

ORDINANCE NO. 39

AN AMENDMENT TO ORDINANCE NO. 39 OF THE UNINCORPORATED TOWN OF PAHRUMP TO REVISE AND RESTATE THE MANAGEMENT AND MAINTENANCE OF THE TOWN'S CEMETERY, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the current regulations regarding the management and maintenance of the Town Cemetery must be updated to reflect, among other things, additional definitions, enhancement of cemetery services, maintenance of cemetery grounds, establishment of burial provisions for veterans, and maintenance of records; and

WHEREAS, to carry this out, it is appropriate to replace, update, or add provisions to this ordinance.

NOW, THEREFORE, the Town of Pahrump, Nevada does ordain:

39.000 **Declaration of Town Policy.** It is declared to be the policy of this Town to establish uniform regulations regarding the management and maintenance of the Town Cemetery in a manner consistent with the Nevada Revised Statutes as well as all other applicable law.

39.100 **Short Title.** The title by which this ordinance shall be known is the "Pahrump Cemetery Ordinance."

39.105 **Authority to Operate.** The Pahrump Cemetery shall operate under the authority of the Town Board of the Town of Pahrump by and through its designated sexton or manager pursuant to this ordinance.

39.110 **Definitions.** Definitions within this ordinance shall be understood as follows:

"Cemetery" means any enclosure or plot of land that is or may be used for the burial of the dead and includes an individual plot.

"Cemetery Purpose" means a purpose necessary or incidental to establishing, maintaining, managing, operating, improving, or conducting a cemetery, interring remains, or caring for, preserving, and embellishing cemetery purposes.

"Columbarium" means a durable, fireproof structure, or a room or other space in a durable fireproof structure, containing niches and used or intended to be used to contain cremated remains.

"Crypt" means a chamber in a mausoleum of sufficient size to inter human remains.

“Grave” means a space of ground that is in a burial park and that is used or intended to be used for interment in the ground.

“Human Remains” or “Remains” means the body of a deceased person, and includes the body in any stage of decomposition and the cremated remains of a body.

“Interment” means the permanent disposition of remains by entombment, burial, or placement in a niche.

“Lawn Crypt” means a subsurface receptacle installed in multiple units for ground burial of human remains.

“Mausoleum” means a durable, fireproof structure used or intended to be used for entombment.

“Niche” means a space in a columbarium used or intended to be used for the placement of cremated remains in an urn or other container.

“Plot” means space in a cemetery owned by an individual or organization that is used or intended to be used for internment, including grave or adjoining graves, a crypt or adjoining crypts, a lawn crypt or adjoining lawn crypts, or a niche or adjoining niches.

“Sexton” means the individual assigned by the Town of Pahrump to manage cemetery property and shall not connote any religious affiliation whatsoever.

“Urn” means a vessel in which cremated remains can be placed and which can be closed to prevent leaking or spilling of the remains or the entrance of a foreign material.

“Veteran” means a member or former member of the United States Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard) or the Reserve Components and Reserve Officers’ Training Corps, a commissioned officer of the National Oceanic Atmospheric Administration or the Public Health Service, or a World War II Merchant Mariner, subject to certain eligibility requirements.

39.200 **Plots.** Standard plot sizes shall be utilized in the cemetery as follows:

- A. Standard Plot: Ten feet by five feet (10’ x 5’). Will fit one (1) standard or one (1) double vault. Ability to place two (2) cremated remains on top of standard or double burial.
- B. Infant Plot: Five feet by five feet (5’ x 5’)

- C. Cremation Plot: Two feet by four feet (2' x 4'). Each cremation plot will hold four (4) cremated remains.
- D. Columbarium Eleven and one-fourth inches cubed (11 ¼"). A columbarium will hold two (2) cremated remains.

39.210 **Liners Required for Standard and Infant Plots.** A concrete liner shall be required for each burial in a standard or infant plot. The charge of the liner shall be included in the fee for opening and closing of the plot. However, there is no liner required for cremation burials.

39.215 **Authority to Order Burial.** The cemetery must recognize the proper authority to order a burial as follows:

- A. The following persons, in the following order of priority, may order the burial of human remains of a deceased person:
 1. a person designated as the person with authority to order the burial of the human remains of the decedent in a legally valid document or in an affidavit executed in accordance with NRS 451.024(5);
 2. the spouse of the decedent;
 3. an adult son or daughter of the decedent;
 4. either parent of the decedent;
 5. an adult brother or sister of the decedent;
 6. a grandparent of the decedent;
 7. a guardian of the person of the decedent at the time of death; and
 8. a person who held the primary domicile of the decedent in joint tenancy with the decedent at the time of death.
- B. If the deceased person was an indigent or other person for whom the final disposition of the decedent's remains is a responsibility of Nye County or the State of Nevada, the appropriate public officer may order the burial of the remains and provide for the respectful disposition of the remains.
- C. If the deceased person donated his or her body for scientific research or, before his death, a medical facility was made responsible for his or her final disposition, a representative of the scientific institution or medical facility may order the burial of his or her remains.
- D. A living person may order the burial of human remains removed from his or her body or the burial of his or her body after death.
- E. A person 18 years of age or older wishing to authorize another person to order the burial of his or her remains in the event of death may execute an affidavit in accordance with NRS 451.024(5).

39.220 **Burial Permits Required.** Prior to burial, a permit must be obtained as follows:

- A. When a death occurs within the boundaries of Nye County, the undertaker, or the person acting as the undertaker, shall be responsible for obtaining and filing the certificate of death with the County Health Officer, or his designee, in the registration district in which the death occurred and for securing a burial or removal permit prior to any disposition of the body.
- B. When a certificate of death is properly executed and completed, the County Health Officer, or his designee, shall then issue a burial or removal permit to the undertaker. Such a permit shall indicate the name of the cemetery, mausoleum, columbarium, or other place of burial where the human remains will be interred or buried.
- C. No Sexton, Town employee, or other person in charge of the cemetery shall inter or permit the interment or other disposition of any body therein, unless it is accomplished by a burial, removal, or transit permit. The permit shall state the name, age, sex, social security number, cause of death, and the name of the place where the human remains will be interred or buried. Such name or location shall be specific as to describing the place for interment of burial. Should there be locations closely associated or commonly named, a more precise description shall be used.
- D. A burial permit shall not be required from the County Health Officer when a body is removed from another district of Nevada for burial in the cemetery.
- E. The funeral director or family must provide any and all paperwork required for burial by the Town of Pahrump.

39.230 **Disinterment Permits Required.** Prior to disinterment or removal of human remains, these procedures must be followed:

- A. The local health officer must issue a permit for the disinterment or removal of human remains, indicating the name of the cemetery, mausoleum, columbarium or other place of burial where the remains will be interred or buried.
- B. The Sexton or Town shall not disinter or remove or permit disinterment or removal of human remains without a copy of such a permit.
- C. A violation of this section is a misdemeanor under NRS 451.045(3) or NRS 451.050(1).
- D. A written indemnification and hold harmless form is required from the mortuary on an annual basis.

39.300

Grave Digging and Setting of Headstones. Except as otherwise provided by funeral homes or mortuaries as authorized by the Town of Pahrump, it shall be the Town's responsibility to handle grave digging and headstones as follows:

- A. The Town shall open and close all graves in the cemetery.
 - 1. A minimum of two (2) working days or forty-eight (48) hours notice must be provided for all burials, except that Town may waive the notice requirement and provide expedited burials for an additional fee if the required personnel are available.
 - 2. Burials shall not be performed on holidays or weekends without seventy-two (72) hours notice, except that Town may waive the notice requirement and provide expedited burials for an additional fee if the required personnel are available.
 - 3. Except as provided above, all burials will take place during normal working daylight hours (Summertime) (8:00 a.m. – 4:00 p.m.) and Wintertime (8:00 a.m. to 2:00 p.m.).
 - 4. Funeral services may be conducted in designated areas and buildings only, unless written permission is obtained for grave site services.
 - 5. The practice of stacking one occupant on top of another will be permitted. In case of burial of others than the spouse, the person desiring to be stacked must have the written permission from the next of kin of the first person interred prior to the second burial or have prearranged burial instruction prior to first interment.
 - 6. Special circumstances will be considered, but not mandatory, for weekend or holiday burials.

- B. The Town shall set all headstones and markers in the cemetery.
 - 1. Except as otherwise provided below, upright headstones will not be permitted. In the veterans' section, all headstones shall be flush with the ground.
 - 2. Markers and headstones will be permitted in the grassy areas only if flush to the ground with a concrete foundation of four (4) inches plus four (4) inches of concrete on all sides of the stone as set by the Town of Pahrump.
 - 3. Pursuant to Nye County Resolution 94-28, a portion of the cemetery has been designated as being part of the aboriginal lands of the Pahrump Paiute Tribe and will be perpetually maintained in the "natural" manner of the Southern Paiutes. Headstones and markers of any type may be used in this area, so long as the grave site is maintained in a natural desert condition.
 - 4. Certain areas of the cemetery (generally older, non-grassy sections) have been designated as permitting upright headstones.
 - 5. All headstones will be imbedded to the concrete foundation.

6. All Veteran's plaques will be set in concrete at the same expense as others. Headstones should be provided for the veteran, at no cost, by the Department of Veteran's Affairs (brass flat plate style inlaid in concrete with flower holder on each side). Only plaques set in concrete foundation will be recognized as headstones.
7. All temporary markers must be replaced with a permanent marker or headstone within one (1) year from the date of the burial or within thirty (30) days from the time the headstone is ready for placement.

39.340 Veterans Columbarium Services. A special columbarium dedicated to veterans shall have the following interment requirements:

- A. Each niche shall have an interior dimension of 11 ¼ inches cubed (28.5 cm) with a 10 ¼ inches squared (26.0 cm) opening.
- B. The urn shall have the following specifications, which allow for both single and double interment:

<u>Urn Type</u>	<u>Dimension</u>	<u>Measurement</u>
All	Height	10 ¼ inches (26.0 cm) maximum
Round	Girth	6 ½ inches (16.5 cm) diameter maximum
Rectangular	Depth	11 inches (28.0 cm) maximum
Rectangular	Width	5 3/8 inches (13.6 cm) maximum

- C. Marker plaques given by the Department of Veteran's Affairs for those veterans that choose the columbarium will be placed upon the wall located to the northwest of the memorial.
- D. Only those religious symbols authorized by the Department of Veteran's Affairs may be placed on the granite face plate covering the columbarium niche.
- E. Purchases of columbarium niches are on a first come basis.

39.350 Construction of Mausoleums, Vaults, and Crypts. Any new construction of mausoleums, vaults, or crypts shall comply with NRS Chapter 452 and NAC Chapter 452 and must be approved by the Sexton.

39.400 Duties of the Sexton. The Sexton shall manage the cemetery property as follows:

- A. Plots in the cemetery will be reserved and assigned only by the Sexton.
 1. A person reserving a plot or plots in the cemetery shall be responsible for notifying the Sexton of current contact information.
 2. The Sexton shall be notified every five (5) years to reconfirm intentions of plot reservations.
 3. In the event that the Sexton determines that a previously reserved plot is untraceable, the Sexton may petition the Town Board for

permission to allow the plot to be used or reserved by another person.

- B. The Sexton will keep a record of all plots assigned and reserved. These records will be open to the public.
- C. The Sexton will keep all records relating to the cemetery in accordance with NRS 440.590: name of deceased person, place of death, date of burial, and the name and address of the funeral director. These records will be open to the public.

39.500 **Indigent Burials.** The burial of indigent remains shall be handled as follows:

- A. Indigent burials shall be coordinated between the Nye County Health and Human Services and the Town of Pahrump.
- B. The Town shall be notified of all indigent burials through Town Staff and the Sexton.

39.600 **Eligibility for Burial as a Veteran.** The following criteria shall establish eligibility for burial of a veteran:

- A. United States Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard)
 - 1. Any member of the Armed Forces who dies while on active duty.
 - 2. Any veteran of the Armed Forces who was discharged under conditions other than dishonorable and entitled to veteran's benefits by the Veteran's Administration. With certain exceptions, service beginning after September 7, 1980, as an enlisted person, and service after October 16, 1981, as an officer, must be for a minimum of 24 months of the full period for which the person was called to active duty. (Examples include those persons serving less than 24 months in the Gulf War or reservists who were federalized by Presidential Act.)
- B. Members of Reserve Components and Reserve Officers' Training Corps
 - 1. Reservists and National Guard members who, at the time of death, were entitled to retire pay under 10 U.S.C. 1223, or would have been entitled, but for being under the age of 60 years. Specific categories of individuals eligible for retired pay are set forth in 10 U.S.C. 12731.
 - 2. Members of reserve components who die while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while

performing active duty for training or inactive duty training, or undergoing such hospitalization or treatment.

3. Members of the Reserve Officers' Training Corps of the Army, Navy, or Air Force who die under honorable conditions while attending an authorized training camp or an authorized cruise, while performing authorized travel to or from that camp or cruise, or while hospitalized or undergoing treatment at the expense of the United States for injury or disease contracted or incurred under honorable conditions while engaged in one of those activities.
4. Members of reserve components who, during a period of active duty for training, were disabled or died from a disease or injury incurred or aggravated in the line of duty, or during a period of inactive duty training, were disabled or died from an injury incurred or aggravated in the line of duty.

C. Commissioned Officers of the National Oceanic and Atmospheric Administration

1. A commissioned officer of the National Oceanic and Atmospheric Administration (fka the Coast and Geodetic Survey and the Environmental Science Services Administration) with full-time duty on or after July 29, 1945.
2. A commissioned officer who served before July 29, 1945, and (i) was assigned to an area of immediate military hazard while in a time of war, or of a Presidentially declared national emergency as determined by the Secretary of Defense; (ii) served in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter; or (iii) transferred to the Army or the Navy under the provisions of the Act of May 22, 1917 (40 Stat. 87; 33 U.S.C. 85).

D. Public Health Service

1. A commissioned officer of the Regular or Reserve Corps of the Public Health Service who served on full-time duty on or after July 19, 1945. If the service of the particular Public Health Service Officer falls within the meaning of activity duty for training, as defined in 38 U.S.C. 101, the person must have been disabled or died from a disease or injury incurred or aggravated in the line of duty.
2. A commissioned officer of the Regular or Reserve Corps of the Public Health Service who performed full-time duty prior to July 29, 1945: (i) in time of war; (ii) on detail for duty with the Army, Navy, Air Force, Marine Corps, or Coast Guard; or (iii) while the service was part of the military forces of the United States pursuant to Executive Order of the President.

3. A commissioned officer serving on inactive duty training as defined in 38 U.S.C. 101(23), whose death resulted from an injury incurred or aggravated in the line of duty.

E. World War II Merchant Mariners

United States Merchant Mariners with oceangoing service during the period of armed conflict, December 7, 1941, to December 31, 1946. Prior to the enactment of Public Law 105-368, United States Merchant Mariners with oceangoing service during the period of armed conflict of December 7, 1941 to August 15, 1945, were eligible. With enactment of Public Law 105-368, the service period is extended to December 31, 1946, for those dying on or after November 11, 1998. A DD-214 documenting this service may be obtained by submitting an application to Commandant (G-MVP-6), United States Coast Guard, 2100 2nd Street SW, Washington, DC 20593. Notwithstanding, the mariner's death must have occurred after the enactment of Public Law 105-368 and the interment not violate the applicable restrictions while meeting the requirements held therein.

F. Persons NOT Eligible for Burial

1. **Disqualifying Characters of Discharge:** A person whose only separation from the Armed Forces was under dishonorable conditions or whose character of service results in a bar to veteran's benefits.
2. **Discharge from Draft:** A person who was ordered to report to an induction station, but was not actually inducted into military service.
3. **Conviction or Commission of Federal Capital Crime:**
 - a. Any person who was convicted of a federal capital crime for which a sentence of imprisonment for life or the death penalty may be imposed and whose conviction is final (other than pardon or commutation by the President); or
 - b. Any person who would have been convicted of a federal capital crime but was not because of the person's unavailability for trial due to death or flight from prosecution.
4. **Conviction or Commission of State Capital Crime:**
 - a. Any person who was convicted of the willful, deliberate, or premeditated unlawful killing of another human being for which a sentence of imprisonment for life or the death penalty may be imposed and whose conviction is final (other than a pardon or commutation by the Governor of a State); or
 - b. Any person who would have been convicted of a state capital crime but was not because of the person's

unavailability for trial due to death or flight to avoid prosecution.

5. Active or Inactive Duty for Training: A person whose only service is active duty for training or inactive duty training in the National Guard or Reserve Component, unless the individual meets the eligibility criteria set forth in Section B(1), B(2), B(3), or B(4) above.
6. Other Groups: Members or groups whose service has been determined by the Secretary of the Air Force under the provisions of Public Law 95-202 as not warranting entitlement to benefits administered by the Secretary of Veteran's Affairs.

39.650 **Indemnification.** Prior to burial or removal of human remains, cemetery must obtain written indemnification from the funeral home, mortuary, undertaker, or other party in charge of said burial or removal that the Town, Town Board, Town Staff, and its employees and representatives shall have no liability and be held harmless from and against any and all claims, liabilities, actions, suits, proceedings, liens, levees, judgments and damages arising from any act or omission in the burial or removal of human remains.

39.700 **Fees.** The Town Board may by resolution adopt a schedule of fees for Town Cemetery goods and services.

39.710 **Maintenance of Records.** The Sexton or Town, as the case may be, shall maintain cemetery records as follows:

- A. An Interment File shall be maintained in alphabetical order listing all persons buried at the cemetery, listing interment number and the information required by NRS 440.590.
- B. A Plot Map shall be maintained depicting all sections, plots, graves, crypts, lawn crypts, and niches, with descriptive names where applicable.
- C. A Cemetery Map shall be maintained depicting all sections of the cemetery to include plots, mausoleums, and columbariums, and the location of halls, rooms, corridors, elevations, and other divisions, with descriptive names where applicable, in conformance with NRS 452.360.
- D. A Receipt Book shall be maintained to track all fees collected for services provided by the cemetery.
- E. Any historical records of the cemetery shall be maintained and made available for the public.

39.720 **Maintenance of Cemetery Grounds.** The Sexton or Town shall maintain the cemetery grounds as follows:

- A. The Sexton or Town shall direct generally all improvements within the grounds and upon all plots and graves, before as well as after interments have been made therein. The Sexton or Town shall have charge of the planting, sodding, surveying, and improvements generally.
- B. No one other than the Sexton, Town, or designated agent shall be allowed to perform any work on any plot, grave, crypt, or niche within the grounds without a permit by the Town or other regulatory agency.
- C. No person shall pluck or remove any flower or plant, wild or cultivated, from any part of the cemetery.
- D. The Sexton or Town must address all immediate and long-range landscape concerns to ensure a balanced landscape in the future.

39.740 **Use of Cemetery for Gatherings.** Any gatherings on cemetery grounds, other than funerals, shall be subject to the following:

- A. Families which are interested in the cemetery may hold ceremonies during daylight hours on the cemetery grounds in the areas dedicated for such public use with prior permission.
- B. Such meetings shall be under the supervision of the Sexton or other designated official, and shall conform to accepted standards for taste and decorum.
- C. Proper respect for the burial areas shall be maintained or the group or gathering shall be requested to leave the cemetery grounds.
- D. No alcoholic beverages shall be permitted upon the cemetery grounds.
- E. Any group using the Veteran's Memorial shall clean up the building before leaving, which consists of removal of all food and beverages, all trash and debris placed in outside containers, and removal of all items left on the floor.
- F. Prior to each event at the Veteran's Memorial, the premises shall be inspected by the Town or its representative set forth in a written report.
- G. Tables and chairs may be used at the Veteran's Memorial by request to the Town at least fourteen (14) business days prior to any event.

39.760

Miscellaneous Regulations. The following additional regulations must be followed:

- A. No coping, borders, or other decorative installations shall be allowed in the cemetery without the written approval of the Sexton or Town.
- B. Old and/or faded flowers will be disposed of by the Sexton or other designated official when he or she deems appropriate.
- C. No trees, shrubs, coping, decorations, fences, or stones may be placed on the graves in the cemetery. The Town will approve and designate where any such installations may be set on the cemetery grounds. Submission of plans or drawings must be provided to the Sexton prior to installation.
- D. The cemetery is reserved for the interments of the citizens and residents of the Town who have resided in the Town for a minimum of twelve (12) months and his/her spouse with reservations.
- E. Military honors for veterans may be provided by military units, as coordinated with the funeral director, mortuary, undertaker, or other authorized person.
- F. No person shall be permitted to enter or exit the cemetery grounds except through the public gate or entryway during the designated hours.
- G. Any person found on the cemetery grounds before or after designated hours without proper authorization shall be subject to prosecution for trespass.
- H. No dogs shall be permitted on the cemetery grounds except a dog trained to assist a handicapped person.
- I. The Sexton or other designated official shall have the authority to enter upon any plot and to remove any objectionable item that may have been placed contrary to the regulations of the cemetery or applicable law.
- J. No person shall be permitted to use profane or boisterous language or in any way disturb the quiet and good order of the cemetery.
- K. All persons are to be reminded that the grounds are sacredly devoted to the burial of the dead and that provisions and penalties of the law, as provided by ordinance or statute, will be strictly enforced in all cases of wanton injury, disturbance and disregard of the rules.

39.800

General Violation. Any person who violates any of the provisions of this ordinance shall be guilty of a misdemeanor.

- 39.810** **Penalties.** Any person convicted of a violation of this ordinance shall be punished as provided by the Nevada Revised Statutes for misdemeanors crimes. In addition to being subject to fines and any other penalties which may be assessed by a court of competent jurisdiction, any person who is found guilty of a violation of this ordinance shall be liable for the costs of any subsequent removal and relocation of remains necessitated by the person's violation of this ordinance. Every day that a violation occurs, exists, or is allowed to exist or continue, constitutes a separate offense.
- 39.820** **Severability.** If any section, subsection, subdivision, paragraph, clause, or provision of this ordinance shall for any reason be held invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall not affect any of the remaining provisions of this ordinance.
- 39.825** **Injunctive Relief.** The Town, in addition to the remedies and penalties provided above, may seek injunctive relief against any violator of this ordinance, with or without prior notice, to prevent or correct any cemetery problem.
- 39.830** **No Conflict.** All ordinances, parts of ordinances, or chapters, sections, subsections, or paragraphs or resolutions previously adopted by the Town which are in conflict herewith are hereby repealed.