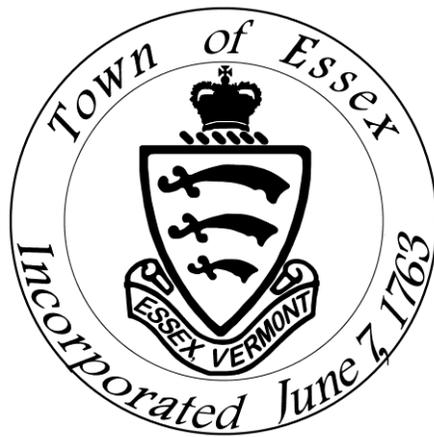


TOWN OF ESSEX CEMETERY COMMISSION



Rules and Regulations
Effective September 8, 1986
(Revised 2016)

INTRODUCTION

In 1794, a Town Meeting was warned and held in Essex “to establish an area of common ground to bury the dead.” Following the selection of the burial ground on the Town Common, a group was formed to clear the ground. As years passed, nearly all families in Essex had purchased lots in this cemetery.

In 1868, the second cemetery ground was purchased to be used when all lots had been purchased in the first cemetery. Later, this cemetery ground was named Mountain View Cemetery. Today in 1986, Mountain View Cemetery is still in use.

In 2005, the Cemetery Commission was in the planning process for an above-ground burial space in the Mountain View Cemetery with the goal of extending the life of the current cemetery, providing a cost effective burial alternative and creating a perpetual care fund. Through the generous support of the Town of Essex Selectboard and the staff, in 2008 the first columbarium was placed in what is to be a serene, park-like setting.

Rules and Regulations

These regulations have been formulated after due consideration both to those that have heretofore been in force and of the regulations which are in force in many of the best cemeteries in the country. They are published for the benefit and guidance of lot owners and the public, with the expectation that they will be observed by all.

It is the desire of the Cemetery Commission that the cemeteries be conducted for the interest of the lot owners as a whole and that they are kept attractive, as it becomes the resting place for the deceased. It may, at times, be necessary for individuals to accept the judgment of the Commission in these matters, even if it should be different from their own.

The Commission asks the cooperation of all persons in maintaining due observance of these regulations.

The Commission may, and it hereby expressly reserves the right, at any time, to adopt new rules and regulations or to amend, alter, or repeal, any rule or regulation.

Definitions

1. COMMISSION – The term commission shall mean the Board of Cemetery Commissioners of the Town of Essex, Vermont.
2. CEMETERY – The term cemetery is hereby defined to include a burial park for earth interments, a community mausoleum for vault or crypt interments, a crematory or crematorium and columbarium for cinerary interments, or a combination of one or more than one thereof.
3. COLUMBARIUM – The term columbarium is defined as a permanent above-ground structure comprised of individual niches, each with a separate internal closure or *shutter* for the private interment of cremated remains. Memorial engraving space is on the external shutter.
4. GRAVE – The term grave shall apply to a space of sufficient size to accommodate one adult interment approximately three feet eight inches by eleven feet.
5. LOT – The term lot shall apply to numbered divisions as shown on the record plat, which consists of two or more graves.
6. INTERMENT – The term interment shall mean the permanent disposition of the remains of a deceased person by burial or entombment of cremated remains.
7. MEMORIAL – The term memorial shall include a monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, urn or crypt or niche place.
8. MONUMENT – The term monument shall include a tombstone or memorial of granite, which shall extend above the surface of the ground.
9. MARKER – The term marker means a memorial flush with the ground.
10. LOT MARKER or CORNERSTONE – These terms refer to stones on the corners of a grave or lot.
11. LOT DEED – The term deed is an instrument giving the lot purchaser the right of interment only.
12. CERTIFICATE OF OWNERSHIP – The term certificate of ownership shall apply to the original conveyance given by the cemetery to the original purchaser.
13. MANAGEMENT – The term management shall mean the person or persons duly appointed by the Town for the purpose of conducting and administering the cemetery.

14. CEMETERY OFFICE – The term cemetery office shall mean the main office maintained at 81 Main Street, Essex Junction, VT.

Rules of Conduct

1. The Town Cemetery will be open from eight o'clock a.m. until sunset. All persons must leave the grounds at that time.
2. Saddle horses, motorcycles, mopeds, snowmobiles or other off terrain vehicles are not permitted within the grounds.
3. Dogs within the confines of the cemetery must be on a leash.
4. Persons within the cemetery grounds shall use only the avenues, roads or paths, except if it is necessary to walk on the grass to reach their lots.
5. No picnicking, bringing of lunches or refreshments into the cemeteries or consuming them on the grounds will be permitted.
6. No loitering, boisterous conduct, profane language or rude behavior will be permitted.
7. Entering upon any private lot or disturbing any flowers or plants or carrying away anything from any lot except by the owner thereof, is forbidden.
8. All persons are prohibited from picking flowers, either wild or cultivated, breaking or injuring any tree, shrub or plant, and defacing or damaging any monument or other structure.
9. Children under fourteen years of age must be attended by some person who will be responsible for their conduct.
10. Automobiles shall not exceed 15 miles per hour when driven through the grounds, and shall be kept under control at all times. No automobile or other vehicle shall be driven across or upon any lot or lawn, or parked thereon. It is prohibited to park any vehicle on any roadway within the cemetery so as to prevent any other vehicle from passing.
11. The Cemetery Commission shall in no way be held liable for injuries sustained by anyone while in the cemetery.
12. Any person violating these rules will be liable to the fines and penalties prescribed by the statutes of the State of Vermont.

13. It is the duty of the Cemetery Commission to see that the rules and regulations are complied with and it is the Commission's duty to see that order is maintained and to protect and promote the best interests of the cemetery. To that end, the Commission is authorized to make temporary additional rules, which may be needed, from time to time, to meet emergencies, which are not covered by these Rules of Conduct.

Lot Owners Rights

1. The deed to a lot or other grant to interment space gives only a right or privilege of interment of human remains, the ownership in fee to the land remaining in the Cemetery. This right comes with, however, the right to provide a memorial.
2. Persons desiring to purchase burial rights in a lot should visit the cemetery where the a commission representative will aid them in making a selection and will issue a memorandum describing the lot purchased.
3. The burial rights conveyed shall be presumed to be sole and separate property of the person or persons named in the deed.
4. The husband and wife shall have a vested right of interment of his or her body in any burial lot conveyed to the other. This right shall continue as long as he or she shall remain husband or wife of the lot owner or shall be his or her husband or wife at the time of the lot owner's death.
5. In all conveyances to two or more vested persons as joint tenants, each joint tenant shall have a vested right of interment of his or her remains in the lot so conveyed. Upon death of a joint tenant the title to the burial lot shall immediately rest in the survivor or survivors, subject to the vested right of the interment of the remains of the deceased joint tenant owner.
6. Not more than one casket and two urns shall be interred in one grave except by written consent of the Commission, and provided that proper identification is made of such interment on a memorial or marker.
7. On the decease of the proprietor of a lot when the lot is not specifically mentioned in his/her Will, an affidavit must be filed at the office of the Cemetery Commission, signed by one of the heirs at law, and in the case of minors, by their guardian. This affidavit must include a list of the names of all heirs, and a majority must also designate one of their members as a representative who shall be authorized to sign orders for interments in the lot and to give all needful direction regarding the lot.

Interments and Disinterment

1. Only those persons previously approved by the Cemetery Commission will be allowed to open a grave in the Town cemeteries.
2. Once a casket or urn containing a body or cremated remains is within the confines of the cemetery, no funeral director or his/her embalmer, assistant, employee or agent shall be permitted to open the casket or to touch the body without the consent of the legal representatives of the deceased or without a court order.
3. Every earth-interment shall be made enclosed in an outer container or vault of 12 gauge or better metal or concrete. This shall not apply to cremated remains in urns, however, lot owners should be aware that without this containment, future disinterment may be difficult or impossible. The structural design and installation shall meet the specifications of the Cemetery Commission.
4. The right is reserved to insist upon at least 24 hours notice prior to any interment and at least one week's notice prior to any disinterment or removal.
5. The burial permit, issued by the Town Clerk, as required by law, shall have been presented by the time of interment to a representative of the Commission.
6. In a single grave, the burial of one casket , or one casket and no more than two urns, will be allowed. There is no change in the current practice for burial depth.
7. The Cemetery Commission reserves the right to refuse interment in any plot and to refuse to open any burial space for any purpose, except on written application by the lot owners of record.
8. The Cemetery Commission reserves the right to make an interment of any member of the immediate family of any one of several lot owners upon his/her written authorization. No other person may be interred in any lot without the consent of all those owners of the lot who are recorded on the deed.
9. 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 Superintendent may, at his/her discretion, open it in such location in the lot as he/she deems best and proper, so as not to delay the funeral; and the Cemetery Commission shall not be liable for damages for any error so made.
10. Detailed written instructions are required by the Cemetery Commission, and the Cemetery Commission shall not be responsible for any order given verbally or by telephone, or for any mistake occurring from the want of precise and proper

instructions as to the particular space, size and location in a lot where interment, disinterment or removal is desired.

11. The Cemetery Commission reserves, and shall have, the right to correct any errors that may be made by it, either in making interments, disinterment 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, as may be selected by the Cemetery Commission, or, in the sole discretion of the Cemetery Commission, 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 Cemetery Commission reserves, 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.
12. 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.
13. No disinterment, or removal of any body will be allowed without an order, in writing, from a legally authorized person. Any and all expenses and liabilities for disinterment or removal after authorization will be the obligation of the lot owner.
14. No burials are allowed during the winter months. The dates of the last burial in the fall and the first burial in the spring are at the discretion of the Commission.
15. No vault will be required for in-ground burial of cremains in urns.

Purchases, Transfers and Assignments

1. All lots shall be purchased through the Town Clerk's Office or its authorized agent. Persons desiring to purchase lots will be given all needed information by the Town Clerk or its agent who will show plans, locations and give current prices.
2. Payment for lots shall be made directly and only to the Essex Town Clerk, and upon final payment, the treasurer shall issue and record the deed.
3. The Commission shall not permit any interment in a lot or grave, or allow any marker or monument to be placed on any lot or grave that has a debt against it, unless prior arrangement for payment has been made with the Commission.
4. When necessary, in order that the cemeteries may be more self-sustaining, the Commission may change the price of lots in any section of the cemeteries.

5. The burial rights in a lot can only be sold back to the cemetery at the current purchase price.
6. Cornerstones are set on all lots and charged to the purchaser. If the lot owner desires to replace them at a later date, returning same to the Cemetery Commission, a partial refund will be made.
7. Any transfer or assignment of a lot or interest therein shall first be approved in writing by the Commission and thereafter recorded on the books of the Commission and the Town Clerk.
8. The Commission may refuse consent to transfer or to assign as long as there is any indebtedness due the cemetery from the record owner.
9. All transfers shall be subject to a nominal charge to be paid when the transfer is recorded.
10. The subdivision of lots is not allowed except by written consent of all parties interested in such lots. Such subdivisions must have written consent by the Commission.
11. The Cemetery Commission shall take reasonable precautions to protect lot owners and the property right of lot owners, within the cemeteries from loss or damage. It distinctly disclaims all responsibility for loss or damage due to causes beyond its reasonable control, especially from damage caused by the elements, an act of God, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, incursions, insurrections, riots, or by order of any military or civil authority.

Lot Plantings and Decorations

1. The Cemetery Commission shall have the authority to remove all floral decorations, flags, shrubs, plants, or herbage of any kind, which in the judgment of the Commission, have become unsightly, dangerous, diseased, or detrimental, or which do not conform to the regulations outlined.
2. Artificial flowers and wreaths will be allowed only from October 1st to May 15th.
3. Owners of lots may plant flowers, if they give them proper care. All flowers must be planted within an 18inch border within the grave or lot boundary. The Cemetery Commission assumes no responsibilities for plantings outside of this area.
4. Shrubs can be planted only with the permission of the Cemetery Commission. Trees are not allowed.

5. Shrubs are to be trimmed and debris deposited in places provided for that purpose. Shrubs should not be allowed to grow above, or higher than the monument.
6. Metal containers, baskets, or other receptacles placed above the ground as flower holders will be removed by the caretaker within three weeks if not taken previously by the owner. Glass containers of any kind are not an acceptable container, and shall be removed.
7. The placing of shells, toys, metal designs, ornaments, chairs, settees, and similar articles are not permitted, and if so placed on the lot, the Commission reserves the right to remove the same.
8. Coat hangers or other wires in the ground or attached to memorials, used as pot holders or to support flowers or containers, will not be allowed.
9. The Cemetery Commission shall not be liable for any floral arrangements, plants, receptacles, or other items placed on the lot or graves that have become lost, stolen, misplaced or broken.

Permanent Care

1. The term permanent care used in reference to lots shall be held to mean the cutting of the grass upon said lot at reasonable intervals, the raking and cleaning of the lots. It shall also mean the pruning and shaping of shrubs and trees so that they will not infringe upon the rights of adjacent lot owners. Also meaning and intending the general preservation of the lots, and the grounds, walks, roadways, boundaries and structures, to the end that said grounds shall remain and be reasonably cared for as Cemetery grounds.
2. The term “permanent care”, unless otherwise provided in the agreement, shall in no case be construed as meaning the maintenance, repair or replacement of any marker or memorials, placed or erected upon lots; nor the planting of flowers or ornamental plants, nor watering or sprinkling the lots; nor the doing of any special or unusual work in the Cemetery, including work caused by impoverishment of the soil; nor does it mean the reconstruction of any marble, granite, bronze or concrete work on any lot or any portion or portions thereof or concrete work on any lot or any portion or portions thereof in the Cemetery, caused by the elements, or act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or by the order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

3. The money received from the sale of lots and any funds left from the opening and closing fees shall be held in trust and invested as provided by law. This fund will ensure both the permanent care of the cemetery and future land acquisitions.
4. The income from the cemetery trust expendable fund shall be expended by the Commission 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 Commission is hereby 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 such 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 or for any purpose necessary in the execution of its duties.

MEMORIAL WORK

Rules and Regulations

1. Any person or any firm who is engaged in the memorial business, including sub-contract letter cutters, sandblast personnel, and persons washing memorials must receive permission from the Cemetery Commission before any work is started, and in doing such work must comply with reasonable directions of the Cemetery Commission. Engraving on the Columbarium must be completed by an approved engraver using the approved lettering and format. Engraving information provided at the Town Clerk's office.
2. Only one central or family memorial shall be allowed on a lot, and shall be set on the space designated by the Cemetery Commission.
3. The Cemetery Commission reserves the right to refuse to permit stone work to be done when in the judgment of the caretaker, injury to the turf might result from dampness of soil, temperature, frost in the ground, or any other reason, and in all cases, the turf must be thoroughly protected by the proper use of planking or plywood.
4. Damage done to lots, walks, roadways, trees, shrubs, or other property by dealers, contractors, vault companies, or their agents, shall be repaired to the satisfaction of the Cemetery Commission and within a reasonable period of time, by such dealers, contractors, vault companies or their agents. If such satisfactory repairs are not made, the Commission is authorized to effect such repairs, and the cost shall be charged to the party causing the damage or his/her principals.

5. No monument or marker may be placed or erected until the lot owner is in possession of his/her deed.
6. The bottom beds of all bases and markers must be cut full and level.
7. No enclosures of lots by fencing, hedges, curbing or stone, gravel or woodchip aprons around memorials, corner markers or lots shall be allowed. If a lot is enclosed, the family assumes all responsibility for its care.
8. If any enclosure heretofore made shall become dilapidated, the Commission is authorized to remove it.

The maximum size of a memorial is governed by the size of the lot on which it is to be placed. It is determined as follows:

- a. The length shall not exceed sixty percent of the width of the lot.
- b. The width of the base shall not exceed the depth of the space available for a monument on the lot. In no case may it extend over the grave.
- c. The area of the face of the memorial, including the base and die, shall not exceed twenty percent of the square foot area of the lot.

Example:

A two grave lot 7'x10' will have an area of 73.3 square feet. Therefore, the maximum area of the memorial will be 14.6 square feet. The maximum length of the base allowable will be 4'x4'.

In the cremation lots two (2) markers will be allowed.

No monument, memorial or marker shall be placed without a proper foundation. Foundations will be built to a depth of four feet and finished slightly lower than the level of the ground.

Foundations will be made at least as large as the bottom base of the memorial.

No memorials may be set until the cement in the foundation shall have time to harden thoroughly.

All foundations and memorial installations must be done by a person or firm engaged in the memorial business.

IN WITNESS THEREOF, the parties hereby accept and adopt these Bylaws for the Town of Essex Cemeteries on this _____ day of _____, 2010.

In the presence of:

TOWN OF ESSEX CEMETERY COMMISSION

Witness

By _____

TOWN OF ESSEX

Witness

By _____
Duly Authorized Officer

STATE OF VERMONT

County of Chittenden, SS. At Essex this _____ day of _____

2016, before me personally appeared _____ and
acknowledged that _____ is the duly authorized agent of the TOWN OF ESSEX, that _____
_____ is duly authorized to execute this instrument, and that the execution hereof is
_____ free act and deed, and the free act and deed of the TOWN OF ESSEX.

Notary Public