

# **POMERADO CEMETERY DISTRICT**

## **RULES AND REGULATIONS**

### **SECTION 1 DEFINITIONS**

1.1 **ASSIGNMENT AGREEMENT FOR AT NEED CONTRACT.** "Assignment Agreement for At Need Contract" shall mean an agreement on a form provided by the District by which a person may assign the rights and obligations under an At Need Contract to a third party pursuant to the terms outlined in the At Need Contract and these Rules and Regulations.

1.2 **AT NEED.** "At Need" shall mean grave(s) purchased at the time of need and/or of an interment.

1.3 **AT NEED CONTRACT.** "At Need Contract" shall mean a contract on a form provided by the District by which a person may purchase grave(s) at the time of need and/or of an interment.

1.4 **BOARD.** "Board" shall mean the Board of Trustees of the Pomerado Cemetery District.

1.5 **CEMETERY.** "Cemetery" shall mean the Dearborn Memorial Park operated by the District.

1.6 **CERTIFICATE OF PURCHASE AND BURIAL RIGHTS.** "Certificate of Purchase and Burial Rights" shall mean a certification on a form provided by the District evidencing that a person has purchased and paid in full for burial rights from the District.

1.7 **CLIENT.** "Client" shall mean any person authorized to sign an interment order and allow a burial to proceed.

1.8 **DISTRICT.** "District" shall mean the Pomerado Cemetery District, organized and operating pursuant to Health and Safety Code Section 9000, et seq.

1.9 **DISTRICT HOLIDAYS.** "District Holidays" shall mean all holidays established pursuant to State law or otherwise recognized and honored by the District.

1.10 **ENCASEMENT.** "Encasement" shall mean a container approved by the District for the placement therein or under of a casket or cremation urn containing human remains.

1.11 **ENDOWMENT CARE FEE.** "Endowment Care Fee" shall mean that fee paid which is equal to at least the minimum amount required pursuant to Health and Safety Code section 8738. Such fee shall be deposited in the District's Endowment Care Fund pursuant to Health and Safety Code section 9065(c).

1.12 GROUND MANAGER. "Grounds Manager" shall mean the head grounds keeper for the District.

1.13 HEALTH AND SAFETY CODE. "Health and Safety Code" shall mean the Health and Safety Code of the State of California.

1.14 INTERMENT ORDER. "Interment Order" shall mean an order executed by an authorized person on a form provided by the District which authorizes the District to inter the remains of deceased person pursuant to these Rules and Regulations and any other applicable laws and regulations.

1.15 LOT OWNER. "Lot Owner" shall mean a person who has purchased burial rights from the District and who possess a Certificate of Purchase and Burial Rights issued by the District.

1.16 RECEPTACLES. "Receptacles" shall mean any container approved by the District for the placement therein of human remains in any form, including cremated. Receptacles shall include caskets and cremation urns.

1.17 GENERAL MANAGER. "General Manager" shall mean the General Manager of the District.

1.18 QUITCLAIM AGREEMENT FOR AT NEED CONTRACT. "Quitclaim Agreement for At Need Contract" shall mean an agreement on a form provided by the District by which a person may transfer the rights under an At Need Contract back to the District pursuant to the terms of the At Need Contract.

## SECTION 2 INTERMENTS

2.1 PERFORMANCE. Only District personnel shall perform interments. All interments shall be conducted pursuant to the direction and control of the General Manager.

2.2 RESIDENCY REQUIREMENT. Subject to Sections 2.3 through 2.5, only residents or taxpayers of the District, former residents or taxpayers of the District who purchased burial rights from the District while residents or taxpayers of the District, or a family member may be interred on District property. For purposes of this section, "family" shall be limited to spouse, by marriage or otherwise, child or stepchild, by natural birth or adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons.

2.3 INTERMENT OF NONRESIDENTS. Upon the payment of a nonresident fee established by the District pursuant to Health and Safety Code § 9068, the District may authorize the burial of any deceased nonresident of the District if the decedent is any of the following: (1) a member of the family of a resident or taxpayer of the District; (2) a member of the family of a

decedent already buried in a cemetery maintained by the District; or (3) a member of the family of a former resident or taxpayer who purchased burial rights while he or she was a resident or taxpayer of the District. The District may also bury any deceased nonresident if all of the following five conditions are met: (1) a written request is submitted by a resident or taxpayer of the District, other than a member of the Board, an employee of the District, a funeral director or an employee of a funeral director; (2) the Board determines that the Cemetery has adequate space for the foreseeable future; (3) the deceased nonresident had been a resident or taxpayer of the District for at least a continuous five-year period, a portion of which must have occurred within the ten-year period immediately prior to his or her death; (4) the required Endowment Care Fee is paid; and (5) the required nonresident fee is paid. For purposes of this Section, "family" shall have the meaning set forth in Section 2.2.

2.4 INTERMENT OF OTHERWISE INELIGIBLE NONRESIDENTS. Upon the payment of a nonresident fee, the District may authorize the burial in the ground of an otherwise ineligible deceased nonresident of the District if all of the following conditions are met: (1) the decedent was a resident of the State of California at the time of death; (2) no private facilities are available within a fifteen mile radius of the decedent's residence; and (3) there is no private cemetery nearer to the decedent's residence than the Cemetery. The nonresident fee shall not be applicable to the burial of indigent persons at public expense.

2.5 INTERMENT OF NONRESIDENT MILITARY SERVICEMEN, PEACE OFFICERS OR FIREMEN. The Board may authorize the burial in the ground of a deceased nonresident of the District if the decedent dies while serving on active duty in the armed forces or active militia, or while in the line of duty as a peace officer or fireman, and if all of the following conditions are met: (1) the Board determines that the Cemetery has adequate space for the foreseeable future; (2) the required Endowment Care Fee is paid; and (3) the required nonresident fee is paid. As used in this Section, the following definitions shall apply: (a) "armed forces" shall have the same meaning as set forth in California Government Code Section 18540; (b) "active militia" shall have the same meaning as set forth in California Military and Veterans Code Section 120; (c) "peace officer" shall have the same meaning as set forth in California Penal Code Section 830; and (d) "fireman" shall have the same meaning as set forth in California Health and Safety Code Section 217.

2.6 DOCUMENTATION/RIGHTS. Prior to the commencement of any interment or burial service, all necessary documentation required by the District must be fully executed and in the possession of the District. Such documentation shall include, but is not necessarily limited to, an Interment Order and Interment Permit. All burial rights must be established to the satisfaction of the General Manager prior to the preparation of any grave or niche for interment. If the General Manager has reason to believe that grounds exist to question the validity of any burial right(s), the General Manager may postpone or disallow an interment until the right(s) are validated and confirmed.

2.7 CHARGES AND FEES. Prior to the commencement of any interment or burial service, all charges and fees associated with the interment shall be paid in full to the District.

2.8 ENCASEMENTS. All Encasements, and the use thereof, shall strictly conform to the following specifications and requirements:

A. Construction and Design. Encasements intended to contain caskets shall be constructed, at a minimum, of cement and shall be capable of supporting a minimum load of eighteen (18) inches of dirt.

B. Inspection. The General Manager or his authorized representative shall have the right to inspect all Encasements purchased from or provided by persons or entities other than the District. If, after such inspection and any required testing, the General Manager determines that an Encasement does not satisfactorily comply with standards and specifications provided in this Section 2.8, the Encasement shall not be used for any interment at the Cemetery, and shall be ordered removed from the District premises. The determination of the General Manager as to the adequacy of any Encasement shall be final for all purposes. Notwithstanding this Section, the District, its officers and employees shall not be liable for any defect in, or damage caused to, the Encasement as is further provided in Section 2.8(E).

C. Handling Fee. When any Encasement is purchased from or provided by persons or entities other than the District, a handling fee as established by the District shall be charged by the District to the Client.

D. Delivery; Inspection. Any Encasement purchased from or provided by a person or entity other than the District must be delivered and placed on the ground within the Cemetery storage yard no earlier than forty-eight (48) hours prior to, and no later than twenty-four (24) hours prior to, the burial service for which it is provided, excluding weekends and District holidays. The Encasement shall meet all District standards and specifications provided in this Section 2.8, and shall be accepted for delivery only after inspection by the General Manager or his authorized representative as provided in Section 2.8(B) and any required testing. If the General Manager or his authorized representative determines that the Encasement does not meet the standards and specifications provided in this Section 2.8, the General Manager or his authorized representative may reject acceptance of the Encasement and order it removed from District property as provided in Section 2.8(B).

E. Indemnification; Waiver of District Liability. For any Encasement purchased from or provided by any person or entity other than the District, the Client shall sign a waiver on a form provided by the District which substantially provides:

"I [NAME OF PARTY] hereby release for any or all purposes, the Pomerado Cemetery District, its officials, officers, employees and agents from liability of any kind that may be caused by or associated in any way with the use of [DESCRIBE ENCASEMENT] for the interment of [NAME OF DECEASED]. I further agree to defend, indemnify and hold the Pomerado Cemetery District, its officials, officers, employees and agents free and harmless from any and all liability from loss, damage or injury to property or persons in any manner arising out of or incident to the use of [DESCRIBE ENCASEMENT] for the interment of [NAME OF DECEASED], including without limitation the

payment of attorney's fees. Further, I shall defend at my own expense, including attorney's fees, the Pomerado Cemetery District, its officials, officers, employees and agents in any legal action in any manner arising out of or incident to the use of [DESCRIBE ENCASEMENT] for the interment of [NAME OF DECEASED]. This waiver/indemnification is subject to the District installing the Encasement according to the manufacturer's instructions."

2.9 RECEPTACLES. All receptacles, and the use thereof, shall be subject to the prior approval of the General Manager or his authorized representative. Caskets shall be manufactured using a minimum material standard of particle board that will sufficiently support the weight of the remains placed therein and which meets minimum industrial standards. The particle board must be a minimum of one half inch in thickness. Infant caskets shall meet the same standards as adult caskets. Cremated remains, other than those placed in a niche, shall be placed in a receptacle that will not dissolve or fall apart in any respect. Cremated remains which will be placed in a niche shall be, at a minimum, contained in a plastic bag which is strong enough to preserve the remains.

2.10 BURIAL SERVICES; NOTICE. All burial services require at least twenty-four hours advance notice to the District, excluding weekends and holidays. If such notice cannot be given, a non-twenty-four hour notice fee as established by the District shall be charged by the District to the person executing the Interment Order. In addition, if twenty-four (24) hours advance notice is not given, and if, in the sole and absolute discretion of the General Manager, the burial service would interfere with another service already scheduled, the request for burial service will not be honored at that time.

2.11 SCHEDULING OF BURIAL SERVICE. Given the size of the Cemetery and the location of the burial service, the following scheduling regulations shall be adhered to by the District:

A. Service Time. The District shall use its best efforts to perform any burial service between the hours of 9:00 a.m. and 3:30 p.m. Monday through Friday. No services shall be performed at the following times or on the following days, unless authorized in advance by the General Manager due to special circumstances: (1) before 9:00 a.m.; (2) after 3:30 p.m.; (3) on weekends; or (4) on District Holidays. The General Manager or his authorized representative shall, within his sole and absolute discretion, determine the times for all burial services performed at the Cemetery, as well as the total number to be performed on any one day. Conditions such as weather, expected attendance, equipment, etc. may influence this determination. No burial service shall be performed if, in the sole and absolute discretion of the General Manager or his authorized representative, the weather will not permit the safe functioning of the service.

B. Service Time Changes. If, for any reason, a scheduled burial service time must be changed, a burial service change fee as established by the District may be charged by the District to the Client.

2.12 UNSAFE CONDITIONS. The General Manager may refuse to perform any service or prepare any grave or niche for interment if, in his sole and absolute discretion, conditions may be unsafe or dangerous to persons or property. If a person purchases pursuant to an At Need Contract and, at the time of need, the conditions are such that it would endanger persons or property (including District equipment) to prepare the lot in question, the General Manager may postpone the preparation until conditions are safe, offer the person another lot and/or refuse to prepare the lot in question indefinitely. If the person does not wish to accept a different lot, he or she may be given a refund for the lot, less the Endowment Care Fee, interest and any other service charges or fees paid.

2.13 PERMITS. A valid Interment Permit issued by the San Diego County Health Department must be presented to the General Manager or his authorized representative before any interment may begin. No human remains will be placed in, lowered into or interred in any grave on District property without the Interment Permit being in the possession of the District personnel performing the interment.

2.14 MISTAKEN BURIALS. In the event that human remains are interred in the wrong grave or lot, or a grave or lot previously contracted for or purchased by another party, the District shall make every effort to resolve the situation to the satisfaction of all interested parties. To this end, the District may, but is not necessarily required to, resolve issues of doubt in favor of the previously purchased or contracted grave or burial right. Notwithstanding the District's intent to resolve all issues to the satisfaction of all parties involved, it shall be understood and acknowledged that the District has the legal authority to disinter any human remains and re-inter them within the same cemetery without the consent of family members or the benefit of a court order.

### SECTION 3 GRAVES AND GROUNDS

3.1 MAINTENANCE OF GROUNDS. District personnel are solely authorized to maintain the Cemetery grounds. The District Grounds Manager shall be primarily responsible for this duty. In no event shall any other person alter, modify, mutate, turn or vary any grave, marker, vase or other object under District's exclusive control.

3.2 OBJECTS ALLOWED ON GRAVES. No objects may be placed on any grave for any purpose, unless authorized by this Section 3.2 or by the General Manager on a case-by-case basis. Such authorized objects include:

- A. Cut or artificial flowers placed in vases installed for this purpose; and
- B. Small flags mounted on sticks and placed for Memorial and Veterans Day Services.

Except for the small flags mentioned above and for flowers placed at a gravesite after a burial service, no objects of any kind may be placed on the grass. In addition, no potted plants or

objects of any kind may be placed on the grave markers. Once each week the District will remove and dispose of all items placed on graves to allow District personnel to mow the Cemetery grounds. The removal, disposal and mowing will generally occur on Thursdays or Fridays, depending upon weather conditions and scheduled services. In no event shall the District be held responsible or liable for any damage, loss, misplacement, theft or disposal of any objects left at a gravesite. Flowers, pots or any other objects left on a gravesite following a burial service shall be removed and disposed of on the third day following the service.

3.3 GRAVE MARKERS. Pursuant to Section 8300 of the Health and Safety Code, the District reserves the right to regulate and/or prohibit the placement of any or all markers on any portion of District property. In addition, the District may remove any or all markers from District property if, in the sole and absolute discretion of the General Manager, conditions warrant such action.

3.4 PLACEMENT OF GRAVE MARKERS. District personnel are solely authorized to install and place grave markers on District property. Unless authorized pursuant to Section 3.7, all grave markers shall be installed and placed flush with the ground and embedded in cement with two galvanized vases similarly placed on each side of the marker. An initial setting fee shall be charged by and paid to the District in an amount determined by the District. The District reserves the right to delay the installation and placement of any grave marker for up to one (1) year following the burial of human remains to allow for the settling of the grave area. The General Manager shall have the sole and absolute discretion as to when grave markers are to be installed and placed.

3.5 REMOVAL OF GRAVE MARKERS. The District shall have the authority to remove any and all grave markers when, in the sole and absolute discretion of the General Manager, such removal is necessary. Situations in which removal may be necessary include, but are not necessarily limited to, maintenance of Cemetery grounds or the interment of human remains.

3.6 DAMAGE TO GRAVE MARKERS. Grave markers shall at all times remain the property of the clients who purchased the markers. In no event shall District be held responsible or liable for any damage, loss, theft or defacement of any grave markers caused by vandalism or any other intentional, negligent or accidental acts of any person. The District shall also not be responsible or liable for any damage caused to any grave marker by District machines and equipment, including but not limited to lawn maintenance equipment and vehicles. Pursuant to Health and Safety Code section 8101, the District may pursue the prosecution of anyone suspected of vandalizing District property, or any other property or objects located on District property. Any person witnessing such activity should notify District personnel immediately.

3.7 UPRIGHT GRAVE MARKERS. The provisions of this Section 3.7 shall be applicable only to graves purchased prior to May 8, 1978. If such a grave has an adjoining companion grave which had placed on it prior to May 8, 1978 an upright grave marker, that grave may also have placed on it an upright grave marker. A special setting fee shall be charged by and paid to the District for the placement of an upright grave marker. The special setting fee shall be determined on a case-by-case basis by the General Manager, and shall be based on the labor,

material and equipment costs associated with the installation and placement of the particular upright grave marker in question.

3.8 **ACTIVITY ON DISTRICT PROPERTY.** All persons, while on District property, shall refrain from conduct that endangers or unreasonably disturbs other persons or burial services. No burning of any substance or material is allowed on District property, unless otherwise approved in advance by the General Manager. All trash, debris and rubble of any kind shall be properly placed in receptacles provided for that purpose. No animals or pets of any kind shall be permitted on District property, except those which may be necessary for District security purposes.

#### SECTION 4 POWERS, AUTHORITY AND RIGHTS

4.1 **CONTROL OF DISTRICT.** Sole and absolute authority and control of the District is vested in the Board.

4.2 **GENERAL MANAGER.** All day-to-day authority over the operations of the District is vested in the General Manager. The General Manager's authority shall include, but shall not be limited to, ensuring that all applicable laws, rules, regulations, and policies are enforced and/or complied with by the District, as well as carrying out all specific duties delegated to the General Manager pursuant to these Rules and Regulations. The General Manager shall be directly accountable to the Board.

4.3 **OPERATION OF DISTRICT.** The District shall be operated in accordance with all applicable Health and Safety Code provisions and other laws, rules or regulations now in effect or which may hereafter be duly adopted.

4.4 **INTERPRETATION; APPEAL.** All interpretations of the Health and Safety Code, these Rules and Regulations and any other applicable laws, regulations or policies shall be ultimately vested in the Board. All disputes regarding any interpretations or other decisions made by District personnel, including the General Manager, may be appealed to the Board. All appeals must be made in writing; no oral appeals or requests may be considered by the Board. All appeals shall be placed on the agenda of the Board's next regularly scheduled Board meeting which is at least seven (7) days following receipt of the written appeal. The Board shall hear the appeal at that meeting, unless the matter is continued, but need not make a determination regarding the appeal during that same meeting.

4.5 **QUITCLAIM.** Provided no burial has yet occurred at a grave purchased by a client and within five (5) years from the date on which the client and District execute a valid At Need Contract, the Client may execute a Quitclaim Agreement on a form provided by the District for this purpose. Within thirty (30) days following the execution of a valid Quitclaim Agreement, District shall refund only the total price paid for the grave. Interest shall not accrue on the price paid and the client shall not be entitled to receive any interest on that amount. In addition, the District shall not forfeit, and the client shall not be entitled to a refund of, any portion of the

Endowment Care Fee, Administrative processing fee or any other fees paid by the client, such fees being necessary to offset the District's costs and burdens associated with the quitclaim by the client. In the event a client executes a valid Quitclaim Agreement, the District shall be the owner of the grave in question and may resell or otherwise reconvey it to a third party.

4.6 PURCHASER RIGHTS. When a client has purchased and paid in full for a grave, that person shall receive a Certificate of Purchase and Burial Rights. All Certificates of Purchase and Burial Rights shall contain a quitclaim expiration date.

4.7 GRAVE ABANDONMENT. Pursuant to Section 9069 of the Health and Safety Code, the District shall take all legal steps necessary, up to and including filing a petition with the superior court, to have a grave, or any portion of a grave, declared abandoned if all of the following conditions occur: (1) at least fifty (50) years pass since any portion of the grave has been used for the interment of human remains; and (2) despite diligent efforts by the District, it cannot determine the owner of the grave or portion of the grave in question. To avoid such an abandonment, every client must maintain complete, accurate and up-to-date information with the District. In the event of abandonment, the District shall be entitled to retain all monies paid by the client, including those paid as fees, and shall be the owner of the grave or portion of the grave declared abandoned. The District may resell or otherwise reconvey the abandoned grave to a third party.

4.8 ASSIGNMENT OF AT NEED CONTRACT. A client who executes an At Need Contract may assign his or her interest in the At Need Contract and grave(s) purchased under the Contract only with the prior written consent of the District in the form of an executed Assignment Agreement for At Need Contract pursuant to conditions outlined in Section 7.1 of the At Need Contract.

4.9 RESPONSIBILITY/LIABILITY OF DISTRICT. Third-parties employed or otherwise engaged by or on behalf of a client shall be solely the agent of the client. In no event shall the District, its officials, officers, employees or agents be responsible or liable to such third-parties for the services or goods provided by the third party. In addition, in no event shall the District, its officials, officers, employees or agents be responsible or liable for anything related to the actions or services of the third-party.