

ORDINANCE NO. 19-2013

**AN ORDINANCE OF WEST HAVEN CITY, UTAH, ADOPTING
CEMTERY RULES, REGULATIONS, PROCEDURES AND FEE
SCHEDULES; AND ESTABLISHING AN EFFECTIVE DATE.**

Section 1 - Recitals

WHEREAS, the City Council of West Haven City (herein “City”) is a municipal corporation duly organized and existing under the laws of the State of Utah; and,

WHEREAS, the City Council finds that in conformance with the provisions of UCA § 10-3-717, the governing body of the city may exercise all administrative powers by resolution; and,

WHEREAS, the City Council finds that in conformance with the provisions of UCA §10-3-702, the governing body of the city may pass any ordinance to regulate, require, prohibit, govern, control or supervise any activity, business, conduct or condition authorized by State law or any other provision of law; and,

WHEREAS, the City Council finds that it has a need to amend certain rules, regulations and procedures presently in place for the operation of the City’s cemetery together with the fees related thereto; and,

WHEREAS, the City Council finds that these rules, regulations and procedures for the operation of the City’s cemetery together with the fees related thereto when taken together, will provide the City the opportunity to more effectively provide a financially sound cemetery operation for its residents; and,

WHEREAS, the City Council finds that the amended rules, regulations and procedures for the operation of the City’s cemetery together with the fees related thereto attached hereto should be adopted; and,

WHEREAS, the City Council finds that the public convenience and necessity, public safety, health and welfare is at issue in this matter and requires such action to be taken by the City; now,

THEREFORE, BE IT ORDAINED by the City of WEST HAVEN as follows:

Section 2 - ADOPTION OF AMENDED CEMTERY RULES, REGULATIONS, PROCEDURES AND FEE SCHEDULES:

Purpose: The purposes of this ordinance are:

- (A) To make certain amendments to the establish a municipal cemetery with and its associated policies and procedures;
- (B) To regulate the purchase, transfer, and reclaiming of burial rights within the cemetery;
- (C) To provide for the orderly record keeping, perpetual care grounds keeping, and other operational requirements of the cemetery; and
- (D) To ensure that all aspects of the cemetery are managed in a manner that will reflect positively on West Haven City.

Application of State Law. All provisions of the laws regulating cemeteries of the State of Utah, not inconsistent with this chapter, are hereby also accepted as the cemetery laws and ordinances of West Haven City. This includes, but is not limited to, Title 8 of the Utah Code, Annotated, 1953 as amended.

Definitions: The following definitions apply to the regulations for the municipal cemetery:

- (A) **"Burial Rights"** means the rights owned by an individual to have buried, in a specified cemetery lot, a human body or the remains of the same.
- (B) **"Burial Rights Owner"** means the owner of burial rights of any burial lots evidenced by the certificate of burial right for a described lot or by proved and recognized descent or device from the original owner. State law (UCA§8-5-7) states that after April 29, 1985 municipalities shall only sell the right to be buried in a cemetery.
- (C) **"Certificate of Burial Rights"** may also be referred to as the "Deed" which is issued to the owner of burial rights of each gravesite.
- (D) **"Cemetery or Municipal Cemetery"** means that portion of the West Haven City Parks specifically designated as land for the purpose of burials. This area within the park may be enlarged from time to time, even to include the entire park area, as determined by the City Council by recording a plat with the West Haven City Recorder's Office.
- (E) **"Lot"** means the lots or single graves in the municipal cemetery.
- (F) **"Lot Owner"** for the purposes of this ordinance means the same as "burial rights owner". Even though the common term "lot owner" may be used in this and other cemetery related documents, it is meant to be the owner of the burial rights in a lot and not the ownership of the actual property.
- (G) **"Mow strip"** refers to the concrete or granite foundation of a monument that extends beyond the base of the monument.
- (H) **"Null Gravesite"** signifies a grave that is not available for burial of any kind due to tree placement, or any other considerations that render a grave unfit for burial.
- (I) **"West Haven City Cemetery"** means the entire area owned by West Haven City located 1575 S. to 1450 S. and 2325 W. to 2375 W., or any future acquired ground that may be designated by the Governing Body for cemetery purposes, as describe in this ordinance.

- (J) **“Resident of West Haven City”** for the purchase of the burial rights and for the opening and closing of graves is an individual who currently resides within West Haven City. For purposes of this Ordinance, an individual who resides in West Haven at the time of purchase of a certificate of burial right is one who has a fixed, permanent home to which the individual if absent, intends to return; and temporary purpose, but with the intention of making a permanent home, or any person that resided in West Haven City immediately prior to being placed in a health care institution, or any person who owns property in West Haven City.

Name. The designated burial ground of this municipality shall be known by the name of the West Haven City Cemetery, or such other name as the governing body of the city may from time to time establish.

Office of Cemetery Sexton. There is hereby created the Office of Cemetery Sexton. The Cemetery Sexton, and any deputy sexton(s), shall work under the direction of the Director of Parks and Recreation and shall be appointed by the Mayor with advice and consent of the City Council.

Duties and Powers of the Sexton. The Sexton, subject to the direction of the Director of Parks and Recreation, who operates under the authority of the governing body of the city, shall have entire charge of the cemetery and is authorized to enforce the rules and regulations pertaining thereto. He may take such action as may be necessary; though not expressly set forth herein, in order to protect the property of grave and burial rights owners, and the cemetery property itself, from injury, and to preserve the peace, economy and good order of the cemetery. It shall be the duty of the sexton to keep the cemetery plat and related records up to date, and to cooperate with the city treasurer and recorder in maintaining records of charges and payments made pursuant to this, or any subsequently adopted and related, ordinance. The Sexton or his/her deputy shall oversee every interment in the cemetery and shall register the names and ages of all persons interred therein and the place of their interment. The Sexton, along with Public Works staff, shall open and close graves, maintain the cemetery and perform such other duties as may be required elsewhere in this ordinance or as may, from time to time, be established by the governing body as administered under the authority of the Director of Parks and Recreation.

Cemeteries Covered. All cemeteries owned and/or maintained by the City, or which may hereafter be acquired by the City, wherever situated, are hereby declared subject to the provisions of this ordinance.

Burial Rules and Regulations. The rules and regulations governing the Cemetery provide for an orderly, well groomed, quiet sanctuary. To achieve and maintain that status requires a joint effort between the cemetery staff and cemetery patrons. Those persons owning rights to burial and those having deceased loved ones interred within the cemetery need to be aware of, and are expected to be compliant with, the policies that regulate cemetery activities so that no misunderstandings or problems occur.

- (A) **Burial Permit** (Request for Burial Form). No body shall be interred, or remains received, unless a Request for Burial Form is completed in full and presented to the City at the office of the city recorder. The Request for Burial Form shall reflect the full name of the deceased, the date and place of birth, the date and place of death, and the name and address of the person requesting the burial.

- (B) **Certificate of 'Burial Rights'** (Deed) required. It is unlawful for any person to bury the body of a deceased person in the cemetery without first obtaining a Certificate of Burial Rights for the lot used, or producing satisfactory evidence, through legal documentation, of a right to burial based on a properly acquired/inherited certificate of burial right.
- (C) **Excavating and refilling graves.** No grave shall be opened, filled, refilled or sod removed or replaced except by the employees of the cemetery under the direction of the Sexton and Public Works Director.
- (D) **Disinterment/Exhumations.** The scheduling of disinterment shall be at the discretion of the Sexton. Absent a court order to the contrary, the Sexton shall have the right to refuse to disinter any person when, in his sole discretion, such disinterment would endanger the health and safety of cemetery employees, or the public. Disinterment may be postponed without notice if the Sexton deems it necessary to maintain the regular operation of the cemetery.
- (E) **Approval of Disinterment/Exhumations.** No person shall disinter any body buried in such cemetery, unless under the direction of the Sexton, and before disinterment the City shall require a permit from the board of health and a written order from the owner of the lot or the owner's legal representative, authorizing such removal, which the order the Sexton shall file and preserve, and all such removals shall be recorded by the Sexton, City Recorder, or Deputy Recorder. Absent a court order to the contrary it, is unlawful to remove the body of any person who has died of a contagious disease within two years from the date of burial, except such body had been buried in a hermetically sealed coffin.
- (F) **Restriction on Burials.** It shall be unlawful for any person to bury the body of a deceased person, within the West Haven City limits, except in an approved cemetery. It is unlawful to inter the remains of anything other than the remains of human bodies, in the cemetery proper. Pet remains may be buried in a section of the cemetery designated for such by following specific rules provided for that section of ground.
- (G) **Hours for Burials.** Burials are accepted from 8:00 A.M. to 4:00 P.M. daily at the Cemetery. An overtime fee will be assessed for burials after 4:00 P.M. on regularly scheduled work/weekdays, as well as Fridays, Saturdays, or holidays as established by the governing body. All graveside services, interments/exhumations must be arranged through the Sexton, or in his/her absence, the Public Works Director, or City Recorder. A minimum of seventy-two (72) hour advanced notice of service is required. No burials will be accepted on Sunday or on the holidays of Christmas, Thanksgiving, New Years Day, July 4th, July 24th or Memorial Day weekend (Saturday - Monday).
- (H) **Vaults Required.** It is unlawful for any person to be buried in the Cemetery unless the casket shall be placed in a vault of concrete or steel, substantially constructed and covered with similar durable material. No wood shall be used as a permanent part of the construction of any part of the vault. All vaults must be buried at a minimum standard depth specified by the City. Above ground vaults are not allowed in the cemetery. All vaults must be pre-approved by the City.
- (I) **Burials per Grave.** It is normal practice to allow only one burial per space; however, certain double burials will be allowed involving parent/child burial or cremated remains. A parent/child may be buried in the same grave space but must be in the same casket. The City must approve every parent/child burial on an individual basis regarding size and age of deceased. The general guideline is that the child must be under 2 years of age.

- (J) **Cremation.** Cremated remains must be placed in a pre-approved urn vault constructed of concrete, steel, or reinforced polyethylene material. Each urn vault shall only contain cremated remains of one individual. The interment of no more than two urn vaults in one gravesite shall be permitted.
- (K) **Perpetual Care.** Cemetery perpetual care will be done, generally, every Tuesday unless weather or other unforeseen circumstances prevent such work. The upkeep of the cemetery, provided by West Haven City, includes, but is not limited to, mowing grass at reasonable intervals, laying sod and reseeding as necessary, filling sunken graves, sprinkler irrigation, trimming trees and shrubs, removing wilted flowers and decorations, and other clean up as needed. Perpetual care does not include repairing or replacing markers, monuments or other personal property.

Monuments / Grave Markers / Structures. Monuments shall be installed by private firms. The Sexton must receive a seventy-two (72) hour notice of monument installation. Installers are responsible for all removal of excess debris and for restoring the burial plot to its original condition. All markers or monuments shall be set in a concrete OR granite foundation at least four inches (4") in depth. The foundations of all markers or monuments shall extend at four inches (4"), past the edge of marker or monument and shall be flush with the ground.

- (A) **Monument Installation.** Monuments are to be installed during regular business hours and under supervision of the Cemetery Staff, as designated by the Sexton. The Cemetery Staff will measure and indicate where the monuments are to be placed.
- (B) **Monument Base Preparation.** The cemetery staff must supervise all monument installations and ensure appropriate compaction and elevation restoration is achieved where slope is, or may reasonably be deemed to be, a factor.
- (C) **Monument Material.** Except for veteran markers, all monuments/markers/headstones shall be made of granite or marble and shall be set in concrete or granite. All brass or bronze veteran markers will be approved by the Sexton prior to installation. Raised monuments may also be made of brass if approved by the Sexton.
- (D) **Monument/Foundation Dimensions.** A single monument cannot exceed forty-four (44") in length including the required 4" mow strip. A double or triple monument cannot exceed ninety-two (92") inches in length including the required 4" mow strip. No monument shall exceed thirty (30") inches in width including the required 4" mow strip. No monument shall exceed forty-two (42") in height. Any concerns regarding the dimensions of monuments shall be addressed by the Sexton shall see that these standards are observed.
- (E) **Grave/Monument orientation.** Burial spaces are placed in rows with the head of the grave at the West and the foot at the East. Individual grave tracts measure four feet (4') by ten feet (10') long. Traditional burial custom has the wife placed to the left (North) side of the husband (South). The headstone is placed at the West with the primary wording facing west.
- (F) **Moving of a Monument.** Moving of a monument must be approved by the Sexton. The city reserves the right to require a professional monument company to conduct the moving of a monument depending on the size of the monument, as reasonably determined by the Sexton. A Monument relocation fee may apply.

- (G) **Only One Monument** will be allowed on each gravesite. No inappropriate or obscene items or wording will be allowed, as determined at the sole discretion of the Sexton.
- (H) **Mow Strip Regulations.** Holes for placement of flower vases are allowed on the north and/or south mow strips of the monument or headstone. No holes will be allowed on the east or west of the monument or headstone.
- (I) **Family Monuments/Null Gravesites.** Family monuments are permitted in the cemetery. Family monuments must follow the same standards and regulations as all other monuments. Before a gravesite can be considered null, a copy of the "rights of burial" deed must be submitted to the City.
- (J) **Benches and Structures.** Benches will be placed by the Cemetery Staff in areas designated by the Sexton. However, certain headstones that function as benches may be approved by the Sexton if they meet the standards set forth for all monuments. No other fences, foot markers, curbing, or other structures are allowed.

Purchase Prices and Fees The governing body shall from time to time, by resolution, fix the size of lots, if it is determined that a size different than herein set out is appropriate, the price at which burial rights shall be sold, and the fees which shall be charged for the various cemetery services.

- (A) **Payment and Fees.** Payments for opening and closing of graves must be paid in full prior to a burial. The city reserves the right to work with mortuaries of its choice for "package deals" involving utilization of cemetery services.
- (B) **Duplicate Certificate.** A lost certificate (deed) can be reissued for a small fee, as determined from time to time by the governing body and upon filing of an affidavit of a Lost Certificate by the applicant for the new certificate. In addition to replacing a lost certificate, a new certificate (deed) will be issued if a change in ownership, through will or legal documentation takes place. In case of change of such ownership, the old certificate (deed) must be relinquished to the City.
- (C) **Number of Lots Available For Purchase.** Purchase of gravesites will be limited to twelve (12) gravesites per household.
- (D) **Fees for Disinterment/Exhumations.** Fees for disinterment/exhumations will be higher than regular opening/closing fees due to the increased time and care that must occur for a grave that is dug by hand.

Fee Structure.

Resident Costs

Plot Purchase (includes perpetual care)	\$550.00
Opening/Closing M-F	
Adult	\$350.00
Infant (2yrs & younger)	\$200.00
Urn	\$150.00
Open/Close weekend/city observed holiday	
Adult	\$400.00
Infant (2yrs & younger)	\$250.00
Urn	\$200.00

Disinterment	\$500.00
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Non Resident Costs

Plot Purchase (includes perpetual care)	\$850.00
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Opening/Closing M-F

Adult	\$525.00
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Infant (2yrs & younger)	\$350.00
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Urn	\$200.00
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Open/Close weekend/city observed holiday

Adult	\$650.00
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Infant (2yrs & younger)	\$450.00
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Urn	\$300.00
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Disinterment	\$700.00
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Fees Applicable to All

Deed Reprint	\$ 35.00
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Deed Transfer Fee	\$ 25.00
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Raised Monument Premium**	\$100.00
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Monument Moving Fee

Flat Stone	\$100.00
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Upright Stone	\$250.00
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** Payable at time of monument placement

Resale/Transfer/Inheritance of Burial Rights. The Burial Rights sold by West Haven City for lots shall not be further sold or transferred except that they may be transferred to legal heirs or resold or returned to the city. The city *may* agree to purchase back burial lots at the original price, or current selling price, whichever is less. Upon death, an owner of "burial rights" (deed) shall transfer to legal heirs or someone determined by lot owner's Last Will and Testament, or if the person dies in intestate, by act force of law. A person cannot be buried in a lot they do not own unless signed documentation is presented to the City from the lot owner, or lot owner's heirs or legal representative, giving permission. Lot owners are required to notify the City of any change of their address or contact information.

Unused Lots/Burial Rights. The city shall have the right to reclaim unused burial rights through any process authorized by state law. More particularly, gravesites that have been unused, or otherwise meet the standards and requirements of unused or unkempt lots as set out at UCA §8-5-1, or any future replacement to that section, shall, upon the city's compliance with the terms of that section, shall be subject to an action for title as provided by UCA §8-5-2.

Flowers/Decorations. The following terms and conditions will govern the placement of items surrounding the headstones/monuments of the cemetery. Cemetery maintenance day will generally be every Tuesday unless weather or other unforeseen circumstances prevent.

- (A) **Plantings.** The planting of any vegetation is strictly prohibited without permission from the Sexton. Any plantings without approval will be immediately removed without notice.
- (B) **Graveside Flowers.** Flowers will remain at the graveside for a period of one week from the time of the burial service. Flowers may remain longer if determined by the cemetery staff that they hold their value.
- (C) **Plastic Flowers** may be placed in the cemetery on the grave markers but only so as to allow, and not interfere with, routine cemetery maintenance. Cemetery personnel will remove any plastic flowers that appear unsightly or cause problems with regular maintenance.
- (D) **Glass Containers or Decorations** are strictly prohibited.
- (E) **Flower Containers, Decorations,** shepherd's hooks, baskets, toys, pots, vases, and other decorations are allowed as long as they remain on the six inch (6") concrete base (mow strip) on the north and/or south of the headstone/monument. Any of said items found on the east or west side of headstone/monument will be removed promptly without notice if found causing problems with maintenance or safety of cemetery personnel, as determined in the sole discretion of the Sexton. Shepherd's hooks and pinwheels and other tall items are allowed, but are not to exceed forty two inches (42") above the ground. Any items found higher than allotted height will need to be removed or modified to fit such guidelines.
- (F) **Cemetery Personnel** will remove any items that, in their sole judgment, appear unsightly or cause problems with regular maintenance.

Access/Conduct. The Cemetery has been dedicated for the burial of the deceased. Any irreverent behavior or conduct not in keeping with this purpose is expressly forbidden. Walking, jogging, or bicycling through the cemetery is permitted. However, skateboarding, rollerblading and other such activities are not. It is permissible to walk pets through the cemetery when leashed. Unleashed pets are strictly prohibited. Fines may be incurred if pets are found unleashed and/or defecating on cemetery property. Access to cemetery is restricted to the hours of 6 A.M. – 10 P.M. daily.

Section 3 - Repealer of Conflicting Enactments:

All orders, ordinances and resolutions with respect to the changes herein enacted and adopted which have heretofore been adopted by the City, or parts thereof, which are in conflict with any of the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed, except that this repeal Shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

Section 4 - Prior Ordinances and Resolutions:

The body and substance of any and all prior Ordinances and Resolutions, together with their specific provisions, where not otherwise in conflict with this Ordinance, are hereby reaffirmed and readopted.

Section 5 - Savings Clause:

If any provision of this Ordinance shall be held or deemed to be or shall, in fact, be invalid, inoperative or unenforceable for any reason, such reason shall not have the effect of rendering any other provision or provisions hereof invalid, inoperative or unenforceable to any extent whatever, this Ordinance and the provisions of this Ordinance being deemed to be the separate independent and severable act of the City Council of West Haven City.

Section 6 - Date of Effect:

BE IT FURTHER ORDAINED that this Ordinance, and the changes contemplated herein, shall become effective on the 20th day of November, 2013, and after publication or posting as required by law.

DATED this 20th day of November, 2013

WEST HAVEN CITY, a municipal corporation

by: _____
Mayor Brian Melaney

Attested and recorded

Shanda Reney
City Recorder