

# **Town Cemeteries**

## **Walpole New Hampshire**

**By-laws, rules  
and regulations  
relating to cemetery  
control and maintenance**

Adopted December, 1995

Revised March, 2004

Revised April, 2006

Revised October, 2011

# BY-LAWS, RULES AND REGULATIONS

The purpose of this ordinance shall be to preserve the public peace and good order on lands operated as municipal cemeteries by the Town of Walpole and to provide for the Rules and Regulations necessary for the protection of lot and grave owners. Also to protect and preserve the monuments already erected or which may hereafter be erected therein the memory of the dead, and for the proper conduct and good order of the cemeteries.

## TOWN CEMETERIES WALPOLE, NEW HAMPSHIRE

The following named existing cemeteries shall be deemed to have been established as municipal cemeteries:

|                |                                     |
|----------------|-------------------------------------|
| Walpole        | Entrance – Cemetery Hill Road       |
| Carpenter Hill | Entrance – Carpenter Hill Road      |
| Drewsville     | Entrance – Behind Drewsville Common |

**A. RULES AND REGULATIONS OF THE TOWN CEMETERIES OF WALPOLE**

1. For the mutual protection and benefits of lot owners, and each cemetery as a unit, the following Rules and Regulations have been adopted as Rules and Regulations of Walpole Town Cemeteries. All owners and visitors within the cemeteries, and all lots sold, shall be subject to such Rules and Regulations, and subject, further, to such other Rules and Regulations, amendments or alterations as shall be adopted by the Cemetery Trustees from time to time; and reference to these Rules and Regulations in the Deed to a lot shall have the same force and effect as if set forth in full therein.
2. The Town may, and hereby expressly reserves the right, at any time, or times, to adopt new Rules and Regulations, or to amend, alter or repeal any rules, regulations, section, paragraph or sentence in these Rules and Regulations. All rules formerly adopted which are contrary to these Rules and Regulations are hereby repealed and declared to be no longer effective.
3. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Town, therefore, reserves the right, without notice, to make exceptions, suspensions or modifications in any of the Rules and Regulations, when, in its judgment the same appears advisable; and such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such rule.

The Town shall take reasonable precautions to protect the owners of the lots within the cemetery from loss or damage but it distinctly disclaims all responsibility for loss or damage caused by elements, an act of God, thieves, vandals, malicious mischief makers, unavoidable accidents, and order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

4. No one may take Loam or Gravel from the cemeteries.

**B. CEMETERY MAINTENANCE**

1. The general maintenance of the cemeteries, designed to improve and maintain their appearance and condition, shall be the responsibility of the Town. It shall include such items as the upkeep of drives, buildings, fences, spring and fall cleanup, raking of leaves, and the general periodic mowing of grass
2. Every municipality shall raise and appropriate sufficient funds, by taxation or otherwise, to provide for the suitable care and maintenance of the public cemeteries within its boundaries which are not otherwise provided for, and to provide for, and to provide and maintain around all such cemeteries a good and sufficient fence, and to supply the fence with the necessary gates. (RSA 298:4)

### **C. CEMETERY TRUSTEES**

1. The municipality shall elect a Board of Cemetery Trustees consisting of three members, unless the town at an annual or special Town Meeting votes that the board shall consist of five members. One shall be elected for a one-year-term, one for a two-year-term, and one for a three-year-term. If the town decides there will be five trustees, the two additional trustees shall be appointed by the selectmen, one for one year and one for two years. Subsequent trustees shall be elected by ballot at the annual Town Meeting to replace those whose terms expire. The term of each trustee shall be three years. Vacancies shall be filled by the selectmen for the remainder of the term.

### **D. POWERS AND DUTIES**

1. To enforce all Rules and Regulations and to exclude from the property of town cemeteries any person violating the same, and to have charge of the grounds and buildings, and at all times, shall have supervision and control of all persons within the cemetery.
2. To protect and promote the best interest of the cemetery by making temporary additional rules which may be needed from time to time, to meet emergencies which are not covered by these Rules and Regulations.
3. To adopt By-Laws and Rules and Regulations for their transaction of business and for the establishment and management of all municipal cemeteries within their responsibility.
4. To prepare an annual budget indicating what support and maintenance of the municipal public cemeteries will be required out of public funds for submission to the Board of Selectmen. A separate budget request shall be submitted for planning and establishment of a new public cemetery and for capital improvements or expansion of an existing public cemetery.
5. To expend all moneys raised and appropriated by the municipality for cemetery purposes. It shall be their duty to supervise all public cemeteries to the end that said funds may be so expended as to best serve the purposes for which they are raised and appropriated.
6. To expend income from all trust funds for cemetery purposes in accordance with all conditions of each donation or bequest accepted by the municipality. Such trust funds shall be held in the custody and under the management of the Trustees by the Trust Funds. The trust income shall be transferred to the Cemetery Trustees by the Trustees of the Trust Funds in response to vouchers executed by the Cemetery Trustees, if the funds are available. Such trust fund income shall not be commingled with the moneys raised and appropriated by the municipality.

7. To keep a record of cemeteries of the town. All maps showing laid out sections of each cemetery, records of lot ownership and burials shall be kept by the Cemetery Trustees.
8. To hold an Annual Meeting in November each year. Notice of said meeting shall be given by posting written notice of said meeting in two or more public places in said Town of Walpole at least seven days before said meeting.
9. Cemetery Trustees may appoint a cemetery custodian or sexton who shall not be a trustee and who shall be responsible to the Cemetery Trustees for supervising work done in the cemeteries.

**E. PURCHASE, CARE AND TRANSFER OF LOTS**

1. The sale of lots in the municipal cemeteries shall be under the control of the Cemetery Trustees and are subject to the Rules and Regulations pertaining thereto. Anyone desiring to buy a lot shall apply to the Trustees and select a lot from those available for sale. Upon presentation of proper receipt, the selectmen shall issued a deed to the lot. The deed shall be signed by the selectmen and be recorded in the office of the trustees. Each deed shall state the name of the purchaser, purchase price, name of the cemetery, number of lot, section in which lot is located, and a listing of persons permitted for burial in the purchased lots.
2. Sale of lots is restricted to town residents or former town residents; however, persons with strong family ties to Walpole should be considered by the Trustees to be eligible to purchase a lot. Sale of lots is limited to four lots.
3. Lots purchased in the laid-out section of cemeteries of the town shall be conveyed by deed for burial purpose only, and shall be subject at all times to the provision of the cemetery By-Laws, Rules and Regulations of Walpole, and applicable State Laws.

| <u>LOT</u>       | <u>PURCHASE PRICE</u>    | <u>LOT SIZE</u>    |
|------------------|--------------------------|--------------------|
| Single grave lot | \$400.00 includes lot    | 4 feet by 10 feet  |
| Double grave lot | \$800.00 includes marker | 8 feet by 10 feet  |
| Three grave lot  | \$1200.00                | 12 feet by 10 feet |
| Four grave lot   | \$1600.00                | 16 feet by 10 feet |

4. Lot size may vary slightly in developed sections of cemeteries where space does not permit the above size.
5. Ninety-three percent (93%) of the funds derived from the sale of lots of the cemeteries is designated for perpetual care and shall be held in trust and invested as provided by law. All money received from the sale of lots except the part provided for perpetual care shall constitute a “Permanent Improvement Fund”, to be held by the Cemetery Trustees to be used for improvements and enlargements of the cemeteries of the town.

6. The care and maintenance of all lots within the cemetery, whether perpetual or ordinary, shall include the mowing and trimming of grass at reasonable intervals, the raking and cleaning of lots, the grading and seeding and filling of depressions of lots in such a manner as to contribute to the general appearance of the grounds. Perpetual or ordinary care shall not include the maintenance or repair on any monuments, stones, markers, or walls. When no provision, or insufficient provision, has been made for perpetual care, “annual care” is given at the expense of the town.
7. Perpetual care income, whether applied to lots, graves, or anything within the confines of the cemeteries, shall be limited absolutely to the income received from the investment of the perpetual care fund, no part of the principle being expended, unless stated in the provisions of the fund.
8. It is understood and agreed between the purchaser and the town that all said perpetual care funds may be deposited with others like character and intent to the end that the income from such accumulated general funds shall be used in general improvement and perpetual; care as above defined; but in no cases shall their deposit be construed as a contract to care for any individual property or space.

#### **F. TRANSFER OF LOTS**

1. Lots previously sold may only be resold to the town. The town may then resell the lot following all provisions of by-laws and Rules and Regulations.
2. The transfer of lots previously sold shall be registered with the Cemetery Trustees by presentation of the original deed on the back of which is written, “hereby transfer to (name of the new owner) (portion of lot)” and the endorsement of the original lot owners, his heirs and assigns. No person shall be recognized as the owner or part owner unless so recorded in the office of the trustees. All transfers must be approved by the Cemetery Trustees.
3. The subdivision of lots is not allowed, and no one shall be buried in any lot not having an interest therein, except by written consent of the relatives of any owner of record as provided in these rules or by the laws of the State of New Hampshire.
4. Burial space that has remained unused for a period of less than fifty years can be resold and/or deeded to the town with written consent from the listed inheritors of a will or any and all living immediate family members.

## **G. INTERMENTS AND DISINTERMENTS**

1. In addition to being subject to these Rules and Regulations, all interments and removals are made subject to the orders and laws of the properly constituted authorities of the State of New Hampshire.
2. The term “interment” shall mean the permanent disposition of the remains of a deceased person by cremation and interment, or burial.
3. No interment of the dead body of a human being shall be made without a permit, and only in accordance with it. No disinterment of a dead body of a human being shall be made without a permit from the Department of Health and Human Services, Division of Public Health Services, countersigned by the local health officer, and only in accordance with such permit. Such disinterment permit shall not be required for the removal of such dead body for re-interment after discontinuance of a public cemetery, if a body is to be removed within geographic boundaries of the same cemetery nor in a case where an autopsy has been ordered by a county attorney or the General Attorney. No person shall assist in, assent to, or allows any interment or disinterment to be made until a permit has been obtained under this action. Any person who violates the provisions of this section 9relative to disinterment) shall be guilty of a misdemeanor. (RSA 290:5)
4. Return: It shall be the duty of every funeral director, or other person having charge of a burial place, who shall receive the permit, to preserve and return it to clerk within six days after the burial.
5. A concrete vault, cement liner, or equal shall be required for all burials in all cemeteries; this does not apply to cremated remains.
6. No interment of any body or the cremated remains of any body, other than that of a human being shall be permitted in the cemeteries.
7. Once the casket containing the body is within the confines of the cemetery, no funeral director or his embalmer, assistant, employee, or gent shall be permitted to open the casket or touch the body without consent of a legal representative of the deceased.
8. Cremations are allowed in graves at cemeteries. A maximum of four cremations are allowed per single grave lot. Up to three cremations will be allowed on a single lot with an existing vault.
9. The trustees reserve the right to make an interment of any member if the immediate family of any one of several lot owners upon his written authorization. No other person may interred in any lot without the consent of all owners of the lot recorded as such in the book of the cemetery or deed of such lot.

10. When instructions regarding the location of an interment space in a lot cannot be obtained or are indefinite or when for any reason the interment space cannot be opened where specified, the trustees may in their discretion open it in such a location in the lot as they deem best and proper so as not to delay the funeral; and they and the town shall not be liable in damages for any error so made.
11. The trustees reserve the right to refuse an interment in any lot in their judgment there is a question of ownership.
12. The town shall in no way be liable for any delay in the interment of a body where a protest in the interment has been made or when the Rules and Regulations have not been complied with. The town shall be under no duty to recognize any protests of interment unless they are in writing and filed with the Trustees.
13. Neither the town nor the Cemetery Trustees shall be responsible for errors in location of graves on lots arising from improper instructions from persons making arrangements. In all cases orders for grave opening shall be communicated to the Cemetery Trustees in writing. Orders from funeral directors shall be construed as orders from owners.
14. The town reserves and shall have the right to correct any errors that may be made by it either making interments, disinterment or removals, or in the description, transfer or conveyance and substituting other interment property of equal value and similar location as far as possible or as may be selected by the town, or in the sole discretion of the town by refunding the amount of money paid on account of such purchase. In the event such error shall involve the interment of the remains of any person in such property, the town reserves, and shall have, the right to remove or transfer such remains to interred to such other property of equal value and similar location as may be conveyed in lieu thereof.
15. A body or cremated remains may be removed from its original lot to a larger or better lot in the cemetery where there has been an exchange or purchase for that purpose.
16. The utmost care will be exercised in making the removal, but the town shall assume no liability for damages to any casket, burial case, urn or memorial incurred in making the removal.
17. Removal by the heirs of a body or cremated remains so that the lot may be sold for profit to themselves or removal contrary to the express or implied wish of the original lot owner is repugnant to the ordinary sense and is decency and is absolutely forbidden.



## **H. MONUMENTS AND MARKERS**

1. All municipal cemeteries shall be permitted to have monuments, markers and cornerstones of such dimension and placement as described below:
2. All markers and cornerstones shall be set flush with the lawn surface so that no part of such marker or cornerstone shall protrude above the surface of the ground.
3. Individual grave markers shall be a minimum of one foot wide by two feet long and shall be placed at the end of the grave farthest from the base of the monument. In the absence of a monument, all markers shall be placed at the head of the grave.
4. Cornerstones require no foundations. They shall be six inches wide by six inches long and shall be set at the extreme corners of the lot and square with the bounds of the lot.
5. Any monument or individual markers set shall be placed one foot in from the boundary of that lot, not to exceed three feet in height. All monuments must have a cement footing one foot deep.
6. The mark or inscription on each monument or marker must correspond with the name recorded with the Cemetery Trustees, and no changes shall be made thereon except upon request of the proper parties and by permission of the trustees.
7. Persons engaged in cleaning, erecting or repairing monuments and other structures shall operate as independent contractors, but must do so under the general supervision of the trustees.
8. While the town will exercise all possible care to protect the memorial or ornaments on such memorial or other structures, it disclaims responsibility for any damage or injury thereto.

## **I. LOTS AND DECORATIONS**

1. No enclosure of any nature, such as fences, curbing, copings, hedges, borders, or ditches shall be allowed around any lots.
2. Flowers may be planted and must be placed against the front of the headstone and bedded the exact length of the headstone; they may not come out from the headstone more than eight inches. Trees and shrubs are prohibited.
3. Artificial floral displays and decorations will only be permitted in movable pots. All others will be removed.

4. No plantings are allowed before May 1<sup>st</sup>. Pots and plants must be picked up by November 1<sup>st</sup>.
5. No dogs are allowed in the cemetery.
6. All grading of lots will be done by the cemetery department and no person shall do any grading causing the surface of the ground to be raised above the existing of the surrounding area.
7. The trustees may enter upon any lot and remove any shrubs, plants (including vases, urns or potted plants), or trees that are deemed detrimental to the cemetery or adjoining lots or unsightly or inconvenient to the public. They may enter upon any lot and make any improvement deemed for the advantage of the grounds. Notice of removal of the above items shall be given to the lot owner whenever feasible.

#### **J. CONDUCT OF PERSONS**

1. Persons within the cemetery grounds shall use only the s\established gates, walks or roads.
2. No person shall deposit rubbish or debris on cemetery grounds, except in receptacles provided.
3. No person shall discharge firearms or any other weapon in, or adjacent to, any cemetery. This prohibition shall not apply to authorized volleys at burial services conducted by recognized military organizations or associations of the United States.
4. No person shall in any way disturb, damage or deface any monument, stone, fence or the structure or property within any cemetery, Any person damaging any cemetery property shall be liable for any damaged incurred.
5. No person through fault or neglect shall allow any stock to trespass within the cemeteries.
6. No person shall allow any dog or other domesticated animal to run at large within any cemetery.
8. No person shall perform any form of metal detecting in any cemetery.
9. No person shall make gravestone rubbings in any cemetery without first obtaining the written permission of the trustees.