

**BY-LAWS**  
**OF**  
**MOFFAT CEMETERY ASSOCIATION, INC**

**ARTICLE I - OFFICES**

The office of the Association in the State of Texas shall be located in the community of Moffat, County of Bell, State of Texas, as designated by the Board of Directors.

**ARTICLE II - MEMBERS**

**1. MEMBERSHIP.**

Membership may be obtained by the purchase of a lot or lots or by being a relative/descendant of persons buried in Moffat Cemetery.

**2. ANNUAL MEETING.**

The annual meeting of the members shall be held on the second Saturday of October of each year, at the hour of 9:00 o'clock A.M. for the purpose of electing directors and for transaction of such other business as may come before the meeting. If the day fixed for the annual meeting shall be a legal holiday such meeting shall be held on the next succeeding business day.

**3. SPECIAL MEETINGS.**

Special meetings of the members, for any purpose or purposes, unless otherwise prescribed by statute, may be called by the president or by the directors, and shall be called by the president at the request of not less than 25 members entitled to vote at the meeting.

**4. PLACE OF MEETING.**

The directors may designate any appropriate place, within the Community as the place of meeting for any annual meeting or for any special meeting called by the directors.

**5. NOTICE OF MEETING.**

Printed notice to be submitted to a local newspaper stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not more than 20 days before the date of the meeting, at the direction of the president, or the secretary, or the officer or persons calling the meeting.

**6. QUORUM.**

At any meeting of members, where a majority of the directors are represented in person, shall constitute a quorum.

**7. VOTING.**

Each member entitled to vote, in accordance with the terms and provisions of these by-laws, shall be entitled to one vote, in person. Upon demand of any members present, the vote for directors and upon any question before the meeting shall be by ballot. All elections for directors and all other questions shall be decided by majority vote. At least Four (4) directors are to be elected each year for a two year term.

## **8. ORDER OF BUSINESS.**

The order of business at all meetings of the members shall be as follows:

1. Call to Order.
2. Reading of minutes of preceding meeting.
3. Reports of Officers.
4. Reports of Committees.
5. Election of Directors.
6. Unfinished Business.
7. New Business.

## **ARTICLE III - BOARD OF DIRECTORS**

### **1. GENERAL POWERS.**

The business and affairs of the Association shall be managed by its board of directors. The directors shall in all cases act as a board, and they may adopt such rules and regulations for the conduct of their meetings and the management of the Association, as they deem proper, not inconsistent with these by-laws or of this State.

### **2. NUMBER, TENURE, AND QUALIFICATIONS.**

The number of directors of the Association shall be at least Eight (8). Each director shall hold office until the expiration of his term or until his successor shall have been elected and qualified. A director must be a qualified member of the Association and elected as a director according to these by-laws.

### **3. REGULAR MEETINGS.**

A regular meeting of the directors shall be held without other notice than this by-law immediately after, and at the same place as, the annual meeting of members. The directors may provide, by resolution, the time and place for holding of additional regular meetings without other notice than by resolution.

### **4. SPECIAL MEETINGS.**

Special meetings of the directors may be called by or at the request of the president or any two directors. The person or persons authorized to call special meetings of the directors may fix the place for holding any special meeting of the directors called by them.

### **5. NOTICE.**

Notice of any special meeting may be given verbally Two (2) days previously thereto.

### **6. QUORUM.**

At any meeting of the directors a majority of board members constitute a quorum for the transaction of business, but if less than said number is present at a meeting, the directors present may adjourn the meeting without further notice.

### **7. MANNER OF ACTING.**

The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the directors as a whole.

### **8. NEWLY CREATED DIRECTORSHIPS AND VACANCIES.**

Newly created directorships resulting from an increase in the number of directors and vacancies occurring in the board for any reason except the removal of directors without cause may be filled by a vote of a majority of the directors

then in office, even when less than a quorum exists. Vacancies occurring by reason of removal of directors without cause shall be filled by a vote of the members. A director elected to fill a vacancy caused by resignation, death or removal shall be elected to hold office for the unexpired term of his predecessor.

#### **9. REMOVAL OF DIRECTORS.**

Any or all of the directors may be removed for cause by vote of the members or by action of the board. Directors may be removed without cause only by vote of the members.

#### **10. RESIGNATION.**

A director may resign at any time by giving written notice to the board, the president or the secretary of the Association. Unless otherwise specified in the notice, the resignation shall take effect upon receipt thereof by the board or such officer, and the acceptance of the resignation shall not be necessary to make it effective.

#### **11. COMPENSATION.**

No compensation shall be paid to directors for acting as such.

#### **12. PRESUMPTION OF ASSENT.**

A director of the Association who is present at a meeting of the directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

#### **13. EXECUTIVE AND OTHER MEETINGS.**

The board, by resolution, may designate from among the Association members an executive committee and other committees. Each such committee shall serve at the pleasure of the board.

### **ARTICLE IV - OFFICERS**

#### **1. NUMBER.**

The officers of the Association shall be a president, a vice-president, a secretary and a treasurer, each of whom shall be elected from among the directors by members present. Such other officers and assistant officers as may be deemed necessary may be elected or appointed by the directors.

#### **2. ELECTION AND TERM OF OFFICE**

The officers of the Association shall be elected bi-annually at the annual meeting of the members. Each officer shall hold office until his successor shall have been duly elected and shall have qualified or until his death or until he shall resign or shall have been removed in the manner herein provided.

#### **3. REMOVAL.**

Any officer or agent elected or appointed may be removed by the directors whenever in their judgment the best interests of the Association would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person removed.

**4. VACANCIES .**

A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the directors for the unexpired portion of the term.

**5. PRESIDENT .**

The president shall be the principal executive officer of the Association and, subject to the control of the directors, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the members and of the directors. He may sign, with the secretary or any other proper officer of the Association any deeds, contracts, or other instruments which the directors have authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the directors or by these by-laws to some other officer or agent of the Association or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and other duties as may be prescribed by the directors from time to time.

**6. VICE-PRESIDENT .**

In the absence of the president or in event of his death, inability or refusal to act, the vice-president shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. The vice-president shall perform such other duties as from time to time may be assigned to him by the President or by the directors.

**7. SECRETARY .**

The secretary shall keep the minutes of the members and of the directors' meetings in one or more books provided for that purpose, see that all notices are duly given in accordance with the provisions of these by-laws or as required, be custodian of the Association records and of the seal of the Association, and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned by the president or by the directors.

**8. TREASURER .**

If the board of directors deems wise or prudent to do so, the treasurer shall give a bond, at the Association's expense, for the faithful discharge of his duties in such sum and with such surety or sureties as the directors shall determine, and shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with these by-laws and in general shall perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned by the president or by the directors.

**9. TRUST RESPONSIBILITIES .**

The President, Vice-President, and Treasurer shall also serve as Co-Trustees of the Trust funds as provided by Article X and shall have charge of all funds and be responsible for the proper investment of said Trust funds as provided by Article X. Accounting for all funds shall be made at each Annual meeting and at any other time deemed necessary by the Board.

**10. SALARIES .**

There shall be no salaries for the officers.

## **ARTICLE V - SALE OF LOTS, CONTRACTS,**

### **LOANS, CHECKS AND DEPOSITS**

#### **1. SALE OF LOTS.**

Sale of lots shall be in uniform manner prescribed by the directors and a receipt provided identifying the lot or lots sold and with the restriction that lots are not to be re-sold except back to the Association at the original purchase price. No block of lots shall be sold.

#### **2. CONTRACTS.**

The directors may authorize any officer or offices, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association, and such authority may be general or confined to specific instances.

#### **3. LOANS.**

No loans shall be contracted on behalf of the Association and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the directors. Such authority may be general or confined to specific instances.

#### **4. CHECKS, DRAFTS, ETC.**

All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such officer or officers, agent or agents of the Association and in such a manner as shall from time to time be determined by resolution of the directors.

#### **5. DEPOSITS.**

All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the directors may select.

## **ARTICLE VI - FISCAL YEAR**

The fiscal year of the Association shall begin on the first day of July in each year.

## **ARTICLE VII - SEAL**

The directors shall provide a corporate seal which shall be circular in form and shall have inscribed thereon the name of the Association, the state of incorporation, year of incorporation and the words, "Corporate Seal".

## **ARTICLE VIII - WAIVER OF NOTICE**

Unless otherwise provided by law, whenever any notice is required to be given to any member or director of the Association under the provisions of these by-laws or under the provisions of the articles of incorporation, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

## **ARTICLE IX - AMENDMENTS**

These by-laws may be altered, amended or repealed and new by-laws may be adopted by a 75% vote of the members present, and voting, at any annual members meeting.

## ARTICLE X - TRUST AGREEMENT

(1) Whereas there was a Declaration of Trust created between the Moffat Cemetery Association and the Temple National Bank when this Association was formed: We hereby adopt that Trust agreement as part of our governing By-Laws as it originally should have been and a copy is attached hereto.

We hereby specify that all donations, gifts, and memorials in the form of funds are to become a part of the corpus of said Trust as described in said agreement.

(2) Whereas NCNB, the Successor Trustee of said Trust, has submitted their resignation as provided in paragraph VII thereof effective October 20, 1991, but has requested an extension of their role as Trustee until December 31, 1991, for tax purposes, their resignation and extension are accepted. The Moffat Cemetery Association hereby accepts their resignation and appoints successor Co-Trustees to be:

- (A) The President of Moffat Cemetery Association and successors in office.
- (B) The Vice-President of Moffat Cemetery Association and successors in office.
- (C) The Treasurer of Moffat Cemetery Association and successors in office.

No Bond shall be required of these Co-Trustees and if any bond is ever required by law or if the Board deems wise and prudent to require such bond, it will be at the Association's expense.

Any withdrawal of principal, or change of holding company, of the funds, currently invested with Edward Jones Company, shall be agreed upon by a vote of the directors of the Association, affirmed by the secretary and a resolution submitted to the present holder of the funds.

DECLARATION OF TRUST

A.A. Hyden, Et Al  
"Settlors"

State of Texas

To

Temple National Bank,  
Trustee for Moffat  
Cemetery Association

County of Bell

WHEREAS, there is now in existence a non-profit Association of individual cemetery lot owners which is known as MOFFAT CEMETERY ASSOCIATION, hereinafter called "Association"; and,

WHEREAS, the Association now owns real property located near Moffat, Texas, which is dedicated as and used for cemetery purposes; and,

WHEREAS, the undersigned now desires to make provisions for annual sums of money to be made available and paid to the officers of the Association, to be used by such Association for the purpose of the general care and maintenance of the cemetery grounds:

***NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS:***

That the undersigned, hereinafter called "Settlors", do hereby establish this charitable Trust.

In consideration of the mutual promises and in order to accomplish the purposes herein set forth, Settlors do hereby donate, pay, transfer and grant to TEMPLE NATIONAL BANK, Temple, Texas, a national banking corporation, organized and existing under the laws pertaining to national banks and with duly accredited trust powers, and its successors, hereinafter called "Trustee", one dollar to be held by it in Trust as Trustee, for the purposes and uses and under the provisions, terms and conditions which follow:

***I.***

This Trust shall be known as the MOFFAT CEMETERY ASSOCIATION TRUST and shall have perpetual existence, the Settlors hereby releasing and waiving all rights and powers of revocation.

***II.***

- (a) The Trustee shall pay the annual net income to the officers of the Association, such income to be paid in installments and at such times as agreed upon between the Trustee and the officers. No invasion of the corpus of the Trust property shall ever be made for any purpose and only the income from the Trust property shall be used as provided herein.
- (b) The income as received by the officers of the Association is hereby agreed by Settlors, through its officers, to be expended by them for the purpose of maintaining the general care and beautification of the Moffat Cemetery grounds. In maintaining such grounds with the funds so received from this Trust, the Association is directed that it may maintain individual burial lots and graves, as well as that ground in the cemetery located between burial lots and individually owned lots, and the areas between the roadways, walkways and burial lots, to the end that the entire cemetery grounds may be uniformly maintained and beautified. Trust income so received shall never be expended for the purchase of individual grave markers, stones or other marks of identification for a grave or burial place.

The Association shall maintain at all times proper records of donors to this Trust and shall be responsible for allocating income between individual graves spaces and the cemetery.

(c) By way of illustration, and not by limitation, the following expenditures are to be deemed as proper for the maintaining and beautifying of the cemetery grounds; purchase of trees and shrubs, building and maintaining roads, driveways, walks and entrance structures, laying of water lines and mains, and the payment of caretakers and other employees employed to accomplish the purpose here set out.

### III.

The Trustee shall not be liable or responsible for the proper application of the income after payment of it to the Association officers, provided, however, that the Trustee shall require an annual statement from the officers stating that all trust income has been expended by them in accordance with the provisions of Paragraph II above.

### IV.

The Trustee shall invest and reinvest the principal in such investments, real, personal or mixed, in accordance with the standards as prescribed by the Texas Trust Act, Article 7425(b), Revised Civil Statutes of Texas, as the same provides as of the date of this instrument. The Trustee is hereby given full and complete authority to buy and sell such investments as he deems wise under the standard provided, giving such instruments as are necessary to convey good title, to vote stock in person or by proxy, and all additional powers and authorities as are set forth in the Texas Trust Act.

### V.

The Settlers, or any other person, firm or corporation, may give and grant additional property, real, personal or mixed, to the Trustee under this Trust provided, however, that the Trustee is hereby given and granted the sole discretionary right to determine whether or not to accept any and all gifts of property, real, personal or mixed, whether by inter vivo or testamentary disposition, from any person, persons, corporations, companies or organizations. In the event that additional property is donated or devised to this Trust, with restrictions or conditions attached thereto, then the Trustee shall determine whether to accept the gifts or donations of property with such conditions or restrictions attached. The Trustee shall have the sole discretionary authority and judgment to determine whether or not to accept or reject any gifts and donations offered to the Trustee under this Trust instrument, and the decision of the Trustee shall be binding and final for all purposes.

### VI.

The Settlers shall have the right to examine the books and accounts of the Trust at any time. The Association's office shall have the right to examine the books and accounts of the Trust at any time. The Trustee shall prepare annual statements of the accounts of the Trust, furnishing such statement to the officers of the Association.

### VII.

- (a) The original Trustee, or any successor Trustee, may resign by first giving thirty (30) days written notice of such intention to the officers of the Association. The Trustee shall then request that the Association appoint and designate a successor trustee and thereafter cease to be



Trustee. In the event the Association's officers fail or refuse to designate and appoint a successor Trustee, then a Trustee desiring to resign may do so, after proper thirty (30) days notice as above provided, by filing a petition in a District Court in Bell County, Texas, requesting that said court appoint a successor Trustee. Upon such appointment by the Court, the resigning Trustee shall account for all funds and transfer all funds to the succeeding Trustee.

- (b) No bond shall be required of the original Trustee. Whether bond shall be required, and the amount, if any, of an successor Trustee shall be determined by the authority so appointing.

### VIII.

The Trustee shall be entitled to receive an annual fee, such fee to be reasonable and commensurate with the services rendered and the income earned during the year.

### IX.

The use of the words "officers of the Association" is defined to mean the President, the Vice President, and the Treasurer or the comparable positions, of the MOFFAT CEMETERY ASSOCIATION. The Trustee shall be authorized to transact any Trust business, including the payment of Trust income, to any two of these three officers here named. In connection with this paragraph, the Association shall furnish the Trustee annually a certified copy of the minutes of its annual meeting at which the Directors and officers of the Association are elected, and the Trustee shall deal with the Directors and officers of the Association as shown by the certified copy of the annual meetings of the Association

Original signed by:

C.A. Brown  
Marvin Spoons  
George Swaim  
Mary Hyden Morgan  
Jim K. Evetts  
Gaston M. Mayes  
A.C. Kuykendall

Fred L. Nibling  
Pearl Brown  
Irene Goode Lawson  
Paul McLaughlin  
Oleane Trimmier Ludwick  
Ruth Goode Sivils  
Mrs. John E. Carberry