

**CITY OF SULTAN
WASHINGTON
ORDINANCE 1150-12**

**AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,
REPEALING CHAPTER 2.48 “CEMETERY REGULATIONS” OF
THE SULTAN MUNICIPAL CODE IN ITS ENTIRETY;
REPEALING PROCEDURES FOR PAYMENTS, RECORD
KEEPING AND ENDOWED CARE; PROVIDING FOR
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the City of Sultan is the owner and operator of a municipal cemetery; and

WHEREAS, it is necessary to establish a more comprehensive set of written rules, regulations and standards to control the operation of the City of Sultan cemetery; and

WHEREAS, the City of Sultan must establish written rules, regulations and standards to provide a municipal cemetery which will protect the interests of all persons concerned with its maintenance and care; and

WHEREAS, The city adopted Ordinance No. 285 in 1966, Ordinance No. 382 in 1970, and Ordinance No. 444 in 1983 establishing cemetery regulations for payments, records, and endowed care; and

WHEREAS, the previous ordinances did not provide a cohesive set of long-range objectives or policies for lot sales, internments, and maintenance levels for the cemetery; and

WHEREAS, the City Council Subcommittee met on March 1, 2012 to review the Sultan Cemetery Rules and Regulations and recommended specific policy changes to the city council on May 10, 2012; and

WHEREAS, the City Council considered the recommendations made by the Council subcommittee and determined it was in the best interest of the city, cemetery lot owners, and visitors to the Sultan Cemetery to adopt a set of cohesive policies;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Repealer. The existing SMC Section 2.48 “Cemetery Regulations” is hereby repealed in its entirety and replaced as set forth in Exhibit A.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining

portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 14th DAY OF JUNE 2012.

CITY OF SULTAN



Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:



Laura Koenig, City Clerk

Approved as to form:



Margaret J. King, City Attorney

Ordinance: 1150-12

Passed by the City Council: June 14, 2012

Date of Publication: *June 18, 2012*

Effective Date: *June 23, 2012*

**Chapter 2.48
CEMETERY REGULATIONS**

Sections:

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2.48.010 - Definitions.

As used in this chapter:

"Double interment" means the burial of two bodies in one grave Double interments are no longer permitted.

"Cemetery" means the burial ground commonly known as the Sultan cemetery, including, without limitations:

1. All land dedicated, reserved or used for interment of the remains of human dead;
2. All vegetation therein;
3. All graves, mausoleums, crypts, columbaria, niches or other interment spaces therein;
4. All works of art therein;
5. All roads, walkways and other structures of every kind therein;
6. All equipment and facilities incidental to the operation of Sultan cemetery.

"City" means the City of Sultan.

"Columbarium" means a structure or other space containing niches for permanent inurnment of cremated remains.

"Committal" means the part of a funeral service which commits the remains of the deceased to their final resting place.

"Companion or double graves" means two single graves side by side.

"Cremated remains" means a human body after cremation in a crematory.

"Funeral" means a memorial service for a deceased person.

"Grave" means a space of land in a cemetery used or intended to be used for the burial of human remains.

"Grave owner" or "owner" means any person in whose name an interment plot stands of record as owner, in the records of the cemetery at Sultan City Hall.

"Human remains" or "remains" means the body of a deceased person, and includes the body in any stage of decomposition except cremated remains.

"Interment" means the burial, entombment or inurnment of human remains.

1. "Burial" means the disposition of human remains by earthen burial in a grave.
2. "Entombment" means the placement of human remains in a crypt either above or below ground.
3. "Inurnment" means placing of cremated remains in an urn in a grave, crypt, or niche.

"Lot(s)" owner(s)" and "space(s) owner(s)" shall be construed to mean ownership of the right to use lot(s)/space(s) as purchased from the city for a consideration, for burial purposes only and under the regulations as prescribed by the city for such use.

"Maintenance" means cutting of the lawns on the graves and other lawn areas within the cemetery at reasonable intervals, and the general maintenance of the cemetery including building roads, fences, etc., in so far as the city budget will permit.

"Memorial" means:

1. A monument, tombstone, grave marker, tablet or headstone identifying a grave or graves; or
2. A name plate or inscription identifying a crypt or niche to preserve remembrance; or
3. A name inscribed on the remembrance wall.

"Niche" means a space in a columbarium used or intended to be used for the inurnment of cremated human remains.

"Plot" means a grave site or lot.

2.48.020 - Operation and maintenance.

- A. The city cemetery shall be operated and maintained by the city department of public works or designee. The public works director, subject to regulation by the mayor, shall appoint suitable personnel to be responsible for administration of this chapter and for the operation and maintenance of the cemetery.
- B. The City is under no obligation to maintain any set standard for its care and up-keep. The City does however endeavor to provide general maintenance and care to the cemetery in keeping with the reminder that it is sacredly devoted to the interment of the dead.
- C. The city council shall have the right to make exceptions from the foregoing rules when deemed advisable. Such exceptions shall not be considered as rescinding or waiving any of these rules. Any waiver that may be made by the city council shall not be or considered to be continuing waiver and shall not bar the city or city council from enforcing the usual rules and regulations at any later time if it may be desired so to do.
- D. In all matters not specifically covered by these general rules and restrictions, the city reserves the right to do anything which in its judgment is deemed reasonable in the cemetery, and such determination shall be binding upon lot holders and all parties concerned.

2.48.030 - Admission to cemetery

- A. It is unlawful for anyone to enter or be in the cemetery between dusk and dawn, except when the cemetery is open between such hours by order of the director of public works for a special occasion or service; provided, this section shall not apply to employees of the city who enter the cemetery in the course of their employment.
- B. Children are not permitted on the premises unless in the company of a responsible adult and they shall be supervised at all times.
- C. Dogs are not allowed in the cemetery, except service dogs.

2.48.040 - Liability.

The City of Sultan shall not be liable to any person for injuries sustained while within any portion of the cemetery.

2.48.050 - Vehicles.

All vehicles must be kept under control at all times. No vehicle shall be driven in any part of the cemetery except on the driveways laid out for that purpose. No

vehicle in excess of ten thousand pounds gross vehicle weight shall be permitted on the city cemetery grounds except with permission of the city.

2.48.060 - Conduct.

It is of utmost importance that members of the public conduct themselves appropriately. The following behaviors are not allowed in the Sultan cemetery:

- A. Loud talking and distracting activities will be avoided within hearing distance of a funeral service.
- B. Littering including wilted or dead flowers and any other refuse on drives, paths, or any grounds or in any building is prohibited.
- C. Picking any flower, breaking any branch or removing any tree or plant is prohibited. Nor shall anyone write upon, deface, or damage any memorial, fence or other structures within the cemetery.

2.48.070 - Peddling or soliciting.

No person will be permitted to peddle flowers or plants or to solicit the sale of any commodity within the cemetery.

2.48.080 - Signs.

No signs, notices or advertisements of any kind shall be allowed in the cemetery, unless placed by the city.

2.48.090 - Authority of cemetery staff.

The City reserves the right to adopt new rules, amend or suspend present rules and regulations herein, at any time, without notification to the lot owner.

City staff responsible for the grounds and buildings are empowered to enforce all rules and regulations and to exclude from the cemetery any person violating the same. All persons in the cemetery, including the conduct of funerals, traffic, employees, plot owners and visitors shall comply with this code.

2.48.100 - Errors may be corrected.

The city reserves, and shall correct any errors that may be made by it either in making interments, disinterment or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value

and similar location as far as possible, or as may be selected by the cemetery staff, by refunding the amount of money paid on account of said purchase.

In the event the error involves the interment of the remains of any person in such property, the staff reserves, and shall have, the right to remove and re-inter the remains to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof. The city shall correct any errors made by placing an improper description, including an incorrect name or date on the memorial.

The City shall not be held liable for errors or damages which may occur as a result of misinterpretation of telephone instructions from lot owners, their legal representatives or funeral directors, acting on behalf of the owner or his/her heirs.

2.48.110 - Delays.

The city shall not be liable for any delay in the fulfillment of any of its contracts or legal obligations, including, but not limited to, maintenance, care, memorial work or construction which may arise from causes beyond its reasonable control and, especially, from delays caused by the elements, thieves, vandals, strikes, malicious mischief matters, unavoidable accidents, or other circumstances beyond the control of the city.

2.48.120 - Nonlimitation.

In all matters not specifically covered by these general rules and restrictions, the city reserves the right to do anything which in its judgment is deemed reasonable in the cemetery, and such determination shall be binding upon lot holders and all parties concerned.

2.48.130 - Amendments.

The city may, and hereby expressly reserves the right, at any time or times, to adopt new rules and regulations, or to amend, alter, or repeal any rule, regulation or article, section, paragraph or sentence in these rules and regulations. Any such change in the rules and regulations shall be binding upon all parties without notice.

2.48.140 - Lot purchase.

A. Any person desiring to purchase a lot in the city cemetery shall make application to the cemetery sexton. Application shall be upon forms to be prepared by the city. At the time of purchase, the purchaser shall pay the sum

set by resolution as the purchase price of the lot and shall be issued a receipt, signed by the Cemetery Sexton, conveying to him or her the sole right to use the lot for burial purposes. Payments shall be forthwith remitted to the finance department.

- B. All such receipts shall be issued subject to the rules then in force or which may thereafter be made by the city for the regulation of the cemetery.
- C. The cemetery sexton shall keep a complete record of each lot or single grave sold, showing the date of sale, name and address of the purchaser, number of section of lot sold and price paid therefore.
- D. Graves shall not be reserved for future purchase.
- E. Discrimination in the sale of lots and burial rights based on race, creed, color, or religion is prohibited.

2.48.150 - Arrangements for funerals and interments.

- A. Lot owners shall not allow interments by non-immediate family members on their lots for compensation, and no sale, transfer or assignment of any lot/space shall be valid without notification and a copy of the bill of sale provided to the city.
- B. Family of the deceased, friends, or licensed funeral director in the absence of family, taking responsibility for the funeral arrangements, shall come to Sultan City Hall in order to authorize the interment
- C. The city shall not be responsible for any order given by telephone or for any error arising from the want of precise and proper instructions as to the particular grave, crypt or niche location where interment is desired.
- D. Any person signing the authorization for interment of remains warrants any fact set forth in the authorization, the identity of the person whose remains are sought to be interred and his/her authority to order the interment. He or she is personally liable for all damage occasioned by or resulting from breach of such warranty.
- E. No interment shall be made until an application is completed by the owner of said lot or the owner's designee. The application must state the full name of the deceased, place and date of birth, age, place and date of death, name of parent or kindred, number of lot, number of block, date of interment, the name of the funeral home, type liner or vault, and the responsible party name, phone number, and address.
- F. The city has the right to insist upon forty-eight hours' notice prior to any interment.

- G. All funerals will take place during the regular business hours of the cemetery, Monday through Friday (eight a.m. to four-thirty p.m.), except by special arrangement with the public works director and may be subject to overtime rates.
- H. The city reserves the right for its workers and those persons necessary to the performance of normal cemetery operation to enter upon or cross over any lot in the cemetery in the performance of such duties.
- I. The city or its employees assumes no liability for any damages, including mental anguish, in the performance of its normal operations or loss or damages caused by vandalism or other acts beyond its reasonable control.
- J. No verbal agreement or statements made by any individual or employee of the City which is contrary to these rules and regulations shall be binding on the city or nor shall in any way change or modify the intent or validity of these rules and regulations.

2.48.160 – Eligible for Burial.

To be eligible for burial in the City of Sultan Cemetery, one must:

- A. Be the owner of record, or lot purchased for deceased, or be given written permission by owner of record or legally appointed personal representative of estate or by order of a probate court.
- B. Payment in full for lot is required prior to burial.
- C. Indemnification Agreement Endowment Care Agreement must be signed prior to burial.

2.48.170 – Burial Regulations.

- A. City designated subcontractors are responsible for actual opening and closing of graves and shall be responsible as follows:
 - 1. Liable for any damage done to monuments, markers, turf, shrubbery, water lines or irrigation systems which are damaged in process of performing their duty.
 - 2. Graves for adult burials shall be a minimum of 4'3" in depth and shall provide a covering of fill not less than 18" on top of the liner/vault; compacted to ground level. Absolutely no mounding of graves will be permitted.
 - 3. Funeral Home Directors (or designee) shall be present and responsible for conduct of services as provided by applicable State Law and City Ordinances.
 - 4. No work on lot(s)/space(s) may be started in cemetery without approval from the City or designated sub contractors.

5. Grave site to be re-sodded in accordance with city specification after burial. All excess dirt must be removed from the grave site and area left in the same or better condition.

B. All burials including cremains, must be in concrete vaults or liners except those being interred in the niche wall.

C. Full Size Lot: Right of Additional Interments

1. The burial of two bodies in one grave is not permitted due to increased regulations for trenching safety. For individuals who previously purchased a double interment on a single lot, the city will provide a second lot at no extra charge. In the case where an adjacent lot is not available, individuals who want to place their family members side-by-side would need to purchase the 2nd lot and pay to exhume and rebury the remains.

2. Within a full size lot, the cremated remains of up to two (2) others shall be permitted following the burial of the full remains of one person. However, if the first burial is the cremated remains of one person, the right of full burial shall be negated but the right burial of the cremated remains of up to three (3) others for a total of four (4) cremains shall be allowed.

3. The fee for each additional interment is in addition to the fee of a previously purchased full size lot. (Refer to the current fee schedule)

4. There shall be no additional fee charged, following purchase of a full size lot for the interment of a mother and still-born child.

D. Cremains Lot: Right of 2nd Interment – ½ lot

1. The cremated remains of another shall be allowed to be placed, side-by-side, in a single cremains lot. There is no lot fee for the 2nd interment.

2. Cremains may be interred by the City or designated sub contractor who opens and closes graves. Cremains may be interred in either a cremation space or a standard grave space.

E. Interments including opening and closing shall be done by cemetery staff or an approved contractor with suitable equipment and ability to perform. All contractor interments shall be under the direction of city staff.

2.48.180 - Outer burial container.

All burials including cremains, must be in concrete vaults or liners except those being interred in the niche wall.

2.48.190 - Lot enclosures.

No person shall place improvements or cornerstones indicating the boundaries of lots, nor shall anyone place fences of wood or iron, or walls, coping or curbs of brick, stone or marble on any lot as an enclosure thereof.

2.48.200 - Record of interments.

In addition to the record heretofore provided for, the cemetery sexton shall keep a record of interment showing full name of the deceased, place and date of birth, age, place and date of death, number of lot, number of block, date of interment, the name of the funeral home, the responsible party name, phone number, address, and the charges.

2.48.210 - Permit and identity.

The city will not be liable for the interment permit nor the identity of the person sought to be interred.

2.48.220 - Opening the casket.

Once a casket containing remains is interred in the cemetery, the city reserves the right to refuse permission to all persons to open the casket or to touch the remains without the consent of the legal representative of the deceased or a court order.

2.48.230 - Delay of interment.

The city will in no way be liable for any delay in the interment of the remains when:

- A. A written protest to the interment has been filed in Sultan City Hall with the finance department.
- B. Rules and regulations have not been complied with.
- C. Instructions regarding the location of a lot or plot cannot be obtained or are indefinite, or when for any reason the interment space cannot be opened where specified.

2.48.240 - Removals and disinterments.

- A. No disinterment shall be made without a valid, written court order or as is required by State law. The City of Sultan assumes no liability for damage to any body, casket, burial vault or urn in making the disinterment and removal.

1. Remains once interred in Sultan cemetery are considered permanently disposed of and removal from one grave to another within the cemetery, or removal from Sultan cemetery to any other cemetery is strongly discouraged.
 2. Procedure for Disinterments:
 - a. Signed affidavit(s) of the nearest of kin approving the disinterment or removal.
 - b. Signed approval of the lot holder or their lawful representative.
 - c. Disinterment permit from civil authorities for removal from Sultan cemetery.
 - d. The desired lot must be selected; all charges for disinterment and reinterment, together with all other charges due, must be paid.
 - e. Remains removed from other cemeteries and brought to Sultan cemetery for reinterment must be accompanied by the proper documentation as prescribed by law.
 - f. Disinterments including opening and closing shall be done by an approved contractor with suitable equipment and ability to perform. All contractor disinterments shall be under the direction of cemetery staff.
 - g. City staff may perform disinterments with the proper documentation as prescribed by law.
 - h. When, in the opinion of the city, a new outside box is needed, at the time of reinterment following a disinterment, it must be provided by the person arranging for the removal, through the cemetery.
 - i. At least one week's prior notice is required for any disinterment or removal, after the rules and regulations have been complied with.
 3. Removal, by the heirs, of any remains so that the lot may be sold for profit, is not permitted.
- B. Once a casket containing remains is within the boundaries of the cemetery, the city reserves the right to refuse permission to all persons to open the casket or to touch the remains without the consent of the legal representative of the deceased or a court order.

2.48.250 - Ownership rights

- A. The purchaser of a lot or lots is granted or conveyed only the right of interment of human remains and the right of installation of a memorial on each lot. The owner of the right of interment does not possess a fee interest or any other interest in the land itself.
- B. Title and rights to cemetery plots shall be governed by Chapter 68.32 RCW, now and hereafter amended.
- C. Lots can be purchased at city hall. In the event that any lot is purchased immediately prior to the time of interment, arrangement must be made for full payment of such lot before the interment will be made. A purchaser has no right, interest, estate, or title whatsoever to any lot until the purchase price is paid in full.
- D. Upon receipt of full payment for a lot, the city will issue a deed evidencing the ownership thereof.
- E. It is the responsibility of lot owners to keep the City informed of their correct mailing address. Notices or other correspondence to owners or their legal representatives or heirs, mailed to the current address on file with the City, shall constitute actual delivery and notification.

2.48.260 - Disposition of unused or abandoned lots.

- A. No transfer or assignment of any lot or interest therein shall be valid without prior consent of the City, endorsed in writing upon such transfer or assignment. Consent for transfer or assignment shall be withheld until payment for the lot is received in full.
- B. Should the owner of a lot decide they no longer desire to own it, it is the owner's sole responsibility to sell the lot and provide a notarized bill of sale to the City for any ownership changes to occur.

2.48.270 - Death certificate.

No interment will be permitted without the proper burial transit as required by the health authorities.

2.48.280 – Cemetery Lot Maintenance.

- A. The City endeavors to provide the maintenance to the Cemetery in keeping with the reminder that it is sacredly devoted to the interment of the dead.
- B. Care, improvements and alternations may be performed by the City. Watering may be performed by the City, whenever possible. Tapping into or use of water lines by private persons is prohibited without the written permission of the public works director.

- C. The City reserves the right to make any changes deemed necessary as to grading, roads, utility lines and such similar work without notice or approval of owners.
- D. No plantings are permitted by individuals without specific permission from the City. Flowers, wreaths, emblems and such, used at funerals and placed on or at the grave(s) will be removed within (5) days after the funeral or as they become faded, whichever comes first and no responsibility for their protection or maintenance is assumed.
- E. The City reserves the rights to trim, cut back or remove existing trees or shrubbery so as to keep them properly maintained so as not to harm or interfere with adjoining lots.
- F. Live wilted flowers and faded artificial flowers will be removed from graves by the maintenance personnel as directed and no responsibility for their protection or maintenance is assumed.
- G. The City will not be held responsible for wreaths, flowers, vases or any other items removed from cemetery premises.
- H. The City shall not be responsible for the loss or damage to any plantings, decorating or memorials of any kind by any cause whatsoever.
- I. No concrete popcorn edging, plastic fencing, wooden or plastic edging and/or stone chips are permitted; however, any lot already containing these at the time of passage of this resolution, must be maintained by the lot/space owner and any lot/space that is not properly maintained will be restored to its original condition by removing these items and replacing them with sod.
- J. Other Miscellaneous Amenities; any amenity that violates the unique and distinctive character of the cemetery setting is not permitted.

2.48.290 - Monuments, headstones, markers.

- A. All monument dealers must be duly licensed prior to any work being performed in the Sultan Cemetery. The City has the authority to request a copy of the monument dealer/installer's occupational license and proof of current liability insurance and workers compensation. No work may be started in the cemetery without approval from the City.
- B. All memorial markers are required to be in line with existing markers in that row where installation is taking place.
- C. Should Memorial markers not conform, the monument dealer/installer will be required to reset it properly within a 48-hour period of rejection by cemetery personnel of said installation.
- D. No person shall place within the cemetery any monument made of any material other than marble, bronze, marble, slate stone, or other approved

material. All monuments shall be properly supported with a concrete casing.

- E. No lots shall contain any slab stone nor any head stone in any erect or vertical position except in designated areas. Aforementioned markers, monuments shall be on a concrete foundation; the space between the stones filled in with concrete, with a six-inch border of concrete around stones. Old stones may be maintained, repaired and reset in the same manner.
- F. Only one marker per interment will be permitted. No markers/memorials on granite bases smaller than 14" x 14" and 4" thick, will be permitted in any section of the cemetery. All markers/memorials shall be of marble, granite or bronze on granite base.
- G. All bronze memorials must be mounted on a 4" thick granite base with a 2" border of granite showing on all four sides.
- H. Stone (marble/granite) marker sizes (dimensions) are to be read as follows: 1st dimension written is the marker size from left to right; 2nd dimension written is the marker size from top to bottom, a 3rd measurement indicates thickness.
- I. Grave owners are responsible to install markers on all graves within one year of interment. Grave owners must keep in good repair all stones or monumental work upon the grave. The city does not bind itself to furnish, install, maintain, repair or replace, or trim around any grave marker or monumental structures erected upon the grave.
- J. The city allows the maximum of one marker per interment.
- K. The city reserves the right to exclude or remove from any grave and headstone, monument, marker or other structure which may conflict with these regulations or which the city may consider injurious to the general appearance of the grounds.

2.48.300 - Cemetery fees and charges.

The schedule of prices of all lots, blocks, crypts, niches or parcels of land in the platted portion of said cemetery property and, also prices for opening and closing graves, grave liners, perpetual care, setting of markers and all other services, shall be fixed and adopted by resolution of the city council and filed in the finance department at city hall. Said schedule of prices may be changed or altered by like resolution of the city council from time to time as in its judgment may be necessary or proper.

2.48.310 - Indigent burials.

In accordance with RCW 36.39.030, it is the county's responsibility to provide for the disposition of the remains of any indigent person who dies within that county and whose body is unclaimed by relatives or a church organization.

2.48.330 - Miscellaneous provisions.

The city and its assigns shall have full power and authority to adopt such additional rules and regulations as it may deem advisable for the management, preservation, care and use of the city cemetery, including, the interment and exhuming of the dead, and shall have full power and authority from time to time to enlarge, restrict, amend, abrogate or change any rules and regulations, and all such rules and regulations shall be binding upon grave owners and upon all other persons, firms and corporations concerned.

2.48.340 - Miscellaneous regulations.

- A. Bills due the city for labor and materials and supplies are a lien on the grave until paid.
- B. No utensils or devices used in the upkeep of lots, or refuse material resulting from such upkeep shall be left on lots. Any such items found on lots will be removed and disposed of.

2.48.350 - Violation—Penalty.

Anyone convicted of violating any section of this chapter shall be guilty of a misdemeanor, and upon conviction therefore shall be punished by a fine not to exceed one thousand dollars or by imprisonment not to exceed ninety days, or by both such fine and imprisonment.