

CEMETERY ORDINANCE

§1 IDENTIFICATION AND PURPOSE OF ORDINANCE.

§1.1 Identification. This ordinance shall be known as the **Cemetery Ordinance** herein referred to as "the Ordinance."

§1.2 Purpose. This ordinance is established to manage and preserve town owned cemeteries, and to protect the rights of lot owners, while maintaining the public's health, safety and the general beauty and harmony of the cemeteries, and to assist the Town in equitable implementation of these provisions. The cemeteries governed by this ordinance are the Forks Cemetery, located on the Granite Hill Road; the Cummings Cemetery on Western Avenue (Route 202); the Annie Hill Cemetery on the Prescott Road; and the Friends Cemetery on the Patch Road. This ordinance does not apply to privately owned cemeteries located in Manchester.

§2. SUPERINTENDENT.

§2.1 The Town Manager of Manchester shall be the superintendent of the cemeteries. The Superintendent shall ensure that this ordinance pertaining to the cemeteries is enforced. The compensation of said superintendent shall be part of the agreed upon salary for the Town Manager. The duties of the superintendent include the following:

- Maintain a record of the layout of the cemeteries with each lot containing more than one grave and owned by one party suitably marked by an iron or concrete post placed on each lot corner and set level with the adjacent ground, and the graves/lots numbered. A plan of the same to be made and filed with the Town Clerk.
- Assure that all graves are of sufficient depth and properly filled, that they have concrete liners or suitable containers for cremated remains and that gravesites are marked with a permanent grave marker in the ground.
- Grant permission to occupy any lot or lots by a qualified person, after authority has been obtained from the Town Clerk.
- Employ such persons as needed to adequately maintain and care for the cemeteries.

Upon notice to the offending parties, remove and correct improper and unsuitable structures, articles or wording located within the cemetery. Assure that all records pertaining to town cemeteries are maintained in the town office, and that needed information concerning cemetery lots can be accessed at all reasonable times.

§3. CEMETERY COMMITTEE.

§3.1 A Cemetery Committee of no more than 7 persons shall be appointed for a one year term by the Board of Selectmen to serve as an Advisory Committee to the superintendent. The committee shall elect a chairman from its members. One member of the committee shall serve as the Cemetery Sexton to assist the superintendent in carrying out his/her responsibilities. The committee shall meet as needed, but at least once a year, and shall comply with the Town of Manchester Guidelines for Town Committees.

§4. REGULATING OCCUPATION OF LOTS.

§4.1 The Town Clerk shall keep a record upon which shall be entered all lots, with their number and section and with columns ruled for the names of purchasers of each lot, with the price and date of sale. The record shall note which gravesites are occupied and clearly show which lots are available for purchase.

§4.2 Payment for cemetery lots and for Perpetual Care shall be made to the Town Treasurer and shall be deposited in a designated account for cemetery income and expenses.

§4.3 The right to purchase any lot shall not be granted on behalf of any person not permanently residing in the Town of Manchester for at least eighteen months or a seasonal resident for at least eight years. Any lots granted shall not be used by anyone other than the purchaser for himself and his relatives, unless approved by the Superintendent. Should said owner permit burial in said lot of other than the immediate family and direct descendants, the owner shall not be permitted to purchase another lot or lots.

§4.4 Any person who is not an actual resident of the Town of Manchester who now owns a lot or one or more grave sites in a town cemetery shall not be allowed to exchange the same for any other lot in said cemetery. However, the Board of Selectmen may by majority vote grant the right of that individual to purchase a lot or one or more grave sites from other lot owners.

§4.5 Persons owning lots or multiple grave sites may sell or transfer ownership of such lots or sites to relatives, whether or not residents of Manchester, but the sale or transfer to non-relatives is restricted to residents of the Town of Manchester. Signed and notarized documentation of such sale or transfer, clearly identifying which sites have been transferred, shall be submitted to the Town Clerk within 14 days of the transaction. Persons owning grave sites or lots that will not be used may sell such lots back to the Town of Manchester at 75% of the current price per grave.

§4.6 The size of each grave site shall be 10 feet by 3 feet. A lot is four adjacent graves. Cremated remains of up to four persons may be placed in a grave site. Such remains may be placed over a previously buried casket.

§5. CEMETERY PRICES.

§5.1 The price for each individual grave in a lot, including Perpetual Care, shall be \$300. The price shall be determined by the Board of Selectmen after a public hearing on said prices is held. The prices shall be reviewed every two (2) years by the Cemetery Committee and any recommendations for any changes made to the Board of Selectmen. Perpetual Care is provided to the entire cemetery.

§6. PERSONS UNABLE TO PAY.

§6.1 The superintendent, with the advice of the Cemetery Committee, is authorized to designate certain grave sites in one or more of the town cemeteries to be kept in good condition for the graves of parties unable to purchase lots for whatever reason. The Board of Selectmen shall adopt such regulations as in their judgment are just and proper for the right of occupancy of any grave site by such parties. In case of removal, the space so vacated and the right to occupy the same shall revert to the Town of Manchester.

§7. PERPETUAL CARE.

§7.1 All monies previously paid to the Town Treasurer for Perpetual Care and all donations made by the holders of lots or other persons, shall be placed in a Cemetery Account. Such funds are to be expended for mowing grass, raking, trimming around monuments and markers and cleaning lots, and for improving and ornamenting the grounds of the town cemeteries as recommended by the Cemetery Committee and Superintendent. Any capital expenditures shall be approved by the Board of Selectmen. All monies currently entrusted in the Town of Manchester's Cemetery Account and all Individual Perpetual Care accounts shall be included in the Cemetery Account. A list of those monies currently known shall be maintained by the Town Treasurer. Monies listed shall be subject to change under the terms of their acceptance only when known. The town shall be responsible for complying with the terms of individual accounts; to the extent funds are available.

The town shall use the interest income from cemetery trust funds for the cost of perpetual care unless the terms of acceptance specify otherwise. The Board of Selectmen, in consultation with the Superintendent, shall determine the dispositions of trust funds for which there are no known heirs. No new cemetery trust funds shall be established after the effective date of this cemetery ordinance.

8. CEMETERY ACCOUNT.

§8.1 All sums received from the sale of graves or transfer of lots and any cemetery money not otherwise specified shall be credited to the Cemetery Account to be used for the keeping of the cemeteries and the lots therein in good order as well as providing Perpetual Care. Monies may also be used for the planning and purchase of more land to be used as part of the town cemeteries. The Town is also authorized to accept donations of land, subject to the approval of the Board of Selectmen and clear title thereto, and approval of the residents at a town meeting. Upon notice to the residents and a public hearing, suitable town owned property may be designated for use as a cemetery.

§9. GRAVE OPENINGS AND CLOSINGS.

§9.1 Before the opening of a grave shall commence, the party requesting said opening shall show satisfactory proof to the Superintendent or his/her designee that they have the right to request said opening. The funeral home shall be responsible for employing the person, persons or company doing the work and for the payment for those services. If in the opening of a grave, ledge or large rocks are found, such site shall be determined unsuitable for burial and an alternate location provided. No burials will be permitted from November 15th to March 31st unless special permission is granted by the Superintendent when ground conditions are suitable for burial.

§10. INTERMENTS.

§10.1 All interments shall be restricted to members of the family and friends of the family when approved by the Superintendent. A copy of the Certificate of Ownership will be reviewed by the Cemetery Superintendent or his/her designee before the lot is opened. The Cemetery Superintendent may request a meeting with the sexton and family if there is no Certificate of Ownership or any questions pertaining to ownership or placement of the grave site for the deceased.

§10.2 In all interments, the casket shall be enclosed in a permanent outside container. The following are considered permanent outside containers: concrete boxes, copper or steel burial vaults, sectional concrete crypts or approved synthetics. Cremated remains shall be in a container of some kind, rather than scattered on the ground.

§10.3 Interment of any body other than that of a human being will not be permitted. No lot shall be used for any other purpose than as a place of burial of the dead.

11. REMOVALS.

§11.1 A body may be removed from a grave upon completion of the Application for Disinterment or Removal. Removal of bodies from graves may be made by the authorization of a law enforcement official for purposes of an investigation. Such removal shall be done under the supervision of a licensed funeral director. Any markers or monuments designating the location of an interment shall be removed at the time a permanent disinterment is made.

§12. VISITORS TO CEMETERIES.

§12.1 The cemeteries are open to visitors at all times between the hours of ½ hour before sunrise and ½ hour after sunset. Persons in the cemeteries at other times will be considered trespassing.

§12.2 Children under fourteen years of age must be accompanied by a parent or guardian.

§13. PRIVILEGES AND RESTRICTIONS.

§13.1 No mounds shall be raised upon any grave above the general level of the lot. The Town reserves the right at any time to level unsightly mounds and to resod the grave at the general level of the lot.

§13.2 As soon as flowers, wreaths, emblems, etc., used at funerals, or placed on the grave at other times, become unsightly and faded, they will be removed and no responsibility for their protection or maintenance is assumed. The town shall have the right to remove all floral designs, lowers, weeds, trees, shrubs, plants, or herbage of any kind from the cemeteries as soon as, in their judgment, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemeteries.

§13.3 Window boxes, tubs, large urns and other similar containers will be allowed unless unsightly or interfering with maintenance, at which time they will be removed without notice. Vases or baskets of fresh or artificial flowers, wreaths or plants in boxes, are allowed anytime adjacent to monuments. Vases or urns not properly painted or otherwise cared for or not filled with plants will be removed.

§13.4 The owner of any lot shall have the right to erect any proper stones, monuments or sepulchral structure thereon. Headstones and monuments shall be set on crushed rock or a concrete slab set at least three feet below ground level.

§13.5 Shrubs may be cultivated on the lot. However, if any shrub or tree, situated in or upon any lot becomes objectionable by means of its roots, branches or otherwise becomes detrimental to adjacent lots and avenues, or dangerous or inconvenient to persons passing, it shall be the duty of the Cemetery Superintendent to notify the owner of the lot about the removal of said shrub or such parts thereof as are thus objectionable, detrimental, dangerous or inconvenient. If no known owner, the Superintendent, with the advice and consent of the Cemetery Committee, shall have the authority to remove such objectionable shrub.

§13.6 No person shall have the right to plant a tree, hedge, enclosure of any kind or erect a fence without first obtaining the written permission of the cemetery superintendent, who shall seek the advice of the Cemetery Committee before granting such permission.

§13.7 Any person who shall carry any alcoholic beverages, fireworks, or play golf, use a mini-bike, bicycle, snowmobile or allow his dog to run at large within the area of the town cemeteries or cause any damage to trees, shrubs, or flowers therein, shall be excluded from the cemeteries by the superintendent or his designate and if such person refuses to leave, he shall be subject to criminal or civil prosecution.

§13.8 Any person who willfully injures any fence, ornamental tree, walk, grave, monument or tombstone in any town cemetery shall be subject to criminal or civil prosecution under state law and shall also be required to pay for any damage done. The Town of Manchester shall not be responsible for the cost of erecting any gravestones that have been damaged through criminal action, vandalism or weather conditions, when the perpetrator cannot be identified.

§14. REVIEW OF POLICIES.

§14.1 This ordinance shall be reviewed by the Cemetery Committee on a yearly basis at least two months before the Annual Town Meeting to allow for any recommended changes to be brought before the Board of Selectmen for approval before being presented to the voters at the Town Meeting.

§15. PRIVATE BURING GROUNDS.

§15.1 Any person wishing to do so may establish a family burying ground by setting aside a piece of land no larger than $\frac{1}{4}$ acre, fencing it or marking the boundaries in some permanent manner and recording a description with the municipal clerk of the municipality where it is located and with the Registrar of Deeds. A burying ground is set aside forever once a body is buried and it cannot be conveyed when the land around it is sold.

§15.2 The Town of Manchester assumes no responsibility for the maintenance, protection or appearance of private cemeteries or burying grounds.

§15.3 Private burying grounds are subject to the same restrictions as other cemeteries and cannot be located within 100 ft. of a neighbor's house or 200 feet of his well if the neighbor protests in

writing. Persons wishing to establish a family burying ground should consult with neighbors and with municipal officials concerning local land use ordinances. Private burial grounds are regulated by the same requirements as any public burial ground.

§16. STIPULATIONS.

§16.1 Severability. If any provision of this ordinance or the application thereof is held invalid by any court of law, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provisions or applications, and to this end, the provisions of the ordinance are declared to be severable.

§17. EFFECTIVE DATE.

§17.1 The effective date of this ordinance will be upon passage at the annual town meeting.

