ORDINANCE #517

AN ORDINANCE PROVIDING FOR THE REGULATION OF THE YACOLT TOWN CEMETERY; REGULATING THE SALE OF CEMETERY PLOTS; SETTING PRICES FOR THE SALE OF CEMETERY PLOTS AND SERVICES; AND REPEALING ORDINANCE NUMBERS 60, 207 AND 217.

Whereas, the Town of Yacolt, (hereafter "Town" or "Yacolt"), has the authority under RCW 35.27.370(2) and other laws to own real estate for cemetery purposes and to operate, improve and maintain the same as a cemetery;

Whereas, the Town currently owns and operates the Yacolt Town Cemetery, ("Cemetery"), according to the plan thereof duly recorded in the Office of the County Auditor of Clark County, Washington, in Book 6 of Surveys, Page 34, February 22, 1977; the property for which was conveyed by Warranty Deed dated June 28, 1909, and executed June 29, 1909, by Grantors J.M. McCutchen and Mary McCutchen, to the Town of Yacolt, described as follows:

> Real estate situated in the County of Clarke, State of Washington, to wit:
> Starting at a point on the East and West center line of Sec. 2, T.4.N, R.3.E, 2907.5 feet East of the quarter post between Sec. 3 and Sec. 2; thence 293.0 feet in Southeasterly direction along the right of way of the Northern Pacific Railway; thence East 267.0 feet; thence North 265.3 feet; thence West 391.5 feet to starting point; the same containing two acres

and further identified as Clark County Tax Account Parcel number 229621000; (Abbreviated Legal Description: #21 SEC 2 T4NR3EWM 2A);

Whereas, the Town has previously adopted Ordinances regulating the use and sale of Plots in the Yacolt Town Cemetery, but those ordinances have become outdated and inconsistent with the Town's practices and procedures for operation of the Cemetery;

Whereas, the Town Council wishes to reduce the number of active ordinances on the subject by repealing previously adopted Ordinances relating to the operation of the Yacolt Town Cemetery and adopting a single new ordinance to govern the use, maintenance, operation and improvement of the Cemetery; and,

Whereas, the Town Council of the Town of Yacolt is in regular session this 19th day of May, 2014, and all members of the Town Council have had notice of the time, place, and purpose of said meeting:

NOW THEREFORE, be it ordained by the Town Council of Yacolt, Washington:

Section 1 - Cemetery Established. There is established the Yacolt Town Cemetery. The Cemetery shall be used solely and exclusively for cemetery purposes. The Cemetery may include such other property or properties as may be hereafter acquired by the Town.

Section 2 - Purpose. The purpose of this Ordinance #517 is to establish rules and guidelines for the use and operation of the Yacolt Town Cemetery.

Section 3 - Definitions. As used in this Ordinance, unless a different meaning is plainly required:

3.1. "Authorized Person" means a funeral director, member of the immediate family, or other party showing authorization from a Plot owner or Next of Kin to permit an activity to occur on a particular Gravesite.

3.2. "Burial" or "Internment" means the placement of human remains in a Grave.

3.3. "Next of Kin" means one of the following in the order named:

a). The surviving spouse;
b). The surviving children of the decedent;
c). The surviving parents of the decedent;
d). The surviving brothers or sisters of the decedent;
e). A guardian of the person of the decedent at the time of death; or
f). Any other person authorized or under obligation to dispose of the body.

3.4. "Plot", "Grave", or "Gravesite" means that land or space allocated for placement of human remains and for which burial rights have been allocated in the Yacolt Town Cemetery.

Section 4 - Endowment Care. The policy of the Town Council is to maintain the Yacolt Town Cemetery as a public burial ground with perpetual endowment care consisting of normal maintenance. The Town's endowment care does not cover repair or replacement of Grave markers, monuments, structures, borders, or flower vases, and shall be limited to those activities that available and budgeted funds of the Town will allow.

Section 5 - Cemetery Fund. The Town shall create and maintain a fund designated "Cemetery Fund." All monies to be used in the care and maintenance of the Yacolt Town Cemetery shall be placed in the Cemetery Fund. Monies received from the sale of burial Plots or from other cemetery purposes will be paid to the Town Clerk / Treasurer who will deposit the monies into the Cemetery Fund and keep a record thereof. Public donations and other funds received by the Town for the purpose of the Cemetery shall be deposited in the Cemetery Fund. No money shall be expended from the Cemetery Fund except for Cemetery purposes. It shall be the duty of the Town Council to provide sufficient funds from taxation or otherwise to provide for the care and maintenance of the Cemetery.

Section 6 - Additional Duties of the Town Clerk / Treasurer. The Town Clerk / Treasurer shall:

6.1. Keep and maintain books and records of Plots sold and for the proper identity of burial locations;

6.2. Keep and maintain books and records of burial permits issued by the Clark County Health Department or other appropriate authority; and,

6.3. Submit annually to the Town Council an estimate of funds needed to carry on the Cemetery prior to the time fixed by statute for the filing of the preliminary budget;

Section 7 - Internment. No interment of two or more bodies shall be made in one burial Plot in the Yacolt Town Cemetery except in the case of a parent and infant buried in one casket, or two infants buried in one casket. A concrete liner, steel or concrete vault will be required as a receptacle for a casket. No more than three cremains may be buried on top of a casket, and no more than four cremains may be buried without a casket in any one burial Plot. Cremains to be buried prior to a casket burial shall be buried at the top of the Grave where the headstone is to be located. In the case where the headstone has been set, the cremains shall not be buried until after the casket burial. The Town shall not be responsible for holding cremains.

Yacolt Town Cemetery burial Plots are intended as burial places for the families of purchasers, including the purchaser's heirs at law or Next of Kin. A purchaser may permit the interment in a Plot of a non-member of the family, but an heir cannot permit the interment of a non-family member.

Section 8 - Authorization for Burial. The Town shall be notified by an Authorized Person a minimum of 24 hours in advance of all interments. The Town requires an appropriate burial permit prepared by the Clark County Health Department or other authorized agency prior to all interments. The Town will not be responsible in any manner for securing a burial permit or any related permit.

Section 9 - Rules and Regulations. The Town Council may fix by resolution requirements for the use, operation and maintenance of the Yacolt Town Cemetery. The Mayor (or his designee) is also authorized to issue other rules and regulations for the use, operation and maintenance of the Yacolt Town Cemetery not inconsistent with the provisions of this Ordinance or the rules of the Town Council. Such additional rules and regulations shall be maintained and available to the public through the office of the Town Clerk.

9.1. Markers and Headstones. No more than one headstone may be placed on any Grave or Plot in the Yacolt Town Cemetery. Headstones or monuments are required to have a concrete base or footing at grade, extending at least 6" from the perimeter of the headstone, to allow mowing and maintenance of the turf around the monument.

9.2. Decorations. Cut flowers and bouquets are allowed year round. Wilted flowers may be removed at the discretion of Town staff. Non-breakable, non-glass pots and planters are allowed to be placed at the base or side of a memorial. The Town is not responsible for maintenance of any pot or planter. If the pot or planter is not maintained or interferes with maintenance tasks, the Town may remove and dispose of the pot or planter. Glass or other breakable containers and objects are not allowed on the Gravesites and may be removed and disposed of immediately. Decorations other than cut flowers, including artificial flowers, may be allowed if

they do not violate rules and regulations promulgated by the Mayor or his designee pursuant to this Ordinance.

Plot owners and visitors should refrain from defining any Plot, Grave or lot by a fence, railing, coping hedge, or by any unauthorized memorial. Graves should not be decorated with trees, shrubs or plants. The Town reserves the right to remove any item of any sort, at any time, if the Town or its designated agent deems the materials to be unsightly, dangerous, detrimental, diseased, or when they do not conform to then-current rules and regulations for the Cemetery. Any items placed improperly or without the permission of the Town may be removed at the Plot owner's expense. The Town is not liable for items removed pursuant to its rules and regulations. Further, the Town shall not be responsible for Grave decorations or memorials that may be damaged, broken or stolen by any cause.

9.3 The Town designates the Yacolt Town Cemetery as a Dog-On-Leash Area. All dogs must be on a leash at all times in the Yacolt Town Cemetery. Pet owners must clean up any and all fecal matter deposited by dogs. Any person or pet disturbing the sanctity of the Cemetery by improper or boisterous behavior will be expelled and may be trespassed from the Cemetery.

9.4. Alcoholic beverages are prohibited in the Yacolt Town Cemetery, except for recognized ceremonial purposes.

9.5. The Mayor, Public Works Director, or other designee of the Mayor shall have the authority of a police officer for the purpose of maintaining order, enforcing the rules and regulations of the Cemetery, the laws of the State, and the Ordinances of the Town within the Cemetery grounds and within such radius as may be necessary to protect the Cemetery property, as set forth in RCW 68.56.060.

Section 10 - Sales of Burial Plots. All Plots in the Yacolt Town Cemetery are conveyed to purchasers by Deed following payment in full, but the rights of the purchaser are subject to such rules and regulations as may be adopted from time to time by the Town Council or its authorized representatives under this Ordinance. These rules and regulations may be changed or amended at any time, and will be so changed and amended when any rule is found to be detrimental to the best interests of the Grave owners as a whole or when new conditions require the adoption of other or further regulations. Purchase of a Plot or lot or the issuance of a Deed does not transfer ownership of Cemetery property, but conveys the right of burial of human remains on that land subject to this Ordinance and such rules and regulations as may be adopted by the Town.

10.1 Location and Number. Purchasers of Gravesites may purchase one to four Plots from any of the unsold Plots remaining in the Yacolt Town Cemetery, provided that no whole lot shall be sold in part so long as any partial-lot remains unsold, and provided further that whenever any single Grave shall have been sold out of any lot, no other single Graves shall be sold out of any other lot until all four of the single Graves in said lot have been sold. The Town's Mayor and Town Clerk, however, are hereby granted the authority to vary the aforesaid restrictions on the number of

Plots that may be purchased and the location of individual Plots available for purchase where the purchaser demonstrates sufficient basis or reason for the variance.

10.2 Sales Price for Burial Plots. Plots in the Town of Yacolt Cemetery shall be sold for $500.00 per Plot. The Town Council may periodically change the price for burial Plots by resolution or ordinance to accommodate increased costs for Cemetery maintenance or for any other cemetery purpose.

10.3 Plots Reserved for Town Residents. Hereafter, Cemetery Plots shall only be sold to residents or taxpayers of the Town. No sale shall be made to funeral directors for the internment of any person other than as described herein. The Town's Mayor and Town Clerk, however, are hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Yacolt Town Cemetery through previous residence in the Town or relationship to persons interred therein.

10.4 Joint Ownership of Plot(s). When a Plot is purchased by more than one person other than a husband and wife, each person's interest shall be joint with a right of survivorship. The ownership of burial rights to any Plot in the Yacolt Town Cemetery passes to the joint survivor or, if none, to the heirs of the last surviving owner as stated on the Deed. It is the responsibility of the surviving heir to notify the Town Clerk of said transfer and address change so that the Town Clerk may update the appropriate Cemetery records.

10.5 Address Changes. It is the duty of the Deed holder to notify the Town Clerk's office of any change to his or her mailing address.

Section 11 - Transfer / Repurchase of Plots. The resale of purchased Cemetery Plots back to the Town is allowed at the original purchase price and must be accompanied by the originally issued Deed and a notarized letter from the burial Plot owner stating their intent. The resale of purchased Plots to any other person(s) is not allowed and shall be void. Burial Plots are exempt from taxation and cannot be mortgaged or sold for debt.

Section 12 - Limitation of Liability. The Town's responsibilities and liability with respect to use of the Yacolt Town Cemetery is limited, (without limitation), as follows:

12.1. The Town provides no services for internment, dis-internment, monuments, setting of monuments, or other services of any kind not specifically described herein. The Town does not open or prepare Graves, or provide shoring services for open Graves, or assess the safety and structural integrity of open Graves;

12.2. The Town provides no services to ensure safe access to any Gravesite. The Town does not remove anything that could be dangerous to mourners or install secure platforms around the edge of an open Grave;

12.3. The Town does not place, move or maintain flowers, tributes, memorials or headstones;

12.4. The Town will not undertake to enforce any agreement made between joint owners of a Plot regarding the right of burial;

12.5. Funeral directors or Authorized Persons who sign on behalf of a deceased's family are accepting all responsibility and liability for any decisions or actions taken under their direction. The Town shall not be responsible for activities authorized by persons falsely representing themselves as Next of Kin or other Authorized Person; and,

12.6. The Town disclaims all responsibility for loss or damage from causes beyond its reasonable control, and from damage caused by the elements, Acts of God, thieves, vandals, malicious mischief, explosions, riots or order of any military or civil authority, whether the damage is direct or collateral.

Section 13 - Repeal of Ordinance #60, Ordinance #207 and Ordinance #217.

13.1. Ordinance #60 of the Town of Yacolt, adopted August 3, 1915, entitled "An Ordinance Providing for the Regulation of the Sale of Lots in Yacolt City Cemetery and for the Care Thereof Providing for the Appointment of a Sexton for the Said Cemetery and Prescribing His Duties", is hereby repealed.

13.2. Ordinance #207 of the Town of Yacolt, adopted June 3, 1980, entitled "An Ordinance Pertaining to the Raising of the Price of Burial Lots in the Town of Yacolt Cemetery" is hereby repealed.

13.3. Ordinance #217 of the Town of Yacolt, adopted December 16, 1980, entitled "An Ordinance Pertaining to the Raising of the Price of Burial Lots in the Town of Yacolt Cemetery" is hereby repealed.

Section 14 - Savings Clause. All terms of Ordinance #60, Ordinance #207 and Ordinance #217, as each may have been amended, shall remain in full force and effect until the effective date of this Ordinance #517.

Section 15 - Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by a court of competent jurisdiction, or its application to any person or circumstances is held invalid, the remaining portion of this Ordinance shall remain in full force and effect, and the application of the provision to other persons or circumstances shall not be affected.

Section 16 - Effective Date. This Ordinance shall take effect immediately upon adoption and publication of the following summary, according to law.

Town of Yacolt - Summary of Ordinance #517.

The Town Council of the Town of Yacolt adopted Ordinance #517 at its regularly scheduled Town Council meeting held on May 19, 2014. The content of the Ordinance is summarized in its title as follows:

AN ORDINANCE PROVIDING FOR THE REGULATION OF THE YACOLT TOWN CEMETERY; REGULATING THE SALE OF CEMETERY PLOTS; SETTING PRICES FOR THE SALE OF CEMETERY PLOTS AND SERVICES; AND REPEALING ORDINANCE NUMBERS 60, 207 AND 217.

A copy of the full text of the Ordinance will be mailed upon request to the undersigned at the Town of Yacolt Town Hall, P.O. Box 160, Yacolt, WA 98675: (360) 686-3922.

Published this 28th day of May, 2014.
Cindy Marbut, Town Clerk/Treasurer

PASSED by the Town Council of the Town of Yacolt, Washington, at a regular meeting thereof this 19th day of May, 2014.

TOWN OF YACOLT

~~Jeff Carothers, Mayor~~
Vince Myers Mayor pro tem

Attest:

Cindy Marbut, Town Clerk/Treasurer

Approved as to Form:

David W. Ridenour, Town Attorney

Ayes: Hancock, Karl, Gerhardt, Myers
Nays: Ø
Absent: Urias
Abstain: Ø

TOWN CLERK'S CERTIFICATION

I hereby certify that the foregoing Ordinance is a true and correct copy of Ordinance #517 of the Town of Yacolt, Washington, entitled "AN ORDINANCE PROVIDING FOR THE REGULATION OF THE YACOLT TOWN CEMETERY; REGULATING THE SALE OF CEMETERY PLOTS; SETTING PRICES FOR THE SALE OF CEMETERY PLOTS AND SERVICES; AND REPEALING ORDINANCE NUMBERS 60, 207 AND 217", as approved according to law by the Town Council on the date therein mentioned. The Ordinance has been published or posted according to law.

Attest:

Cindy Marbut, Town Clerk/Treasurer

Published: 5/28/14
Effective Date: 5/28/14
Ordinance Number: 517