

RULES AND REGULATIONS OF THE 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 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 municipalities, lot owners, and others who visit or work in the cemeteries by, among other things, safeguarding against 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 by the Trustees in accordance with the authority granted them by NH RSA 289:7.

SECTION II: DEFINITIONS

Lot: A specific area within the cemetery for which rights to inter human remains have been purchased.

Owner: An individual or individuals who have purchased interment rights.

Interment: The permanent disposition of the remains (body) or cremains (ashes) of a deceased person by burial in the earth.

Headstone: An upright or slanted stone or tablet installed at the head of a lot or lots to mark one or more interments.

Marker: 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.

Memorial: A general term of reference encompassing 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 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 **either** to the purchaser, his/her partner, and their resident children only, **OR** to no more than five (5); whichever number is smaller. Proof of residency and the names for whom the lots are intended to be used will be required.
2. Previous residents of the Town who: a) resided in the Town for a minimum 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 partner only. Proof of eligibility shall include, but not be limited to, certification by the Town Clerk or Tax Collector of evidence in their records of prior residency/payment of taxes; certified copies of historic property deeds.

3. Current, non-resident taxpayers having had ownership of a seasonal dwelling for a minimum of twenty (20) years. Limit of two (2) lots for property owner and his/her partner only. Proof of eligibility shall include, but not be limited to, property deeds or certification by the Tax Collector of historical tax payments.
 4. Current employees of the Town who have a minimum of twenty (20) years of service. Limit of two (2) lots for employee and his/her partner only.
 5. Former employees who meet the required years of service **AND** have left the Town's employ within the previous two (2) years. Limit of two (2) lots for employee and his/her partner 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 of Windham on it and will be signed by a majority of 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 issued by the Trustees, no person shall be considered the rightful owner of any lot unless he/she possesses said document. If a deed cannot be presented, then the records of the Trustees shall be considered as final in determining ownership.
- D) Maintenance by the Cemetery Custodian or designee shall be limited to grading and seeding of new interments as necessary, cutting the grass upon the lot at reasonable intervals, and raking and cleaning of the lot; but shall not include trimming/pruning of plantings unless done so at the specific direction of the Trustees in accordance with Section VII herein, 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 heir(s) or devisee(s), 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 or perpetual care fee(s); however the Trustees reserve the right to grant or deny such a request upon review.
- F) Lot owners, or their heir(s) or devisee(s), may not assign or transfer lots 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 heir(s) or devisee(s) 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 for any purpose to a lot owner 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. 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 so contracted by the Trustees, 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, the Trustees or their designee(s) may, at their discretion, open another 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 (1) set of remains within a single lot is prohibited except, at the discretion of the Trustees, multiple remains may be interred in one (1) single lot as follows:
- a parent and child or two (2) infants buried in a single casket; OR
 - three (3) infants buried individually at a distance of one foot (1') apart.
- Further variation may be made in the case of cremains subject to lot space available, dimensions of urns and/or their outer containers, and the proposed placement of markers. In general,
- up to two (2) urns are permitted in the same lot with one (1) casket, OR
 - for cremains alone, no more than four (4) will be permitted per standard lot.
- F) All casket interments shall be enclosed within an outer concrete box, with the exception of those in the designated Infant Section which shall require a high density polymer or similar box thirty inches (30") or less in length.
- G) Urn interments shall also require an outer concrete box, except when said urn is of a permanent nature; that being hermetically sealed and made of a non-biodegrading material such as granite, marble, or steel designed to withstand ground pressure and the deteriorating factor of the elements of burial. Vaults/containers may be procured from any source provided they meet the established specifications.
- H) All funeral processions, while within the grounds, will be subject to the directions of the Trustees or their designee(s).
- I) 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: WINTER OPERATIONS

A) New Plains Cemetery and Cemetery on the Plains

1. At the discretion of the Trustees, burials will be permitted throughout the season.
2. Plowing and sanding of the Cemeteries will occur throughout the winter season, or until such time as the amount of accumulation precludes safe operations.

In the event the Trustees determine it is no longer feasible for any reason to continue snow removal operations in either cemetery, and that winter burials must therefore be temporarily suspended, notice of same shall be posted on the Town website, in the local paper, and provided to those funeral homes commonly providing services in Windham. Entombment of the deceased until such time as burials resume shall be the responsibility of the funeral home, as the Town does not have facilities for same.

B) Cemetery on the Hill

1. There will be no winter burials permitted.

- 2. For public safety reasons, there will be no plowing conducted. Periodic sanding of the roads as natural melting of accumulation allows may occur at the discretion of the Trustees or their designee(s).

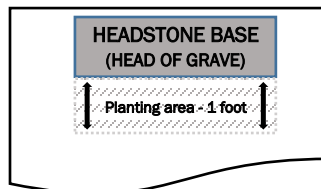
Entrance into the Cemetery during winter is done so at one’s own risk, and neither the Trustees nor the Town assume any liability for said action or the results thereof.

SECTION VI: MEMORIALS

- A) No memorial 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 separately 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.
- D) No memorial shall be permitted to be erected or set in the cemeteries without a good and sufficient foundation as installed by the Trustees’ designee(s).
- E) Persons engaged in erecting or maintaining memorials are prohibited from attaching ropes to surrounding headstones or trees/shrubs, scattering their material over adjoining lots, blocking roadways or pathways, and leaving materials on the ground longer than is absolutely necessary. They must do as little injury to the area as possible, 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.
- F) While a funeral or interment is being conducted nearby, work of any type shall cease for the duration.
- G) 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, memorials are the private property of the lot owner and are therefore outside the jurisdictional responsibility of the Trustees or the Town; any liability for loss, damage or injury thereto is hereby disclaimed.

SECTION VII: GENERAL LOT 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 foot (1’) 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 strictly prohibited and the Trustees reserve the right to remove those found planted after the date of adoption or amendment of these Regulations without prior notification.

Shrubs and trees already in place at the time these Regulations are adopted/amended may, at the discretion of the Trustees, be grandfathered provided that:

1. They have not been neglected so as to hinder cemetery maintenance or aesthetics;
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 maintenance, aesthetics and the safety of all, placement or construction on or around lots of items such as, but not necessarily limited to, the following are **strictly prohibited**:

- Glass or ceramic vases, boxes, figurines, picture frames, bottles, lanterns
- Windmills, wind socks, shepherds hooks
- Fencing of wood, brick, iron, wire, hedge, or other material
- Paths of brick, stone, gravel, or similar material

These items and those like them 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 without notification if so erected, planted or placed.

E) Special consideration is given, on a case by case basis, to allowing smaller items to remain which are **wholly** confined to the monument base or the permitted planting area. Such items may include, but are not necessarily limited to:

- Shells, coins, stones
- Small mementos, keepsakes, tchotchke
- Small toys, stuffed animals
- Wood, metal, or resin statues or figurines not in excess of 12" (one foot) in height

Any such items that are permitted to remain are the private property of the lot owner and are therefore outside the jurisdictional responsibility of the Trustees or the Town; any liability for loss, damage or injury thereto is hereby disclaimed.

F) Veteran stakes, designed to hold a parade-style (12"x18") American flag, are available at no cost from the Trustees for lots where one or more US veterans are interred. In general, one (1) stake is permitted per lot, and it is to remain at the head of the lot, immediately adjacent to the memorial.

Under no circumstances shall the provided stake, or any other such item, be placed on any other area of the lot (e.g. at the foot of the lot adjacent to a marker) where it can pose a hazard to maintenance equipment or cemetery staff/visitors.

G) In addition to regular maintenance, widespread clean-up of the cemeteries occurs twice annually, generally in late April and early November. Notices of same will be published in the local newspaper and on the official Town website 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 VIII: 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 #WIN 2:00:18:98, acts of public indecency are prohibited within the cemeteries.
- F) Per RSA 163-B, littering and illegal dumping are prohibited. Trash should be properly disposed of in the receptacles provided. Dumpster is for cemetery personnel use only.
- G) Unless otherwise noted herein, 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.
- H) 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 ten (10) miles per hour.
- I) Children under fifteen (15) years of age shall not be permitted within the cemeteries or their buildings unless accompanied by an adult.
- J) 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.
- K) Firearms shall not be discharged in the cemeteries, except for salutes at military funerals, Memorial Day ceremonies, or by direction of the Trustees.
- L) 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.
- M) No signs or notices or advertisements of any kind shall be allowed in the cemeteries unless placed by the Trustees or their designee.
- N) 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.
- O) Gravestone rubbing is prohibited except by special permission of the Trustees, who reserve the right to refuse any such request at their discretion.

SECTION IX: CORRECTION OF ERRORS

- A) The Trustees reserve the right to correct any errors made by them or a previous Board of Trustees in making interments, or in the description, transfer, or conveyance of any lot(s).
- B) 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 X: WAIVERS

Waivers of these Rules and Regulations may be granted by a majority vote of the Cemetery Trustees for good cause shown.

SECTION XI: SEVERABILITY

If any section, provision, or phrase of these Rules and Regulations shall be held to be invalid or unconstitutional by any court of competent authority, such holding shall not affect, impair or invalidate any other section, provision, or phrase hereof.

SECTION XII: AMENDMENTS

These Rules and Regulations may from time to time be amended by vote of the Cemetery Trustees at a scheduled meeting. Notice of proposed changes shall be posted in at least two (2) public places, one of which must be the Town Hall, at least fourteen (14) calendar days prior to the date of the meeting.

SECTION XIII: EFFECTIVE DATE

These Rules and Regulations shall take effect immediately upon adoption by the Cemetery Trustees and shall supersede any and all such Rules and Regulations previously enacted.

Adopted: March, 1988 Town Meeting

Amended: March, 1992 Town Meeting

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

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

Amended by the Cemetery Trustees: March 26, 2019

Wendi Devlin
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Cemetery Trustees