. A description of the disinterment including relocation plans for the remains.
 - 2. A notarized statement from all heirs at law and the person who initiated the interment, if living, affirmatively stating no objection to the proposed disinterment and relocation plan. If the statement is signed by an authorized representative of a minor or legally incompetent party, acceptable documents must be provided demonstrating the agency (e.g. copy of power of attorney, letters of guardian/conservatorship, etc.).
 - 3. An affidavit of heirship attesting that those persons who provided statements are indeed the only living heirs at law of the interred decedent.
 - 4. In lieu of the documents required listed above, an order of a court of competent jurisdiction will be accepted. The City of McPherson or officials of the cemetery should not be made a party to the court action.
- (d) No disinterment shall be performed in the cemetery except by the Cemetery Sexton, or under the Sexton's supervision. Cemetery Staff shall only be responsible for removing the soil from the grave. A Kansas licensed funeral director ("**Director**") must be present throughout the disinterment and work will not begin without a Director present and shall cease if the Director leaves. The selected Director shall be responsible for removing and transporting the casket/vault/urn and all remains from the burial site. In the case of traditional casket burial, a vault company shall also be present with an additional vault should the original vault be damaged for reburial in the cemetery. No damaged or structurally unsound vaults will be reinterred in the Cemetery. In the case of an urn, a vault company is not required; however, an additional intact vessel shall be present should the original vessel be damaged for reburial in the cemetery. As a condition of approval, all parties must agree that the City shall not be liable for any damages incurred during the removal or placement of the disinterred vault.
- (e) No disinterment shall be performed two weeks before Memorial Day, nor shall any be performed on Saturdays, Sundays, or any City observed Holidays. The City must be notified at least one week before the disinterment and all

disinterment fees due to the City must be paid prior to scheduling the opening. The Cemetery Sexton reserves the right to postpone and reschedule any disinterment due to weather on any other unforeseeable events.

Section 2. Repeal. All or parts of the Code conflicting with the provisions of this Ordinance are hereby repealed.

Section 3. Publication and Effective Date. This ordinance shall take effect and be in full force and effect from and after its passage, signature and publication of a summary of this ordinance in the official city newspaper and posting of the full text of the ordinance on the city's website in compliance with K.S.A. 12-3007(b).

ADOPTED by the governing body this _____ day of _____, 2018.

CITY OF MCPHERSON, KANSAS

Thomas A. Brown, Mayor

[SEAL]

Attest:

Tamra K. Seely, City Clerk

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Ordinance No. 3268, Summary

On _____, 2018, the City of McPherson, Kansas adopted Ordinance No. 3268 adding new Section 46 to Chapter 22, Article II of the Code of the City of McPherson, Kansas (2003) pertaining to disinterment. A complete copy of this Ordinance is available at www.mcpcity.com or at the Municipal Center, 400 E. Kansas, McPherson, Kansas. Jeffrey A. Houston, City Attorney, certified this summary.

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