

Section 11: Rules for the Cemeteries of the Town

(May 10, 1997, amended: May 8, 2010, May 10, 2014, May 9, 2015)

11.1 Purpose and Scope

For the protection of lot owners and the Town of Heath, and to preserve the rural character of our cemeteries, the following rules and regulations have been adopted by the Heath Cemetery Commissioners. These rules and regulations shall apply to all Town of Heath cemeteries and all lot owners and visitors within the cemeteries, and all lots sold shall be subject to said rules and regulations and subject further to such other rules and regulations, amendments and/or alterations adopted pursuant to state and local laws from time to time. Reference to these rules and regulations in the deed or certificate of ownership to a lot shall have the same force and effect as if set forth in full therein.

11.2 Definitions

- 11.2.1 **Cemeteries:** Burial parks for earth interment, which include the South Cemetery, Center Cemetery and that portion of the North Cemetery that is owned by the Town of Heath.
- 11.2.2 **Commission:** That Board appointed by the Select Board of the Town of Heath called the Cemetery Commission in accordance with M.G.L. Ch. 114, § 27 and Ch. 41, § 21 for the purpose of issuance of certificates of ownership for burial lots, and to maintain and manage the Town Cemeteries.
- 11.2.3 **Certificate of Ownership:** The deed or certificate of ownership of a lot given by the Commission to the original purchaser.
- 11.2.4 **Burial Agent:** The Town Board of Health or its appointed agent, such as the Town Clerk, who is responsible for receiving death certificates and issuing interment certificates.
- 11.2.5 **Sexton:** The caretaker of the cemetery responsible for upkeep, grave openings and closings. The Sexton functions as the custodian of the cemetery plot maps, records of individual graves plots, interment arrangements. The Sexton also transmits the notification of interment to the State Board of Health.
- 11.2.6 **Grave:** A space of sufficient size to accommodate one adult interment, approximately five (5) by twelve (12) feet, width and length.
- 11.2.7 **Interment:** The permanent disposition of the remains of a deceased person by cremation and interment, entombment or burial.
- 11.2.8 **Lot:** A numbered division as shown on the plan of a cemetery which consists of two (2) or more graves; approximately ten (10) feet by twelve (12) feet, width and length.
- 11.2.9 **Lot Marker:** Any means used by the Cemetery Commission to locate corners of the lot or grave.
- 11.2.10 **Marker:** A memorial flush with the ground.
- 11.2.11 **Memorial:** A monument, marker, tablet, headstone or tombstone installed or placed on a lot.

11.3 General Rules

- 11.3.1 All fees or charges for services are payable at the Town Treasurer/Clerk's office.
- 11.3.2 Persons within the Cemeteries shall use only the avenues, roads, and walkways, and no one is permitted to walk upon or across lots or lawns unless it is necessary to gain access to one's own lot or to visit a grave. The Commission and the Town of Heath expressly disclaim liability for any injuries sustained by anyone violating this rule.
- 11.3.3 Persons visiting the Cemeteries or attending funerals are prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub or plant, or from writing upon, defacing or injuring any memorials, fences or other structures within the Cemeteries' grounds. Violation of this rule is also a violation of state laws (M.G.L, Ch. 272, §§ 73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines or imprisonment.
- 11.3.4 The following are prohibited:
 - (a) The driving of motor vehicles through the gates or within the Cemeteries at excessive speeds.
 - (b) Driving any motor vehicle or riding any animal across or upon any grave, lot or lawn or parking or leaving the same thereon.

- (c) Parking or leaving any motor vehicle on any road or driveway within the Cemeteries at such location or in such position as to prevent any other vehicle from passing. Vehicles found in violation of this rule may be removed by any person authorized to enforce these rules and regulations, including the Commission and its agents and police officers of the Town of Heath.
- 11.3.5 No bicycles or motorcycles will be admitted to the Cemeteries except such as may be in attendance at funerals or on business.
- 11.3.6 Disposal of rubbish is prohibited.
- 11.3.7 In order to maintain the solemnity of the Cemeteries, the following activities are prohibited:
 - (a) Loud or boisterous talking.
 - (b) Loitering on the grounds, or in any of the buildings.
 - (c) Bringing food into the Cemetery of consuming it on the grounds.
 - (d) Peddling or soliciting.
 - (e) Placing of signs, notices or advertisements of any kind.
 - (f) Bringing dogs, other than guide dogs for the blind, deaf or hearing impaired, into the Cemeteries.
 - (g) Bringing firearms into the Cemeteries, except by a military escort accompanying a veteran's funeral or attending memorial services.
- 11.3.8 Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Commission, therefore, reserves the right to make exceptions, suspensions or modifications to any of these rules and regulations, without notice, when in the judgment of the Commission such action appears necessary to eliminate such hardship. Such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such rules and regulations.
- 11.3.9 All planting and other work on lots by lot owners or visitors must be performed during the regular hours of the Cemeteries. All work shall be subject to the directions of the Commission and its agents.
- 11.3.10 The Commission and the Town of Heath reserve the right to add to, amend, alter or repeal these Rules and Regulations pursuant to M.G.L. Ch. 114, § 23. Inclusion of such amendment or alteration in Town Meeting Warrant will serve as sufficient notice of any rule changes.
- 11.4 Lots and Lot Owners (amended May 11, 2019)
 - ~~11.4.1~~ Residents and/or property owners of Heath are entitled to select and reserve a lot for their burial in a Town cemetery. A person desiring to reserve a lot should contact the Cemetery Commissioner of that cemetery or the Sexton. The Commissioner will issue a deed of ownership upon payment of the marker fee to the Town of Heath. ~~The procedure for the North Cemetery is different because the Town portion of the North Cemetery is full. Lots may be purchased from the North Cemetery Corporation.~~
 - (1) A fee of ~~seventy five (75)~~ one hundred fifty (150) dollars ~~for the placement of markers~~ will be assessed at the time of issuance of the deed for residents and/or property owners of the Town of Heath. The \$75 fee may be waived in the event of hardship at the discretion of the Cemetery Commissioners.
 - (2) A fee of ~~two hundred and fifty (250)~~ four hundred (400) dollars will be expected from non-residents at the time of issuance of the deed in accordance with Section 11.5.5. ~~This fee is for both the marker and the lot.~~
 - (3) Donations are gratefully accepted to help maintain cemeteries.
- 11.4.2 Descriptions of the lots will be in accordance with the Cemetery maps which are kept by the Sexton.
- 11.4.3 Purchasers of lots shall, at the time of purchase, provide the Commission with the names and addresses of heirs of the lots owners.
- 11.4.4 Before any stone, marker, or shrubs are placed or planted on a grave or lot, complete payment for grave use must be made to the Town of Heath, unless waived by the Commission.
- 11.4.5 No lot or grave shall be used for any other purpose than burial of the human dead.
- 11.4.6 No easement or right of interment shall be granted to any grave owner on any road, drive, alley, or walk within any Cemetery, but such road, drive, alley, or walk may be used as a means of access to the Cemeteries, as long as the Commission designates it for that purpose.

11.4.7 The Commission reserves the right to:

- (1) Enlarge, reduce, re-plan or change the boundaries or grading of the Cemeteries, or a section or sections of any Cemetery including the right to modify or change the locations or remove or re-grade roads, drives or walks, or any part thereof.
- (2) Use Cemetery property not sold to individual grave owners for cemetery purposes, including interment of the dead, or for anything necessary, incidental or convenient thereto.

11.4.8 The Commission and the Town of Heath reserve to themselves and their agents a perpetual right of ingress and egress over graves and lots for the purpose of passing to and from other graves and lots.

11.4.9 Neither the Commission nor the Town of Heath shall be responsible for any loss nor damage within the Cemeteries from causes beyond their control such as damage caused by the elements, an act of God, thieves, vandals, explosions, unavoidable accidents, riots or by order of any military or civil authority, whether the damage be direct or collateral.

11.4.10 The instrument of conveyance, these rules, and any amendments thereto, constitute the sole agreement between the Commission and the grave owner. The statement of any employee or agent, unless confirmed in writing by the Commission, shall in no way bind the Commission.

11.5 Care of Lots

11.5.1 The general care of the Cemeteries is assigned to the Commission and includes the cutting of the grass at reasonable intervals to maintain the uniformity and the character of the Cemeteries. Individual fertilizing is not permitted.

11.5.2 General care shall in no case include the maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon lots. Additionally excluded is the reconstruction of any marble or granite work on any section or grave or any portion or portions thereof in the Cemeteries, damaged by the elements, an act of God, thieves, vandals, explosions, unavoidable accidents, riots, or by order of any military or civil authority, whether the damage be direct or collateral.

11.5.3 Funds for this general care shall be provided by the Town appropriations pursuant to M.G.L. Ch. 114, § 16.

11.5.4 Pursuant to M.G.L. Ch. 114, § 25, the Town of Heath may receive gifts or bequests for the maintenance of the Cemeteries. These funds shall be paid to the Town Treasurer, kept separate from other Town funds and accounts and invested in accordance with any stipulations from the grantor, if any. Proceeds from the lot sales or rights of burial shall be paid into the Town treasury and appropriated to reimburse the Town for cemetery maintenance expenditures.

11.5.5 Pursuant to M.G.L. Ch. 114, § 19, the Town of Heath may receive, hold and apply funds, money, or securities deposited with the Town Treasurer for the preservation, care and improvement of the Cemeteries or the lots of the Cemeteries. The Town Treasurer shall invest these monies to insure a maximum income.

11.6 Correction of Errors

The Commission reserves, and shall have the right to correct any errors that may be made by it in making interments, disinterments, or removals, or in the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location, as far as possible, or as may be selected by the Commission, or, in the sole discretion of the Commission, by refunding the amount of money paid on account of said purchase. In the event such an error shall cause the interment of the remains of any such person in such property, the Commission reserves, and shall have the right to remove or transfer such remains so interred to such other property, consistent with law, or equal value and similar location as may be substituted and conveyed in lieu thereof.

11.7 Descent of Titles

The laws of the Commonwealth of Massachusetts govern the descent of title to cemetery lots as well as other matters pertaining to assignments, conveyances, devises, trust deeds and inalienability. The Commission will assist any lot owner who desires more information pertaining to his lot.

11.8 Interments

11.8.1 The Cemeteries will be open for interment by the Sexton or at the discretion of the Commission and the authorized funeral director.

- 11.8.2 Once a casket containing a body is within the confines of the Cemeteries, no funeral director or his embalmer, assistant, employee or agent shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased or an order issued by a court of competent jurisdiction.
- 11.8.3 Lot owners shall not allow unauthorized burials in their lots for remuneration of any kind.
- 11.8.4 One traditional burial and up to three cremain burials or up to six cremain burials with no traditional burial are the maximum allowed in a single grave. No interment of two or more traditional burials shall be made in one grave, except in the case of parent and child or two infants buried in one casket.
- 11.8.5 When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner. Should the lot owner fail or neglect to make such designation, the Commission reserves the right to make the interment in a location designated by the Commission or the Sexton.
- 11.8.6 The Commission and the Sexton are the only persons who will be permitted to open graves, with the following exceptions:
- (1) When the Commission is directed to make a disinterment by a judicial order and a certified copy of such order has been filed with the Commission, or the Sexton.
 - (2) When an authorized Coroner/Medical Examiner directs the disinterment for the purpose of holding an inquest and has filed with the Commission or burial Agent a signed authorization to release the body to him or his lawful agents. In such a case the disinterment must be made by the Coroner/Medical Examiner or his lawful agents. Commission employees will not be permitted to assist.
- 11.8.7 Arrangements for the payment of indebtedness due the Commission shall be made before interment is made.
- 11.8.8 The Commission reserves the right to insist upon at least a thirty-six (36) hour notice to it or the Sexton prior to any interment and at least one (1) week's notice prior to any disinterment or removal.
- 11.8.9 All interments, disinterments and removals must be made at the time, in the manner, and upon the charges fixed by the Commission.
- 11.8.10 In addition to being subject to these rules and regulations, all interments, disinterments and removals shall be subject to all applicable state and local laws, ordinances and regulation, including the issuance of any burial or other permits.
- 11.8.11 The Commission will not be responsible for any order given by telephone or for any mistake from the want of precise and proper instructions as to the particular space, size of grave and location in a grave where interment is desired.
- 11.8.12 The Commission will not be liable for the interment permit nor for the identity of the person sought to be interred.
- 11.8.13 Green burials, which are understood to be burial without embalming (the use of preservatives such as formaldehyde or other chemicals) and burial without a vault, will be allowed in Town cemeteries. If no vault is used, a ~~leak-proof~~ shroud or casket that will collapse when grade is filled will be required to maintain a level soil surface and prevent accidental punctures of graves.
1. The legal representative of the deceased, if there is no funeral director, is responsible for providing transport and lowering the body into the grave. (amended May 11, 2019)
- 11.8.14 The Sexton must be informed of green burial plans when the request of internment is made.
- 11.8.15 For a green burial, the depth of the grave should be five feet to the bottom.

11.9 Plants and Shrubs

- 11.9.1 The Commission will maintain, as may be practicable, trees and shrubs to preserve and maintain landscape features, but will not maintain individual planting, urns, or plants.
- 11.9.2 Neither the Commission nor the Town of Heath shall be responsible for any kind of plantings damaged by the elements, vandals, thieves or other causes beyond their control. The Commission shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants or herbage of any kind from the Cemeteries as soon, as in the judgment of the Commission or the Cemetery representative, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standard maintained.

11.9.3 Neither the Commission nor the Town of Heath shall be responsible for floral pieces, baskets or frames in which, or to which, such floral pieces are attached, beyond the acceptance of such floral pieces for cemetery services held in the Cemeteries.

11.9.4 The Commission reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind, unless the Commission gives its consent.

11.10 Miscellaneous

The Commission may adopt a schedule of fees for privileges and services provided to lot owners, and may make such orders and take such actions as are necessary to implement these Rules and Regulations.

11.11 Enforcement of Rules

The Commission, its agents and any police officer of the Town of Heath are hereby empowered to enforce all Rules and Regulations and to exclude from the Cemeteries any person violating the same.