

ORDINANCE NO. 1011

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LANCASTER, CALIFORNIA, ADDING CHAPTER 8.60 TO THE LANCASTER MUNICIPAL CODE RELATING TO THE BURIAL OR ENTOMBMENT OF PERSON COMMITTING A TERRORIST ACT

WHEREAS, section 8115 of the California Health and Safety Code provides that the governing body of a city, in the exercise of its police power, may by ordinance prescribe such standards governing burial, inurnment, and entombment and such standards of maintenance for cemeteries, including mausoleums and columbariums, as it shall determine to be reasonably necessary to protect the public health or safety, assure decent and respectful treatment of human remains, or prevent offensive deterioration of cemetery grounds, structures, and places of interment and that such standards may be made applicable to every public and private cemetery within the city or county; and

WHEREAS, the burial or entombment of a person who has committed a terrorist act creates a unique and significant risk because it may draw supporters, sympathizers and/or others who wish to celebrate, commit or encourage the commission of crimes and/or terrorist acts; and

WHEREAS, the burial or entombment of a person who has committed a terrorist act may also draw protesters, opponents and/or others who wish to damage, destroy or desecrate the burial or entombment site, which may also damage, destroy or desecrate other nearby burial or entombment sites; and

WHEREAS, for the foregoing reasons, the burial or entombment of a person who has committed a terrorist act may risk public safety, jeopardize the decent and respectful treatment of human remains and result in the offensive deterioration of cemetery grounds; and

WHEREAS, to protect the public safety, assure decent and respectful treatment of human remains and prevent offensive deterioration of cemetery grounds, structures and places of interment, the City Council of the City of Lancaster has determined that Chapter 8.60 should be added to the Lancaster Municipal Code in order to impose conditions upon the burial or entombment of a person who has committed a terrorist act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LANCASTER DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.60 (“Burial or Entombment of Person Committing a Terrorist Act”) is hereby added to the Lancaster Municipal Code to read as set forth in Exhibit “A” attached hereto and incorporated herein by reference.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance, including Exhibit "A", is held for any reason to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Lancaster hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

I, Britt Avrit, CMC, City Clerk of the City of Lancaster, do hereby certify that the foregoing ordinance was regularly introduced and placed upon its first reading on the 26th day of January, 2016, and placed upon its second reading and adoption at a regular meeting of the City Council on the 9th day of February, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

BRITT AVRIT, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA }
COUNTY OF LOS ANGELES }ss
CITY OF LANCASTER }

CERTIFICATION OF ORDINANCE
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Ordinance No. 1011, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)

EXHIBIT "A"
ORDINANCE NO. 1011

CHAPTER 8.60

BURIAL OR ENTOMBMENT OF PERSON COMMITTING A TERRORIST ACT

Sections:

8.60.010	Purpose.
8.60.020	Definitions.
8.60.030	Cemetery's Duty to Determine Whether Deceased Committed a Terrorist Act.
8.60.040	Notification of and Conditions to Burial or Entombment of Person Committing a Terrorist Act.
8.60.050	Penalty.
8.60.060	Severability.

8.60.010 Purpose.

The purpose of this chapter is to exercise the authority granted by section 8115 of the California Health and Safety Code by imposing reasonably necessary standards governing burial and entombment and such standards of maintenance for cemeteries, including mausoleums and columbariums, in order to protect the public health and safety, assure decent and respectful treatment of human remains, and prevent offensive deterioration of cemetery grounds, structures, and places of interment. The provisions of this chapter apply to every public and private cemetery within the City.

8.60.020 Definitions.

The following words and phrases, wherever used in this chapter, shall be construed as set forth below, unless it is apparent from the context they have a different meaning:

"Cemetery" means any public or private cemetery, including mausoleum and/or columbarium, within the City.

"City" means the City of Lancaster.

"City Clerk" means the City Clerk of the City, or his or her designee.

"City Manager" means the City Manager of the City, or his or her designee.

"Entombment" means entombment in a mausoleum or columbarium.

"Responsible Person" means any person having ownership, control or management responsibility over any Cemetery. The actions or inactions of a Responsible Person's agent, employee, representative or contractor may be attributed to that Responsible Person.

“Terrorist” means a person who has been identified by the Federal Bureau of Investigation as participating or engaging in any act of “international terrorism” or “domestic terrorism” as defined in section 2331 of title 18 of the United States Code.

8.60.030 Cemetery’s Duty to Determine Whether Deceased Committed a Terrorist Act.

A cemetery shall exercise reasonably diligence to determine whether a person to be buried or entombed was a terrorist.

8.60.040 Notification of and Conditions to Burial or Entombment of Person Committing a Terrorist Act.

Prior to burial or entombment of a terrorist, a cemetery shall submit written notification to the City Clerk on a form provided by the City Clerk for such purpose. The City Clerk shall immediately forward any completed written notification submitted pursuant to this chapter to the City Manager and to the Los Angeles County Sheriff’s Department. Within two (2) business days following submission of a completed written notification pursuant to this chapter, the City Manager shall, in conjunction with the Los Angeles County Sheriff’s Department, take one of the following actions: (i) approve the burial or entombment; (ii) approve the burial or entombment with conditions; or (iii) deny the burial or entombment. In determining whether to approve, conditionally approve or deny a request pursuant to this chapter, the City Manager shall consider whether and to what extent the proposed burial or entombment may (i) pose a risk to public health or safety, (ii) jeopardize the decent and respectful treatment of human remains, and/or (iii) result in the offensive deterioration of cemetery grounds, structures, and places of interment. The City Manager shall not impose any condition(s) or deny any request pursuant to this chapter if such conditions(s) or denial would interfere with a person’s vested right to burial or entombment or would otherwise violate any statutory or constitutional right. Written notice of the City Manager’s action shall be sent to the requesting cemetery by first class mail and electronic delivery (e.g., facsimile and/or email). If electronic delivery is not possible, the City Manager’s written notice of action may be personally delivered. A proposed burial or entombment shall be deemed unconditionally approved if the City Manager does not otherwise timely notify the requesting cemetery.

8.60.050 Penalty.

Any Responsible Person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, the penalty shall be a fine of not more than \$1,000 or imprisonment for a period of not more than six (6) months, or by both such fine and imprisonment.

8.60.060 Severability.

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.