

RULES AND REGULATIONS OF CEMETERIES:

SECTION I : PURPOSE:

Cemetery lot owners, in general, may misunderstand the purpose and function of cemetery rules and regulations and the vital role they play in the preservation, safety, and aesthetics of the cemetery grounds. In many cases, lot owners take exception to what they feel are restrictions on their perceived rights and privileges regarding the use of their cemetery lot in the belief this ownership has the same rights and privileges as any other piece of "real property". It is important to understand that cemetery rules are primarily adopted for the protection of the Town of Windham, the lot owner, and others who visit or work in the cemeteries by, among other things, safeguarding against those actions that may create dangerous situations and/or impair the dignity and appearance of the cemeteries.

It is for the mutual protection and benefit of lot owners, the Windham Cemetery Trustees (hereinafter "Trustees"), the Town of Windham (hereinafter "Town"), and each cemetery as a unit that the following Rules and Regulations have been adopted.

SECTION II : DEFINITIONS:

The term "lot" as used herein represents a specific area within the cemetery for which rights to inter human remains have been purchased.

The term "owner" as used herein shall refer to an individual or individuals who have duly purchased interment rights.

The term "interment" as used herein shall mean the permanent disposition of the remains or cremains of a deceased person by burial in the earth.

The term "headstone" as used herein shall mean an upright memorial stone or tablet installed at the head of a lot or lots to mark one or more interments.

The term "marker" as used herein shall mean a stone or bronze tablet, the entire upper surface of which is even with the adjacent surface of the ground, which serves to identify individual interments by its placement at the foot of a lot. In special circumstances, an oversized flat marker may be used as a headstone to mark no more than two (2) adjoining lots.

The term "memorial" as used herein shall encompass the terms marker and headstone.

SECTION III : PURCHASE/OWNERSHIP OF LOTS:

A) The Trustees shall, upon request, furnish to the following, desiring to purchase rights of burial, information relative to the current, one-time purchase and maintenance (formerly "perpetual care") costs per lot as established by the Trustees in a separate "Fee Schedule":

1. Current residents of the Town. Number of lots will be limited to the purchaser, his/her spouse, and their resident children only.
2. Previous residents of the Town who: a) resided in the Town for a period in excess of fifteen (15) years AND who; b) relocated outside the Town within the previous two (2) years. Limit of two (2) lots for former resident and his/her spouse only. Proof of

eligibility shall include, but not be limited to, certification by Town Clerk or Tax Collector of evidence in their records of residency/payment of taxes; certified copies of property deeds.

3. Current non-resident taxpayers having had ownership of a seasonal residence for a period in excess of twenty (20) years. Limit of two (2) lots for property owner and spouse only. Proof of eligibility shall include, but not be limited to, property deeds or certification by the Tax Collector of historical tax payments.
 4. Employees of the Town who have in excess of twenty (20) years of service. Limit of two (2) lots for employee and his/her spouse only.
- B) A right to inter deed will be issued by the Trustees within thirty (30) days of when the total number of lots purchased is paid in full. The deed will have the seal of the Town on it and will be signed by the members of the Board of Selectmen. Lack of an executed deed shall not be cause to delay use of the lot(s) in the event of an immediate need, provided payment has been received.
- C) Once a deed has been duly issued by the Trustees, no person shall be considered as the rightful owner of any lot unless he/she shall be in possession of said document. If a deed cannot be presented, then the records of the Trustees shall be considered as final in determining ownership.
- D) Maintenance (formerly "perpetual care") shall be limited to the cutting of grass upon the lot at reasonable intervals, and the raking and cleaning of the lot; but shall not include trimming/pruning of plantings nor maintenance or repair of memorials. Maintenance monies received shall be held in trust by the Trustees of the Trust Funds and invested as provided by law.
- E) Subsequent sale of lots by owners, or their heirs, to any other party is strictly prohibited. An application may be made, in writing, to the Trustees to sell unused lot(s) back to the Town for an amount equal to the original purchase price, including maintenance fee(s); however the Trustees reserve the right to grant or deny such a request upon review.
- F) The owners of rights of burial, or their heirs, may not assign or convey those rights to any other party without having first obtained the written approval Trustees; but it shall be the option of the Trustees to grant or withhold such approval and consent.
- G) Descent of Title: The laws of the State of New Hampshire govern the descent of title to cemetery lots, as well as other matters relating to their ownership. It is important that, on the decease of a lot owner, the heirs or devisees of such person file with the Trustees full proof of ownership for the purpose of correcting the record. Notarized statements as to relationship and certified copies of wills or probate documents are normally sufficient.
- H) Address Changes: It shall be the duty of the owner to notify the Trustees of any change in physical or mailing address. Notice sent to the owners at the last address on file with the Trustees shall be considered sufficient and proper legal notification.

SECTION IV : INTERMENTS:

- A) The Trustees reserve the right to refuse an interment in any lot if, in their judgment, there is a question of ownership and/or the right for said interment pursuant to RSA 290:24.
- B) No interment shall be made until the Trustees or their designee(s) have been furnished with a permit, as may be required by the laws of the State of New Hampshire, together with an order from the owner, or the legal representative, of the right to inter within the lot in question. The Trustees or their designee(s) shall not be liable for the information contained in said permit, nor for the identity of the person to be interred.
- C) No lot shall be opened for interment or exhumation by any person not contracted by or in the employ of the Town under the direction of the Trustees. Exhumations shall be done at the discretion of the Trustees without family or relatives in attendance, in accordance with the laws of the State of New Hampshire.
- D) When instructions regarding the specific location of remains or cremains within a lot cannot be obtained from the owner or his/her authorized representative, or are imprecise; or when for any reason, the preferred location cannot be opened where specified, the Trustees or their designee(s) may, at their discretion, open an area of the lot as deemed best and proper, so as not to delay the funeral. Neither the Trustees nor their designee(s) shall be liable for any error so made.
- E) Interment of more than one remains within a single lot is prohibited except, at the discretion of the Trustees, multiple remains may be interred in one lot as follows: parent and child or two infants buried in one casket; or three separate infants buried at a distance of one foot apart. Further variation may be made in the case of cremains subject to lot space available, dimensions of urns, and the proposed placement of markers. In general, up to two (2) cremains are permitted in the same lot with one (1) remains. For cremains alone, no more than four (4) will be permitted per standard lot.
- F) All interments shall be enclosed within a cement vault, except that infants shall require a fiberglass container thirty (30) inches or less in length and cremations shall require an urn or other permanent container. Vaults/containers may be procured from any source provided they meet the established specifications.
- G) All funeral processions, while within the grounds, will be subject to the directions of the Trustees or their designee(s).
- H) The Trustees or their designee(s) reserve the right to postpone interment time due to acts of God, nature, civil, or national emergencies.

SECTION V : MEMORIALS:

- A) No marker or headstone shall be considered for approval by the Trustees for installation or maintenance without submission of a properly completed "Memorial Authorization Permit". Proposed memorials shall adhere to the "Memorial Size Restrictions" as established by the Trustees.

- B) The Trustees shall have the authority to reject any plan or design for any memorial which, in their opinion, on account of size, design, inscription, kind or quality of stone is unsuited to the aesthetics of the cemeteries or the lot on which it is to be placed, may constitute a hazard, or is not in conformity with the Rules and Regulations.
- C) All headstones shall be made of good quality granite or good quality, hard marble, and all markers shall be of either the same material or of quality bronze. Neither shall be permitted to be erected in the cemeteries without a good and sufficient foundation as installed by the Trustees' designee(s).
- D) Persons engaged in erecting or maintaining memorials are prohibited from attaching ropes to surrounding headstones, trees and shrubs, or from scattering their material over adjoining lots or from blocking roadways or pathways or from leaving materials on the ground longer than is absolutely necessary. They must do as little injury to the area as possible and must remove all debris and restore the ground and sod to its original condition. Any workmen failing to conform to these regulations may be excluded from the grounds, and the person employing him shall be responsible for the injuries sustained through his neglect.
- E) While a funeral or interment is being conducted nearby, all work of any description shall cease for the duration.
- F) While the Trustees will exercise all possible care to protect all memorials and the raised lettering, carving or ornaments thereon as part of their general oversight of the cemeteries, any responsibility for any damage or injury thereto is hereby disclaimed.

SECTION VI : PERMISSIONS/PROHIBITIONS:

- A) The lots in the cemeteries shall be used for no other purpose than a place for the interment of human remains or cremains and memorials as defined in these Rules and Regulations. "Green burials" or the interment of animals are strictly prohibited.
- B) Planting of flowers is permitted within one (1) foot in front of headstones only. In lieu of real flowers, silk flowers or plants are permitted; however, plastic flowers are strictly prohibited.
- C) Planting of trees and shrubs is prohibited. Shrubs and trees already in place at the time these Regulations are adopted will be grandfathered, provided that:
 - 1. They have not been neglected so as to hinder the maintenance or aesthetics of the cemetery;
 - 2. They are not, by means of roots or branches, detrimental to said lot or its memorial, to the adjacent lots/memorials, roadways, or paths; or
 - 3. They are not a hazard or inconvenience to cemetery visitors, contractors, or others.

In the event any of the above is true, it shall be the duty and the right of the Trustees or their designee(s) to remove said tree or shrub, or such parts thereof, as are detrimental, dangerous or inconvenient.

- D) While the Trustees fully appreciate that the grieving process is keenly personal in nature, in the interest of aesthetics and the safety of all, items such as, but not limited to, glass vases, windmills, wind socks, lanterns, boxes, shells, or toys are prohibited. In addition, no wood, iron, wire, hedge, or other fence shall be erected or maintained on or around any lot, and no walks of brick, stone, gravel, or similar shall be allowed on any lot. These items are, in general, a hindrance to proper maintenance of the cemetery grounds and are potential hazards to all cemetery users. As such, the Trustees reserve the right to remove such items if so erected, planted or placed. Special consideration may be given, on a case by case basis, to allow smaller items to remain which are confined to the monument base or permitted planting area.
- E) Timely notices will be published twice annually in the local newspaper(s) and at each cemetery advising owners of when lots are expected to be attended to by them in preparation for the winter and spring seasons. Items remaining on lots after the established deadline are subject to disposal by the Trustees or their designee(s). In addition, neglected plantings will be trimmed or removed as necessary.

SECTION VII : GENERAL CEMETERY RULES:

- A) Per #WIN 2:01:15:81, the consumption of alcohol within the cemeteries is strictly prohibited.
- B) Per #WIN 2:01:14:7, loitering within the cemeteries is strictly prohibited.
- C) Per #WIN 2:06:21:04, dogs are strictly prohibited from the cemeteries.
- D) Per #WIN 3:00:11:02, all off-road vehicles are prohibited from the cemeteries. By way of these regulations, snowmobiles and other recreational vehicles are also prohibited.
- E) Per RSA 163-B, littering is prohibited. Trash should be properly disposed of in the receptacles provided.
- F) The cemeteries will be open to visitors at sunrise, and will be closed at sunset. Visitors will not be allowed upon the grounds after sunset, except by permission of the Trustees.
- G) No vehicles, except maintenance or others involved in lot preparation or restoration under direction of the Trustees, shall be ridden or driven in any part of the cemeteries except upon the paved roadways designated for that purpose, nor at speeds faster than 10 miles per hour.
- H) Children under fifteen (15) years of age shall not be permitted within the cemeteries or their buildings unless accompanied by an adult.
- I) No person shall gather flowers, either wild or cultivated, on the premises; or remove, cut, break, or mark any tree, shrub or plant; or mark upon, deface, or injure any memorial or any other structure on the grounds.
- J) Firearms shall not be discharged in the cemeteries, except for salutes at military funerals, Memorial Day ceremonies, or by direction of the Trustees.
- K) Approaching the bereaved and soliciting memorial business, bedding of flowers or plants, or the sale of any commodity or service is prohibited within the confines of the cemeteries.

- L) No signs or notices or advertisements of any kind shall be allowed in the cemeteries unless placed by the Trustees or their designee.
- M) Any person disturbing the quiet and good order of the cemeteries by noise, fast driving, or other improper or disorderly conduct, or who shall violate any of the rules, will be compelled to at once leave the grounds by the Trustees or their designee(s), and such person will be dealt with as provided by law.
- N) Gravestone rubbing is prohibited except by special permission of the Trustees, who reserve the right to refuse any such request at their discretion.

SECTION XIII : CORRECTION OF ERRORS:

The Trustees reserve the right to correct any errors that may be made by them in making interments, or in the description, transfer, or conveyance of any lot. Errors of lot owners in failing to specify proper interment position or of dealers in failing to clearly specify memorial positions will be cause for additional charges in the event a correction is requested.

SECTION IX : WAIVERS:

The Trustees reserve the right, for cause shown, to make special exceptions and/or waive any portion of these Regulations.

SECTION X : SEVERABILITY:

If any provision of these Regulations is held to be invalid, other provisions and sections shall not be affected, and to this end, the provisions and sections hereof are declared to be severable.

SECTION XI : ADOPTION:

These Regulations shall take effect immediately upon a majority vote of the Cemetery Trustees at a meeting duly posted seven (7) days prior.

Adopted - March, 1988 Town Meeting

Amended - March, 1992 Town Meeting

Re-codified and affirmed by the Board of Selectmen, May 11, 1998:

**Charles E. McMahon
Douglass L. Barker
Carolyn B. Webber
Margaret M. Crisler
Galen A. Stearns
Board of Selectmen**

Amended/Adopted by the Cemetery Trustees – April 17, 2010

**Wendi Devlin
Gail Webster
Jaymi Haegle
Cemetery Trustees**