

**TITLE 12
CEMETERY**

Subject	Chapter
Cemetery Regulations	1

**CHAPTER 1
CEMETERY REGULATIONS**

SECTION:

- 12-1-1: Definitions of Terms
- 12-1-2: Conveyance of Cemetery Plots
- 12-1-3: Interment Standards
- 12-1-4: Regulations For Plot Use
- 12-1-5: General Use of the Cemetery
- 12-1-6: Cemetery Administration
- 12-1-7: General Regulations and Policy
- 12-1-8: General Disclaimers and Reservations
- 12-1-9: Fees
- 12-1-10: Payments
- 12-1-11: Penalties
- 12-1- 12: Severability
- 12-1- 13: Repealer

12-1-1: DEFINITIONS OF TERMS

- ACTIVATE: To create a grave for human remains or cremains. (Ord. 09-732; 2-18-2009)
- CEMETERY: The City of Salmon burial park for human interments.
- CITY: The City of Salmon, Idaho, Lemhi County.
- CITY CLERK: The City Clerk of the City of Salmon, Idaho.

12-1-1

12-1-1

COUNTY:	Lemhi County.
CREMAINS:	The cremated remains of a single human body, in a container suitable for interment.
DISINTERMENT:	The removal of human remains and containers from a grave. (amd. Ord. 06-709; 3-21-2007)
GRAVE:	Excavation for burial of human remains. (amd. Ord. 09-732; 2-18-2009)
HEAD OF PLOT:	The west end of the cemetery plot. (amd. Ord. 09-732; 2-18-2009)
INFANT GRAVE:	Excavation for burial of human infant remains where the coffin length will not exceed four (4) feet. (amd. Ord. 06-709; 3-21-2007, amd. Ord 09-732; 2-18-2009)
INFANT PLOT:	A three (3) foot by six (6) foot defined space for an infant grave.
INTERMENT:	The burial of human remains within a grave. (amd. Ord. 06-709; 3-21-2007)
MARKER:	A monument, flat marker, tablet, headstone or tombstone.
NONRESIDENT:	Any individual who does not live within the official city boundaries.
PETS:	Dogs, cats, ferrets, or other animals or reptiles kept within the home for domestic purposes.
PLOT:	A defined space for a grave. (Ord. 09-732; 2-18-2009)
RESIDENT:	Any individual who currently resides within the official city boundaries and has proof of residing within city boundaries for a period of at least 6 months.

12-1-2 CONVEYANCE OF CEMETERY PLOTS:

- A. General Conveyance: Under authority of Idaho Code Section 50-320, the City shall convey cemetery plots for burial rights by deeds signed by the Mayor and countersigned by the City Clerk, to individuals who pay a fee therefore. Such deeds shall be in the form of a minimum of one plot per deed, which shall be recorded in the office of the County Recorder without further acknowledgment.

Each deed shall contain the language “this deed is subject to the current Salmon City Code in affect at the time of purchase”. The deed shall also contain interment options as allowed in the current City Code. Such deeds shall vest in the owner, his or her heirs and assigns, a right in fee-simple to the plots for the sole purpose of interment. The rights of heirs and assigns to interment in plots conveyed by deeds shall be determined as set forth hereinafter.

Ownership of burial rights may be transferred only as specified hereinafter. All burial rights owners shall be subject to the City Code herein. (See Section 12-1-7-1) The deed of burial rights and any amendments thereto shall be the sole agreement between the City and the plot owner, his heirs and assigns. (amd. Ord. 06-709; 3-21-2007, amd. Ord. 09-732, 2-18-2009)

- B. Procedure for Conveyance of Cemetery Plots: A deed shall be issued for each plot sold for burial rights in the cemetery. (See 12-1-2-A) An application form, accompanied by the appropriate fee, shall be filled out prior to issuance of the deed, indicating the name of the party(ies) to whom the plot is being sold and the name in which the deed to the plot is to be issued. Right to use a plot for interment shall not be granted until all appropriate fees have been paid and the necessary deed obtained.

However, in the case of a licensed mortuary’s request in writing, via e-mail or by certified mail for a plot, the application may be filled out by the City staff on behalf of the mortuary, listing the mortuary as the requesting party, with the name of the deceased to be placed on the deed as owner and the mortuary billed monthly for all such plots requested the previous month. If such payments are not kept current, the City Clerk may refuse to issue further deeds and may prohibit interment until payment in full has been received.

Deeds shall be issued by the Office of the City Clerk in the name specified on the application. All deeds shall be recorded with the

Lemhi County Clerk. (amd. Ord. 06-709; 3-21-2007, amd Ord 09-732, 2-18-2009)

- C. Rights of Interment: The person whose name is subscribed on the deed as the owner shall have the right to be interred in the plot specified on the deed, unless a legal transfer of ownership pursuant to this City Code was made prior to his demise. The owner shall also have the right to specify, by means of a will or other legal document, that an additional interment be allowed in this plot subject to the provisions set forth elsewhere in the City Code. If the owner is interred elsewhere, the plot otherwise reserved for his interment shall be available to his heirs and assigns in the order of their demise, subject to proof of assignment or inheritance being presented to the City. Such heirs and assigns shall also have the right to transfer ownership, subject to presentations of proof of assignment or inheritance. Transfer of ownership must meet criteria as set forth in section 12-1-2 D. Plots can be used only for the purposes as provided by this City Code. (amd. Ord. 06-709; 3-21-2007,amd. Ord. 09-732; 2-18-2009, amd. Ord. 10-766; 11-3-2010)
- D. Transfers, Assignment: Burial rights may be transferred to those persons eligible to be original purchasers of burial spaces. If a "resident" wishes to transfer burial rights to a "nonresident" the difference in fees plus recording fees will be charged according to the current rate. A resident that loses residency due to nursing home care shall not lose resident burial fee rights. No transfer or assignment of any plot or interest therein shall be valid until a new burial permit is issued, recorded, and the original permit is terminated. Such transfer or assignment permit shall be recorded in the office of the County Clerk. (amd. Ord. 06-709; 3-21-2007, amd. Ord. 09-732; 2-18-2009; amd. Ord. 10-766; 11-3-2010)

12-1-3 **INTERMENT STANDARDS:**

- A. Caskets: All caskets laid in opened graves in the cemetery shall be placed either in concrete or metal vaults in accordance with industry standards. (amd. Ord. 06-709; 3-21-2007, amd. Ord. 09-732; 2-18-2009)
- B. Markers: All interments shall include a marker as defined by this Code. The placement of markers or monuments as herein required is to be at the head of each plot. Such markers are to be placed on a concrete base that shall be a minimum of four (4) inches thick.

The concrete base shall be constructed so no less than six (6) inches of concrete borders the marker and/or any other permanent object such as vases, statues, or any other ornamental items. The concrete base shall be constructed to specifications set by the City and shall be flush with the surface of the ground. There shall be no more than two markers per plot, with the exception of a single military marker as defined below. If two markers are placed on one plot, they must be placed side by side at the head of the plot and mounted on a single concrete base as stipulated above. If there is an existing embedded monument that cannot be removed from its base, a second base shall be added. It must be placed in line with, abutting, and beside the existing base. If a military marker is placed on the plot, it may be placed at the head of the plot (not to exceed two markers) or placed six (6) feet from the head of the plot. Any military marker placed not at the head of the plot shall be flush with the surface of the ground and bordered with six (6) inches of concrete and a minimum of four (4) inches thick. No marker(s) or its accompanying items shall exceed the measurements of the plot(s) purchased. Concrete forms shall be inspected by the Sexton prior to the pouring of concrete. All placements of markers shall be approved by the Cemetery Sexton prior to actual placement. (amd. Ord. 06-709; 3-21-2007; amd. Ord 10-754: 5-5-2010)

- C. Ashes: Ashes may be spread on a purchased plot subject to the conveyance and assignment standards set forth in Section 2 of this City Code. (amd. Ord. 09-732; 2-18-2009)

12-1-4 **REGULATIONS FOR PLOT USE:**

A. Floral Regulations:

1. The City shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the Cemetery as soon as, in the judgment of the sexton, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standards maintained.

2. Shrubs or ornamental trees less than four (4) feet in height at maturity may be placed at the head of the plot. The owner will be responsible for the planting and initial care of such shrubs or ornamental trees. (amd. Ord. 06-709; 3-21-2007, amd. Ord 09-732; 2-18-2009)

12-1-4

12-1-5

3. The City shall not be liable for lost, misplaced or broken flower vases. The City shall not be responsible for plants, herbage or plantings of any kind damaged by the elements, thieves, vandals or by other causes beyond its control.
 4. The City reserves the right to regulate the method of decorating graves so that a uniform beauty may be maintained.
 5. The City reserves the right to prevent the removal or destruction of wild flowers, trees, shrubs, plants, or herbage of any kind unless it gives its consent. (amd. Ord. 09-732; 2-18-2009)
- B. Ornament Regulations: No glass objects of any kind are allowed. Permanent objects such as vases, statues, or any other ornamental items will only be allowed at the head of the grave as provided by Section 12-1-3-B.
- C. Prohibited Structures: No person shall erect or maintain any fence, corner post, coping, hedge or boundary of any kind upon any plot in the Cemetery. No person shall grade the ground of any plot in the Cemetery, except under the supervision of the sexton. The sexton shall, whenever requested, furnish the true lines of the plot according to the official markers, and shall prevent and prohibit any grading thereof that might destroy symmetry of the land. (amd. Ord. 09-732, 2-18-2009)
- D. Subdivision of Plots: The subdivision of plots is not allowed, and no one shall be interred in any plot not having any interest therein, except by written consent of the City and of all parties interested in such plot. (amd. Ord. 09-732; 2-18-2009)

12-1-5

GENERAL USE OF THE CEMETERY:

- A. Improprieties: It is of the utmost importance that there shall be strict observance of all of the proprieties of the cemetery, whether embraced in the City Code or not, as no improprieties shall be allowed, and the City shall have the power to prevent improper assemblages.
- B. Use of Walks: Persons within the cemetery grounds shall use the avenues, walks, alleys and roads provided as much as possible. (amd. Ord. 09-732; 2-18-2009)

- C. Safety: The City shall owe no duty to the plot owner to keep the property, or the memorial thereon, in a reasonably safe condition. (amd. Ord. 09-732; 2-18-2009)
- D. Children: Children under fifteen (15) years shall not be permitted within the cemetery or its buildings unless accompanied by an adult. (amd. Ord. 09-732; 2-18-2009)
- E. Hunting: No hunting is allowed in the Cemetery. (amd. Ord. 09-732; 2-18-2009)
- F. Smoking: Expecterating or smoking within any of the cemetery buildings is prohibited.
- G. Littering: The throwing of rubbish on the drives and paths, or any part of the ground, or in the buildings, is prohibited. Receptacles for waste material are located at convenient places.
- H. Motorized Vehicles: Motorized vehicles shall not be driven through the grounds at a speed greater than the posted speed limit and must always be kept on the right-hand side of the cemetery roadway. Motorized vehicles are not allowed to park or to come to a full stop in front of an open grave unless such vehicles are in attendance at the funeral. Motorized vehicles are not allowed to drive on any grass areas unless approved by the sexton. (Amd. Ord. 09-732; 2-18-2009)
- I. Peddling or Soliciting: Peddling of flowers or plants, or soliciting the sale of any commodity, is prohibited within the confines of the cemetery. Solicitation of any kind is strictly forbidden at any time in the cemetery without the approval of the City.
- J. Firearms: No firearms shall be permitted within the cemetery except on special permit from the Sexton. The American Legion and other military, police and fire organizations that routinely perform interment ceremonies requiring the use of firearms shall be exempt from this section. (Amd. Ord 05-691; 1-19-2005)
- K. Pets: Pets shall not be allowed on the cemetery grounds or in any buildings.

12-1-6

12-1-7

12-1-6 **CEMETERY ADMINISTRATION:**

- A. Admission to Cemetery: The City reserves the right to refuse admission to anyone not a plot owner or relative of a person interred in the cemetery, and to refuse the use of any of the cemetery facilities at any time to any persons whom the management may deem objectionable to the best interests of the cemetery.
- B. Dates and Times Cemetery is Open: The cemetery will be open seven (7) days a week between the hours of eight o'clock (8:00) A.M. to four-thirty o'clock (4:30) P.M. (amd. Ord. 09-732; 2-18-2009)
- C. Authority of Sexton: All funeral processions upon reaching the Cemetery shall be under the supervision of the sexton. The sexton and such other employees as the City may designate are empowered to enforce this City Code, and to exclude from the cemetery any person violating the same. The sexton and his assistants shall have charge of the grounds and buildings at all times.

12-1-7 **GENERAL REGULATIONS AND POLICY:**

- A. Subject to Laws: Besides being subject to this City Code, all interments, disinterment and removals are made subject to the orders and laws of the properly constituted authorities of the City, County and State.
- B. Fees: Fees will be set by Resolution by the City Council. (amd. Ord. 09-732; 2-18-2009)
- C. Holidays: No interments, disinterment, removal or interment service shall be permitted on any of the following holidays: New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving Day, or Christmas Day. When any of the holidays mentioned in this subsection falls, or is legally observed on a Saturday or Monday, funerals will be received on the last business day preceding the holiday up to twelve o'clock (12:00) noon, but no further or final disposition will be made. (amd. Ord. 09-732; 2-18-2009)

D. Authorization to Inter or for Disinterment:

1. Authorization to Inter: The City may open a grave in a plot for the purpose of interment upon receipt of a burial transit permit or equivalent document, as required by Idaho Code § 54 -1120, and payment of all fees upon proper written authorization by any plot owner of record made out on forms approved by the City and duly filed in its office, unless there are written instructions to the contrary already on file in the office. No interment may occur without the owner or mortuary first scheduling such a request, with the City. Requirements for the presence of funeral director or designated official during interments are set forth by the State Statute or County Ordinance at the time of interment.(amd. Ord. 06-709; 3-21-2007, amd. Ord. 09-732; 2-18-2009).

2. Authorization for Disinterment: No disinterment shall take place without presenting the proper approval as required by the State of Idaho and arrangements for the disinterment made with the cemetery sexton at least one week prior to the disinterment. (amd. Ord. 09-732; 2-18-2009)

E. Location of Plot: If instructions from the plot owner cannot be obtained, or are indefinite, or when for any reason plot cannot be opened where specified, the City may, in its discretion, open it in such location in the plot as it deems best and proper, so as not to delay the funeral; and the City shall not be liable in damages for any error so made. (amd. Ord. 09-732; 2-18-2009)

F. No Interment Permitted Unless Property Paid For and Transit Permit Received: No interment shall be permitted or marker placed in or on any plot not fully paid for, except by special emergency arrangement. Such exceptions shall be by written consent of the City Clerk and under the terms specified by the City.

Prior to interment, an Authorization for Final Disposition-Transit Permit or equivalent document must be received by the office of the City Clerk. If circumstances do not allow for documentation to be left at city offices, the permit may be left with the Cemetery Sexton at the time of interment. (amd. Ord. 09-732; 2-18-2009)

G. Control of Work by the City: All landscaping, improvements, alterations and care on plots shall be under the direction of and subject to the consent and approval of the Sexton. All trees, shrubs

and herbage of any kind may be planted, trimmed, cut, or removed by the City.

All openings and closing of graves, and all interments, disinterment, and removals shall be provided for by the City. (amd. Ord. 09-732; 2-18-2009)

- H. **Gratuities Prohibited:** No person, while employed by the City, shall receive any fee, gratuity, or commission, except from the City, either directly or indirectly, under penalty of immediate dismissal.
- I. **Interment of More Than One Body:** Multiple interments as provided herein may be allowed for members of a plot owner's immediate family, heirs, or assigns, subject to presentation of proof in writing to the City that the owner gave permission for the additional interment. No such additional use of an owner's plot shall be permitted without documentation of this written permission. Multiple interments shall be allowed as follows:

A. Cemetery Plots Sold Prior to December 1, 2006

1) Activated – A maximum of four (4) interments shall be allowed in any given activated plot consisting of solely one of the following combinations:

- a) One (1) body plus three (3) cremains
- b) Four (4) Cremains
- c) One (1) Infant body or two (2) infant cremains in an infant plot

2) Non-Activated – All non-activated plots are subject to the current Salmon City Code in affect at the time of Activation.

B. Cemetery Plots Sold After December 1, 2006 – A maximum of two (2) interments shall be allowed in any given plot consisting solely of one of the following combinations:

- 1) One (1) body plus one (1) cremains
- 2) Two cremains
- 3) One (1) infant body or two (2) infant cremains in an infant plot

C. New Plots Sold after February 26, 2009

All plots sold after February 26, 2009 shall be subject to and will be posted with the current Salmon City Code in affect at the time of purchase.

Proper identification shall be made of such interment or interments on no more than two (2) regulation markers, with the exception of a military marker, as set forth in Section 12-1-3 B. Military markers may be attached to the regulation marker or as defined in 12-1-3 B. All names of those interred in the grave shall be identified on the markers. (amd. Ord. 06-709; 3-21-2007, amd. Ord. 10-754; 5-5-2010)

- J. Removal to Other Plot: A body may be disinterred from its original grave and interred in another plot in the cemetery, when there has been an exchange or purchase for that purpose. (amd. Ord. 06-709; 3-21-2007, amd. Ord 09-732; 2-18-2009)
- K. Payment of Service Charges: The charges for the cemetery services must be paid at the time of the issuance of the order of interment, disinterment or removal. On line banking payments shall be accepted from Funeral Directors if payment is no more than fourteen (14) working days from activation of a cemetery plot. Fees in addition to normal interment as set forth in Section 9, shall be billed to the owner and made payable according to the current payment policy of the City of Salmon. (amd. Ord. 06-709; 3-21-2007; amd. Ord. 15-798, 03-04-15)

GENERAL DISCLAIMERS AND RESERVATIONS:**A. Disclaimers:**

1. Loss of Damage: Whether or not guards are used, the City disclaims all responsibility for loss or damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage is direct or collateral.

2. Telephoned/Verbal Orders: The City shall not accept any order given by telephone. Orders shall be in writing, via e-mail or by certified mail. The City shall not be held responsible for any mistake occurring from the want of precise and proper instructions

as to the particular plot, size and location in a plot where interment is desired. (amd. Ord. 09-732; 2-18-2009)

3. Delays Caused by Protests: The City shall in no way be liable for any delay in the interment of a body where a protest to the interment has been made, or where this Code has not been complied with.

4. Embalming or Identification: The City shall not be liable for the interment permit nor for the identity of the person sought to be interred; nor shall the City be liable in any way for the embalming of the body.

5. Removal: The City shall exercise due care in making disinterment and removal, but it shall assume no liability for damage to any casket or burial case or urn incurred in making disinterment and removal.

B. Reservations:

1. Roadways and Replatting: The right and privilege to resurvey, enlarge, diminish, replat, alter in shape or size, or otherwise to change all or any part of the property mapped and platted, including the right to lay out, establish, close, eliminate or otherwise modify or change the location of roads, walks, or drives, and to file amended maps or plots thereof, and to use the same for the erection of buildings or for any purposes or uses connected with, incidental to or convenient for the care, preservation or preparation for the disposal or interment of human dead bodies, or other cemetery purposes, together with easements and rights of way over and through the premises, and the right of installing, maintaining and operating pipelines, conduits or drains for sprinklers, drainage, electric or communication lines or for any other purpose is expressly reserved.

2. Easement-Right of Interment: No easement or right of interment is granted to any plot owner in any road, drive, alley or walk within the cemetery, but such road alley or walk may be used as a means of access to the cemetery or buildings as long as the City devotes it to that purpose.

3. Notice Provisions: The right is reserved by the City to insist upon at least twenty-four (24) hours' notice before any interment, and to at least one week's notice prior to any disinterment or removal.

12-1-8

12-1-9

4. Correction of Errors: The City reserves, and shall have the right to correct any errors that may be made by it either in making interments, disinterment or removals, or in the description, transfer or 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 City, or by refunding the amount of money paid on account of the purchase. In the event the error shall involve the interment of the remains of any person in such property, the City 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 also have the right to correct any errors made by city personnel. (amd. Ord. 09-732; 2-18-2009)

12-1-9 **FEES:** Cemetery fees and charges shall be set and adopted each fiscal year by resolution of the City Council and copies of the resolutions shall be kept on file and made available in the office of the City Clerk.

A. Establishment of Fees: Fees established by this Code and set by resolution shall be:

Resident Fees

- a. Infant Cemetery Plot
- b. Standard Cemetery Plot
- c. Cremation Interment
- d. Infant Interment
- e. Standard Interment
- f. Weekend Interment
- g. Outside Normal Working Hours as set forth in Section 6.B.
- h. Disinterment
- i. Disinterment of Cremains
- j. Recording Fees

Nonresident Fees

- a. Infant Cemetery Plot
- b. Infant Plot Maintenance Endowment
- c. Standard Cemetery Plot
- d. Standard Plot Maintenance Endowment
- e. Cremation Interment
- f. Infant Interment
- g. Standard Interment

12-1-9

12-1-12

- h. Weekend Interment
- i. Disinterment
- j. Disinterment of Cremains
- k. Outside Normal Working Hours
- l. Recording Fees

(amd. Ord. 06-709; 3-21-2007, amd. Ord. 09-732; 2-18-2009, amd. Ord 10-766: 11-03-2010)

12-1-10 **PAYMENTS:** Payment plans for the purchase of cemetery plots are provided with the following conditions;

- A. Monthly payment schedule for a period not to exceed twenty-four months. (amd. Ord. 09-732; 2-18-2009)
- B. A handling and administrative fee of five (5) percent of the purchase price will be added to the base purchase price. (amd. Ord. 09-732; 2-18-2009)
- C. Purchaser may pay the balance at any time during the payment term.
- D. Balance must be paid in full prior to activating the plot. (amd. Ord. 09-732; 2-18-2009)
- E. Delinquent Account: When payments are not made within ten (10) days from the past due date, the City shall issue a written notice of delinquency and possible termination of the purchase plan. When bills are not paid within twenty-five (25) days from the past due date, the City will terminate the payment plan, the purchaser will forfeit the cemetery plot, and there will be no refund of previous payments. (amd. Ord. 06-709; 3-21-2007)

12-1-11 **PENALTIES:** Any violation of this Code shall be a misdemeanor and punishable as a General Offense as defined in Section 5-2-1 Salmon Municipal Code, Ord. 99-609, 8-9-1999, by a fine not exceeding three hundred dollars (\$300.00) or by imprisonment not exceeding thirty (30) days. (amd. Ord. 06-709; 3-21-2007)

12-1-12 **SEVERABILITY:** The provisions of this code are hereby declared to be severable and if any provision of this code

12-1-12

12-1-13

or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not effect the validity of the remaining portions of this ordinance.

12-1-13 **REPEALER:** All Codes or parts of Codes in conflict herewith are hereby repealed. (Ord. 04-676; 12-01-2004; amd. Ord. 09-732; 2-18-2009)