

# **Town of Londonderry New Hampshire**



## **Rules and Regulations Relating to Cemetery Control and Maintenance**

*March 3, 2007*

*Revised & Approved July 14, 2015*

*Revised & Approved June 22, 2021*

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## I. Town Cemeteries and Locations

<u>CEMETERY</u>	<u>LOCATION</u>	<u>DATES</u>
Glenwood Cemetery	Mammoth Road	1790
Kendall Cemetery	Kendall Pond Road	1853-1903
Pillsbury Cemetery	Hovey Road	2004
Pinkerton Cemetery (Old Hill Cemetery)	Hovey Road	1733
Pleasantview Cemetery	Mammoth Road	1822
Sunnyside Cemetery (Pettengill Cemetery)	Litchfield Road	1833 1856
Towne Cemetery	John Street	1817-1903
Valley Cemetery	Pillsbury Road	1793

## II. Purpose of Rules and Regulations

Plot owners in all cemeteries often misunderstand the purpose and function of cemetery rules and regulations and the important part they play in the beautification and preservation of the grounds. Too often people are inclined to resent what they term "restriction on my rights and privileges." It is important that residents of the community fully realize that cemetery rules are for the protection of the plot owner and the dignity and beauty of the cemeteries. For the mutual protection and benefit of lot owners, and each cemetery as a unit, the following Rules and Regulations have been adopted.

## III. Lot Pricing (Only Pillsbury Cemetery Available)

Single Plot (4'X8')	\$500
<i>*One full casket or up to 4 urns</i>	
Double Plot (8'X8')	\$800
<i>*Two full caskets or up to 8 urns</i>	

1. Purchases of cemetery lots are limited to residents of the Town of Londonderry, and acceptable proof of active residency of two years minimum is required at time of purchase. Plots may be purchased between April and November.
2. No more than 3 Double Plots per immediate family may be purchased.
3. Burials are allowed only between April and November, weather and surface conditions permitting. Winter burials are NOT permitted. Snow removal is prohibited in all of our cemeteries.

4. It is recommended that selection of an interment space be made in all cases by the prospective buyer, as it is difficult to convey by plan or verbal description the atmosphere of any particular location or the memorial restrictions relating to them.
5. Description of lots will be in accordance with the cemetery records, which are kept on file in the Town Hall.

## **IV. Rules and Regulations**

### **A. General Supervision**

1. The Sexton is hereby empowered to enforce all Rules and Regulations and to exclude from the property of the Town cemeteries any person violating the same, and the Sexton shall have charge of the grounds and buildings, and at all times, shall have supervision and control of all persons within the cemetery, including the conduct of funerals, traffic and employees. To protect and promote the best interests of the cemetery, the Sexton is authorized to make additional rules to address issues not specifically regulated herein, subject, however, to the Trustees' right to alter, amend, or repeal such rules implemented by the Sexton at a duly noticed and convened meeting.
2. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Trustees, therefore, reserve the right, without notice, to make exceptions, suspensions or modifications in any of these Rules and Regulations, when, in their judgment, the same appears advisable; and such exceptions, suspensions or modifications shall in no way be construed as affecting the general application of such rule.
3. The Trustees reserve the right, at any time, or times, to adopt new rules and regulations, or to amend, alter or repeal any rules, regulation or article, 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.

### **B. Vehicular Traffic**

1. Motor vehicles are not allowed to park or to come to a full stop in front of an open grave unless such motor vehicles are in attendance at a funeral. Motor vehicles must not turn in the driveways or avenues, but must proceed to the next intersection before changing direction.
2. Motor vehicles must be kept under complete control at all times. When meeting a funeral procession they must stop until the procession has passed. They must not pass a funeral procession going in the same direction. Motor vehicles must not be left with the engine running and the emergency brake must be set (or transmission in "park") when the driver is not in his seat. Mufflers must not be open nor the horn sounded within the cemetery.

3. No motor vehicles or animals shall be driven across or upon any grave, lot or lawn, nor parked or left thereon. It is prohibited to park or leave any motor vehicle on any road or driveway within the cemetery at such location or in such a position as to prevent any other motor vehicle from passing the same, and if so parked or left, such motor vehicle will be removed.
4. The use of the cemetery as a thoroughfare is prohibited and commercial or business vehicles are permitted to enter only by permission from the Sexton.

### **C. Personal Conduct**

1. Hours of operation are dawn to dusk only. Persons within the cemetery grounds shall use only the avenues, walks, alleys or roads, and any person injured while in violation of these rules may not hold the Town liable for any injuries sustained.
2. All persons are prohibited from gathering flowers, either wild or cultivated, breaking or cutting trees, shrubbery or plants, defacing or otherwise damaging monuments or structures, or disturbing the bird or animal life.
3. No person shall be permitted to have refreshments or lunches within the cemetery with the exception of the cemetery employees. Non-alcoholic beverages are permitted.
4. No loud talking shall be permitted on the cemetery grounds within hearing distance of funeral services.
5. No signs or notices or advertisements of any kind shall be allowed in the cemetery.
6. No stone rubbings are allowed in the cemetery (RSA 289:22).
7. Activities such as cookouts, peeling of tires, fireworks, drinking alcohol, or drones are prohibited. No bicycles, skateboards, hoverboards, motorcycles or off highway recreational vehicles are permitted.

### **D. 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 Town, County and State.
2. The Funeral Director, upon arrival at the cemetery, must present the necessary burial permits.
3. The Sexton reserves the right to refuse an interment in any plot if in the Sexton's judgment there is a question of ownership and/or the right for said interment.
4. 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 Sexton may open it in such location in the lot as deemed best and proper, so as not to delay the funeral; and the Sexton and the Trustees shall not be liable in damages for any error so made.

5. Sexton and the Trustees shall not be responsible for any order given verbally or for any mistake occurring from the lack of precise and proper written instructions as to the particular space, size and location in a plot where interment, disinterment or removal is desired.
6. The Trustees reserve, and shall have, the right to correct any errors that may be made by it either in making interments, disinterments, or removals or in, the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting other interment property of equal value and similar location as far as possible or as may be selected by the Trustees, or, in the sole discretion of the Trustees, 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 Trustees reserve, and shall have, the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.
7. The Trustees shall in no way be liable for any delay in the interment of a body where a protest to the interment has been made, or when the Rules and Regulations have not been complied with; and, further, the Trustees reserve the right under such circumstances to place the body in the receiving vault until the full rights have been determined. The Trustees shall be under no duty to recognize any protests of interment unless they are in writing and filed in the office of the Town Manager.
8. 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.
9. Artificial grass, lowering devices and other equipment owned by the Town or its contractors shall be used exclusively in making interments and removals.
10. Wooden boxes collapse after a comparatively few years, thereby causing unsightly and hazardous sunken graves. The use of fragile containers is prohibited and every body buried in a lot or single grave must be enclosed in a concrete, stone or other permanent vault or section liner of approved specifications, the actual installation of the sectional liner to be made by the cemetery Trustees.
11. Urns containing cremated remains do not require a concrete, stone or other permanent vault or section liner.
12. Removal by the heirs of a body or cremated remains so that the plot may be sold for profit to themselves, or removal contrary to the express or implied wish of the original plot owner, is repugnant to the ordinary sense of decency and is absolutely forbidden.

13. A body or cremated remains may be removed with proper permits from its original plot to a larger or other plot in the cemetery where there has been an exchange or purchase for that purpose.

**E. Service Charges and Overdue Indebtedness**

1. The charges for the services to be performed will be paid prior to, or no later than the time of the interment/disinterment; or in the case of repairs, payment will be made upon acceptance of estimated cost by the Sexton.
2. The Trustees reserve the right to refuse to do, or allow to be done work, of any character including interments in or upon any lot until arrangements have been made for payment of any and all indebtedness.

**F. Property Rights of Plot Owners**

1. All lots, plots and burial space conveyed shall be presumed to be the sole and separate property of the person or persons named. In all such conveyance to two or more persons as joint tenants, each joint tenant shall have a vested right of interment of their remains in the plot conveyed. Upon the death of a joint tenant, the title of the burial plot held in joint tenancy immediately vests in the survivor, or survivors.
2. Whenever an interment is made in a plot that has been transferred by deed or certificate of ownership to an individual owner by the Town and is held as a separate plot, it shall be indivisible, and the whole of such burial plot thereby becomes inalienable and shall be held as the family burial plot of the owner in which one grave may be used for the owner's interment, one for the interment of the surviving husband or wife, if any, of the owner who by law has a vested right of interment, and those remaining, if any, the children of such deceased owner may be interred in the order of need, without the consent of any person claiming any interest. In the event there shall be no child surviving such deceased person, the right of interment shall go to the next heirs at law of said deceased owner as specified by the statutes of descent.
3. On the decease of the owner of a lot, when the lot is not specifically mentioned in their will, a letter must be filed at the Town Office – Town Manager's Department signed by one of the heirs at law, and in the case of minors, by their guardian. This letter must include a list of names of all heirs and the majority must also designate one of their names as the representative who shall be authorized to sign orders for interments in the lot and to give all other needful directions regarding the lot. If no such letter is filed, the Sexton may designate one of the heirs at law to so act until such time as the before mentioned letter shall have been filed.

**G. Transfers of Assignment**

1. The Trustees may refuse to consent to a transfer or to an assignment as long as there is any indebtedness due the Town from the record plot owner.

2. The subdivision of plots may be permitted by the Sexton when written consent by the owner and the proper signatures and/or affidavits has been furnished to the Trustees.
3. The statement of any employee or agent, unless confirmed in writing by the Sexton, shall in no way bind the Trustees.
4. The Town shall take reasonable precautions to protect the owners of plots within the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control and especially from damage caused by elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, and order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.
5. Upon private sale, the records of who is buried must be transferred to the Town. The owners of rights of burial, or their heirs, shall not grant, sell, alienate, or convey, the said exclusive right of burial, to any person or persons, without having first notified the Cemetery Trustees. The Town of Londonderry shall have the right to repurchase a plot that is not to be used as a grave for the same price for which it was purchased. This shall be a restriction on all deeds.

#### **H. Address Changes of Plot Owners**

It shall be the duty of the plot owners to notify the Trustees of any change in their mailing address. Notice sent to the plot owners at the last address on file shall be considered sufficient and proper legal notification.

#### **I. Certificate and Rules are Sole Agreements**

The certificate of ownership and these Rules and Regulations and any amendments hereto shall be the sole, integrated agreement between the Town and the plot owners. The statement of any employee or agent, unless confirmed in writing by the Trustees, shall in no way bind the Town.

#### **J. Control of Work within Cemeteries**

1. All grading, landscaping and improvements of any kind, and all care on plots shall be done, and all trees and shrubs and herbage of any kind shall be planted, trimmed, cut or removed and all openings and closings of plots, and all interments, disinterments and removals shall be made only by the Sexton.
2. All improvements or alterations of individual property in the cemetery shall be under the direction and subject to the consent and satisfaction of the Sexton and should they be made without written consent, the Sexton shall have the right to remove, alter or change such improvements or alterations at the expense of the plot owner or, in any event, at any time, in the Sexton's judgment should they become unsightly to the eye.

3. No flower receptacles may be placed on any plot unless they meet the approval of the Sexton. The Trustees shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the cemetery as soon as in the judgment of the Sexton they become unsightly, dangerous, detrimental, or diseased. The Town shall not be liable for floral pieces, baskets, or frames in which or to which such floral pieces are attached beyond the acceptance of such floral pieces for funeral services held in the cemetery. It shall not be liable for lost, misplaced or broken flower bases. The Town shall not be responsible for frozen plants or herbage of any kind or for plantings damaged by the elements, thieves, vandals or by other causes beyond its control. The Town reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs or plants or herbage of any kind unless the Sexton gives written consent.
4. For cut flowers the use of a sunken vase of heavy metal with removable inner container is recommended. The submerged vase keeps the water cooler and thus helps to prolong the freshness of the flowers.
5. The use of glass or china jars, tin cans, metal or plastic vases are prohibited under penalty of immediate removal.
6. Only one flower container shall be allowed on any plot. No fences or wire enclosures for flowerbeds may be placed on any lot and no wires or other means of support, such as shepherd hooks, may be used for flower containers.
7. All flags will be removed without notice when they become soiled, faded, torn or otherwise unsightly, even though a special permit shall have been granted to maintain them.
8. No shrubbery will be permitted in Phase III of Pillsbury Cemetery and any future cemeteries. Any tree will be allowed only once the Sexton or Trustees have approved the species and location where it is to be planted. The requestor will be responsible of purchasing and hiring a landscaper to plant.

#### **K. Changes in Grade and Replanting**

1. The rights to enlarge, reduce, replant or change the boundaries or grading of the cemetery or of a section, or sections, from time to time including the right to modify or change the location of or remove or re-grade roads, drives, or walks, or any part thereof, is expressly reserved for the Town. The rights to install, maintain, and operate or alter or change pipelines or gutters for sprinkling systems, drainage, lakes, etc., are also expressly reserved for the Town. Also, the right to use cemetery property not sold to individual plot owners for cemetery purposes including the interring and preparing for interment of human bodies, or anything necessary, incidental or convenient. The Town reserves to itself and to those lawfully entitled a perpetual right of ingress and egress over plots for the purpose of passage to and from other plots.
2. No easement or right of interment is granted to any plot owner in any road, drive, alley or walk within the cemetery; but such road, drive, alley or walk may be used

as a means of access to the cemetery or buildings as long as the Sexton devotes it to the purpose.

#### **L. Care of Plots**

1. The money received for perpetual care shall be held in trust and invested as provided by law.
2. Perpetual care annual income, whether applied to lots, graves, mausoleums, or anything within the confines of the cemetery, shall be limited absolutely to the income received from the investment of the perpetual care fund, no part of the principal being expended, anything stated to the contrary notwithstanding.
3. It is understood and agreed between the purchaser and the Town that all of said funds may be deposited with others of like character and intent to the end that the income from such accumulated general fund shall be used in the 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 other than as above defined except special care agreements fully executed and on file at the Town Offices.
4. The income from the perpetual care fund shall be expended by the Trustees in such manner as will, in its judgment, be most advantageous to the property owners as a whole, and in accordance with the purposes and provisions of the laws of the state applicable to the expenditure of such funds. The Trustees are given the full power and authority to determine upon what property, for what purpose and in what manner the income from said fund shall be expended, and it shall expend said income in such a manner as in its sole judgment it may deem advisable for the care, reconstruction, repair and maintenance of all or any portion of the cemetery grounds for any purpose necessary to the execution of its duties.

#### **M. Monuments and Markers**

1. Bases and name stones shall be of the same material.
2. Monuments shall have a foundation of width and length equal to the dimensions of the base of the monument. Overall monument height may not exceed 36 inches. Single Grave Lot: base length shall not exceed 2 feet 2 inches, width 12 inches. Double Grave Lot: base length shall not exceed 4 feet; width 12 inches.
3. Corner posts shall be of good natural stone placed flush with the grade. Initials shall be incised, not raised.
4. Lettering on all monuments, markers, and corner markers shall be hand cut (carved), or sandblasted letters and numerals.
5. While the Town will exercise all possible care to protect the memorial or other structure on any lot, it disclaims responsibility for any damage or injury thereto.

6. No coping, curbing, fencing, hedging, grave mounds, borders, or enclosures of any kind shall be allowed around any lot, and no walks of brick, cinders, tile, stone, marble, terracotta, sand, cement, gravel or wood shall be allowed on any lot. The Sexton reserves the right to remove the same if so erected, planted or placed.
7. The Sexton reserves the right to stop all work of any nature whenever, if in the opinion of the Sexton, proper preparations have not been made or when tools and machinery are insufficient or defective, or when work is being executed in such a manner as to threaten life or property, or when the monument dealer has been guilty of misrepresentation, or when any reasonable request on the part of the Sexton is disregarded, or when work is not being executed according to specifications, or when any person employed on the work violates any rules of the cemeteries.
8. The coloring, painting, enameling, lacquering or bronzing of letters or other parts of stone or bronze work is prohibited.
9. Damage done to lots, walks, drives, trees, shrubs or other property by dealers and contractors or their guests, shall be repaired by the Town and the cost of such repair shall be charged to the dealer or contractor or his principal.
10. No material, machinery, or other thing for the construction of vaults, mausoleums, monuments, or other structures, or monuments themselves, may be brought into the cemetery until required for immediate use, not under any circumstances when a funeral is in progress, nor between November and April.
11. While a funeral or interment is being conducted nearby, all work of any description shall cease.
12. Approaching the bereaved and soliciting memorial business, bedding of flowers or plants, or the sale of any commodity is positively prohibited within the confines of the cemetery.
13. Workers engaged in placing or erecting monuments and other structures or grinding material shall operate as independent contractors but must do so under permission from the Sexton and must be under the general supervision of the Trustees.
14. The placing of boxes, shells, toys, metal designs, ornaments, benches or chairs, vases, glass, sporting equipment, wood or iron cases and similar articles upon plots shall not be permitted, and if so placed, the Sexton reserves the right to remove same.
15. All fittings, adornments, urn inscriptions and arrangements or crypts or niches shall be and are hereby declared to be subject to the approval and control of and acceptance or rejection by the Trustees.

**N. Foundations and Settings**

1. Foundations are to be full size of base of memorial and finished two inches below grade at top. Corner posts 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. They shall be set flush and level with grade. 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 single grave sections, all markers shall be placed at the head of the grave.
2. Markers shall have a foundation of width and length to equal the width and length of the marker and shall be two feet deep.
3. The bottom beds of the bases and markers must be cut level and true and set in cement mortar to allow every part to be in contact with the foundation without the use of pawls or underpinning.
4. Should any memorial, mausoleum, or tomb become unsightly, dilapidated, or a menace to visitors, the Town shall have the right either to correct the condition or to remove it at the expense of the owner.
5. No monuments or markers shall be removed from the cemetery except by the Town unless the written order of the plot owner be presented at the office of the Trustees and permission granted by the Trustees

**O. Rules and Regulations Applicability**

1. All current owners as of the date of this revision shall be grandfathered to the Rules and Regulations dated July 14, 2015.
2. All new/revised Rules and Regulations will be enforced in Phase III of the Pillsbury Cemetery and any future cemeteries.
3. The Trustees have the right to make all final decisions within their statutory purview.