

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

Cemetery Board

(name of governing body)

(agency name, if applicable)

Resolution No. _____

Administrative Order No. PM 830

(1) Be it resolved by the Washington State Cemetery Board, acting at Seattle, Washington (place)

that it does adopt the annexed rules relating to:
Repealing WAC 98-12-010 and WAC 98-20-010
New Section WAC 98-14-100.

Amending WACs 98-08-150, 98-11-010, 98-14-090, 98-16-020, 98-20-020, 98-40-020, 98-40-030, 98-40-040, 98-40-050, 98-40-070, 98-40-080

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. WSR 89-05-054 filed with the code reviser on 2-15-89. These rules shall take effect:
 thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
 at a later date, such date being _____.

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, _____, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026¹ that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

(a) This rule is promulgated pursuant to RCW _____ and is intended to administratively implement that statute.

(b) This rule is promulgated pursuant to RCW 68.05.105 which directs that the

Washington State Cemetery Board
(agency)

has authority to implement the provisions of Chapter 68.05 RCW

(name of act or RCW citation)

(c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW _____

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED March 28, 1989

STATE OF WASHINGTON

FILED

MAR 31 1989

CODE REVISER'S OFFICE

WSR 89-08-043

By

B. DAVID DALY
Chairman

Title

AMENDATORY SECTION (Amending Rule .08.150, effective 2/8/60)

WAC 98-08-150 SUBPOENAS--WHERE PROVIDED BY LAW--FORM. Every subpoena allowed by RCW ((68*05*150)) 68.05.105 shall state "cemetery board" and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents or things under his control at a specific time and place.

AMENDATORY SECTION (Amending Order 72-1, filed 9/8/72)

WAC 98-11-010 FINANCIAL RESPONSIBILITY REQUIREMENTS FOR NONENDOWMENT CARE CEMETERIES. Any cemetery authority (as defined in RCW 68.04.190) which desires to obtain a certificate of authority to operate a cemetery (as required by RCW ((68.05.200)) 68.05.115, 68.05.210, and 68.05.215), but which does not deposit in an endowment care fund the minimum sum required by RCW 68.40.010 of an endowment care cemetery shall be required by the cemetery board, in the exercise of the powers conferred upon it by RCW 68.05.210, as a condition precedent to the granting of such certificate of authority, to present to the cemetery board satisfactory proof that the cemetery authority has, at the time of its application for such certificate of authority or within a reasonable time prior thereto, a corporate net worth, determined by commonly accepted accounting standards and criteria, in excess of one hundred thousand dollars: PROVIDED, That nothing herein shall apply to any corporation, association, society or municipal corporation referred to in RCW ((68.05.200)) 68.05.400: PROVIDED FURTHER, That any cemetery authority which is denied a certification of authority under the provisions hereof, shall have the right to appeal from such denial to the superior court of the county in which the cemetery authority is located or proposed to be located, such appeal to be taken within thirty days after the denial of the certificate of authority.

AMENDATORY SECTION (Amending Order 106, filed 1/5/83)

WAC 98-14-090 RECORDS OF PREARRANGEMENT TRUST FUNDS. Any cemetery authority maintaining a prearrangement trust fund shall, at all times, maintain a current accounting system in accordance with generally accepted accounting standards and principles. The system shall include, but not be limited to, all of the following:

(1) An individual contract or agreement with each individual establishing a prearrangement trust agreement.

(2) A sales register or journal showing the recording of all individual sales including date of sale, gross sales price, and detail of items sold.

(3) An individual account record which records the amount of the prearrangement agreement, all payments received, the amount due the prearrangement trust fund and the distribution of payments received to the prearrangement trust fund or the cemetery authority in accordance with the method then allowed by the cemetery authority's prearrangement license.

(4) A cash receipts journal which shall show each payment received from individual customers.

(5) Schedules or documentation reconciling to and showing detail of each payment to and withdrawal from the prearrangement trust fund including date of payment, individual customer name, and amounts.

(6) Schedules and documentation showing detail of prearrangement trust fund asset management, renewal (rollover), and earnings. When assets are held in instruments that return a mix of principal and earnings throughout the period of holding, schedules shall be maintained reconciling principal to opening deposit.

All records required to be maintained pursuant to this rule and Title 68 RCW, whether maintained manually or by computer, shall be retained and available for inspection for a period of seven years and shall be in such form as to be understandable to the cemetery board examiner or other persons reasonably having cause to access them.

NEW SECTION

WAC 98-14-100 QUALIFICATIONS OF APPLICANT FOR PREARRANGEMENT SALES LICENSE. To qualify as an applicant for a prearrangement sales license as set forth in RCW 68.05.155 and 68.46.150, applicant must hold a valid, subsisting, and unsuspended certificate of authority to operate a cemetery in this state issued by the Washington state cemetery board.

AMENDATORY SECTION (Amending Order 104, filed 3/9/81)

WAC 98-16-020 HYBRID UNIT AS FUNERAL MERCHANDISE OR SERVICES. A hybrid unit shall be considered funeral merchandise or services as defined in RCW ((48.49.002-(2)-(b))) 18.39.010(8), unless specifically designated, detailed and represented to the contrary in cemetery prearrangement contracts: PROVIDED, HOWEVER, That hybrid units not subject to regulation under chapter ((48.49)) 18.39 RCW shall, if applicable, be subject to chapter 68.46 RCW and considered cemetery merchandise or services. Such cemetery prearrangement contracts, advertising, and other representations shall clearly state which items of the hybrid unit are being sold as funeral merchandise or services and which are being sold as cemetery merchandise or services.

AMENDATORY SECTION (Amending Order 109, filed 8/19/86)

WAC 98-20-020 DEFINITIONS--SALE OR TRANSFER OF OWNERSHIP OR CONTROL OF ANY CEMETERY. For purposes of RCW ((68-05-255)) 68.05.115, sale or transfer of ownership or control of any cemetery authority, the following definitions shall apply:

(1) SALE: The purchase of a controlling interest (fifty percent or more) of assets or stock of an existing cemetery corporation.

(2) OWNERSHIP: The individual or individuals who own the stock of the cemetery corporation. Any one individual who owns fifty percent or more of the stock is considered an owner. When percentages of stock ownership change, anyone moving into a majority (fifty percent or more) position shall be considered the new owner, and thus subject to the provisions of RCW ((68-05-255)) 68.05.115.

(3) CONTROL: The person or entity who has fifty percent or more of the ownership, or has acquired the right to sell the corporation or its assets.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 98-20-010 REMOVAL OF DEDICATION.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-020 TERMINOLOGY. The following definitions shall apply in this chapter:

(1) AUTHORIZING AGENT(S):

The person(s) legally entitled to order the cremation of the human remains. (See RCW ((68-08-160)) 68.50.160)

(2) CREMATED REMAINS:

The remaining bone fragments after cremation in a crematory. (See RCW 68.04.030)

(3) CREMATION:

"Cremation" means the reduction of the body of a deceased person to cremated remains in a crematory in such a manner that the largest dimension of any remaining particle does not exceed five millimeters; provided, that if a person entitled to possession of such remains under the provisions of RCW ((68-08-245)) 68.50.270 is going to place the cremated remains in a cemetery, mausoleum, columbarium or building devoted exclusively to religious purposes, the five millimeter dimension requirement shall not apply. (See RCW 68.04.110)

(4) CREMATION CHAMBER:

The enclosed space within which the cremation process takes place.

(5) CREMATION CONTAINER:

The case in which the human remains should be delivered to the crematory to be placed in the cremation chamber for cremation. The cremation container shall meet the following standards:

(a) It shall be composed of a suitable combustible material. If the remains are delivered to the crematory in a noncombustible container, the authorizing agent shall be, or have been, informed of the disposition of the container if it is not actually used in the cremation process. Any transfer of human remains to combustible containers at the crematory shall be in accordance with the provisions of chapter 18.39 RCW, applicable health laws and regulations adopted hereunder.

(b) It shall be rigid enough for handling with ease.

(c) It shall assure protection to the health and safety of the crematory operators and others.

(d) It shall provide proper covering for the human remains.

(e) It shall meet moral codes for respect and dignity.

(6) CREMATORY AUTHORITY:

The legal entity or the authorized representative of the legal entity, who conducts the cremation and who is properly licensed by the state of Washington to do so.

(7) CREMATORY OR CREMATORIUM:

The building or room(s) that house the cremation chamber. (See RCW 68.04.070, 68.04.080 and 68.04.090 and chapter 68.28 RCW and RCW ((68-48-050)) 68.05.185.)

(8) HOLDING FACILITY:

An area designated for the retention of human remains prior to cremation within the crematory facilities. The area shall:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the human remains; and

(c) Recognize the personal integrity and health of the crematory authority personnel operating the crematory.

(9) HUMAN REMAINS:

The body of a deceased person. (See RCW 68.04.020)

(10) PROCESSED REMAINS:

The end result of pulverization, where the residue from the cremation process is cleaned leaving only bone fragments reduced to five millimeters or less. (See RCW 68.04.030)

(11) SEALABLE CONTAINER:

Any container in which processed remains can be placed and sealed so as to prevent leakage of processed remains or the entrance of foreign materials.

(12) RULES AND REGULATIONS:

The crematory authority may make, adopt, amend, add to, revise or modify, and enforce rules and regulations as necessary for proper operation of the crematory and to implement the provisions of the RCW

and chapter 98-40 WAC in regard to cremations and the handling and custody of human remains. (See RCW 68.20.060)

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-030 REMOVAL AND IDENTIFICATION OF HUMAN REMAINS. (1) Immediately upon taking custody of human remains, a crematory Authority shall verify that the human remains bear a means of identification attached to the cremation container or to the remains. A crematory authority shall not accept unidentified human remains. (See RCW ((68-08-170)) 68.50.170 and ((68-08-180)) 68.50.180) Upon accepting human remains for cremation, the crematory shall make a permanent signed record of the color, shape and outside covering of any casket consumed with such human remains. (See RCW ((68-20-100)) 68.50.250)

(2) Materials identifying the human remains placed in the custody of a crematory authority should contain the following information: (See RCW ((68-08-240)) 68.50.240)

- (a) Name of deceased;
- (b) Date of death;
- (c) Place of death;
- (d) Name and relationship of authorizing agent;
- (e) Name of firm engaging crematory services.

(3) If the crematory authority takes custody subsequent to the human remains being placed within a cremation container, the crematory authority shall satisfy itself that identification has been made as described in WAC 98-40-030(2) and thereafter shall place or ensure that appropriate identification has been placed upon the exterior of the cremation container.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-040 HOLDING HUMAN REMAINS FOR CREMATION. (1) When the crematory authority is unable to cremate the human remains immediately upon taking custody thereof, the crematory authority shall provide a holding facility as defined in WAC 98-40-020(8) and ((chapter {Title-})) Title 68 RCW and chapter 18.39 RCW.

(2) Human remains designated for cremation will be cremated within a reasonable time after death. (See RCW ((68-08-110)) 68.50.110)

(3) A crematory authority shall not hold the human remains for cremation unless it is contained within an individual, rigid and closed cremation container as defined in WAC 98-40-020(5).

(4) A crematory authority shall not accept for holding a cremation container from which there is any evidence of leakage of the body fluids from the human remains therein.

(5) Human remains that are not embalmed shall be held only within a refrigerated facility or in compliance with applicable public health regulations.

(6) Holding facilities shall be secure from access by unauthorized persons.

AMENDATORY SECTION (Amending Order PM 714, filed 3/9/88)

WAC 98-40-050 CREMATION OF HUMAN REMAINS. (1) Cremation will not take place until the necessary permits and consents are issued by

the health department and/or coroner or prosecuting attorney. (See RCW ((68-08-409)) 68.50.108 and 70.58.230)

(2) Immediately prior to being placed within the cremation chamber, the identification of the human remains shall be verified by the crematory authority and identification of the human remains being cremated shall be placed near the cremation chamber control panel where it shall remain in place until the cremation process is complete.

(3) The unauthorized simultaneous cremation of more than one human remains within the same cremation chamber is specifically forbidden. It may be done only when authorized as provided in WAC 98-40-050 (4) and (5).

(4) A crematory authority may simultaneously cremate more than one human remains within the same cremation chamber only upon having received written authorization to do so from the authorizing agent of each human remains to be cremated. A written authorization shall exempt the crematory authority from all liability for commingling of the products of the cremation process.

(5) Simultaneous cremation of more than one human remains within the same cremation chamber may be made without the authorizations required in WAC 98-40-050 (3) and (4) if equipment, techniques, or other devices are employed that keep the human remains separate and distinct before and during, and recoverable cremated remains separated and distinct after the cremation process.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-070 PACKAGING AND STORAGE OF CREMATED REMAINS. (1) The entire cremated remains or processed remains shall be placed in a sealable container as defined in WAC 98-40-020(11) or in such container as may have been ordered by the authorizing agent, together with the identification of the cremated remains.

(2) Should the cremated remains or processed remains not adequately fill the container's interior dimensions, the extra space may be filled with packing material that will not become intermingled with the cremated remains or processed remains and then securely closed.

(3) If the entire cremated remains or processed remains will not fit within the dimensions of the designated receptacle, the remainder shall be returned either in a separate container, or upon written permission of the authorizing agent, be disposed of according to the established procedures of the crematory authority.

(4) When a temporary container is used to return the cremated remains or processed remains, it is recommended that the container be placed within a sturdy box and all box seams taped closed to increase the security and integrity of that container. The outside of the container shall be clearly identified with the name of the deceased person whose cremated remains or processed remains are contained therein.

(5) Cremated remains or processed remains held by a crematory authority or cemetery pending final disposition shall be handled in accordance with RCW ((68-48-050)) 68.05.185.

AMENDATORY SECTION (Amending Order 108, filed 9/6/85)

WAC 98-40-080 DISPOSITION OF CREMATED REMAINS. (1) A crematory authority shall keep an accurate record of all cremations performed, including disposition of the remains, as required by law. (See RCW ((68-08-240)) 68.50.240)

(2) Forms granting authority to cremate may contain notification of the disposition procedure in WAC 98-40-080(3).

(3) When cremated remains or processed remains of any dead human body have been in the possession of a crematory authority, funeral director or cemetery as originally authorized by the authorizing agent(s) without instructions or payment for final disposition for a period of two years or more (see RCW ((68*08*230)) 68.50.230) the crematory authority, funeral director, cemetery authority or other entity holding cremated remains or processed remains of persons other than their relatives may:

(a) Endeavor to contact the authorizing agent(s) by registered mail requesting disposition instructions and informing the authorizing agent(s) of the procedures that may be followed if disposition instructions are not received.

(b) If contact cannot be made or disposition instructions are not made within 60 days of the initiation of the contact process, the crematory authority, funeral director or cemetery authority, or other entity holding cremated remains or processed remains of persons other than their relatives, may arrange for permanent disposition of the cremated remains or processed remains in a cemetery established in accordance with Title 68 RCW. Such disposition may be in an individual, common, or community grave, crypt or niche from which individual recovery of the cremated remains or processed remains may or may not be possible. No entity making disposition of remains under this procedure shall be liable for the nonrecoverability of any cremated remains or processed remains.

(c) A record of the name, place of death, crematory authority and location of the disposition shall be maintained as permanent records by both the cemetery and crematory authority, funeral director or other entity holding cremated remains or processed remains of persons other than their relatives.

(4) With written permission from the authorizing agent, a crematory may dispose of cremated remains or processed remains in any legal manner. (See RCW ((68*08*130)) 68.50.130 and ((68*08*245)) 68.50.270)

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 98-12-010 ENDOWMENT CARE TRUST FUNDS--ALTERATION OF IDENTITY OF TRUSTEE--NOTICE REQUIRED.