

**BY-LAWS
and
REGULATIONS**

**NORTH BERWICK PUBLIC
CEMETERIES ASSOCIATION**

Organized by the Town of North Berwick, Me. in 1909.

Amended:

11-26-1910

3-10-1973

11-05-2002

SECTION 1 – TITLE.

The title “NORTH BERWICK PUBLIC CEMETERIES ASSOCIATION” is hereby adopted. This shall include all cemeteries owned or accepted by the Town. They shall be under the control of a board of the cemetery trustees elected by the Town as well as all the lots therein. All the perpetual care endowment funds shall be under the custody of the Town Treasurer and invested under the direction of the Selectmen and the Cemetery Trustees pursuant to section.

SECTION 2 - PURPOSE.

The purpose of these bylaws and regulations is to establish a governing body for Public Cemeteries; establish regulations and procedures to govern burials, placement of monuments and decorations; and provide a beautiful and dignified resting place for deceased loved ones.

Public Cemetery shall be defined as all cemeteries owned or accepted by the Town. It shall not include cemeteries defined under MRSA section as historical cemeteries.

SECTION 3 – BOARD OF TRUSTEES.

The officers of this cemetery shall consist of a board of five trustees. The Board of Trustees shall elect among themselves a Chairman, Vice Chairman and Secretary.

SECTION 4 – TRUSTEE ELECTIONS.

The town shall at its annual election each year elect trustees on staggered three year terms and each annual election of trustees shall be to fill the vacancy occasioned by the expiration of a trustee's term of office.

SECTION 5 – TRUSTEE APPOINTMENTS.

The Board of Trustees shall appoint a superintendent and assistant(if necessary), these positions cannot be held by a member of the Board of Trustees

SECTION 6 – TRUSTEE DUTIES.

The duties of the Trustees shall be the general care and management of the Public Cemeteries and the Perpetual Care Endowment Funds, expenditures and business affairs of the cemeteries and they shall serve without pay except for active services performed, such services to be paid for at a per diem rate set by the Town and for actual expenses.

The Board of Trustees shall at a minimum meet every two months to discuss business. Minutes of said meetings shall be filed with the North Berwick Town Clerk.

SECTION 7 – SUPERINTENDENT AND ASSISTANT.

The superintendent and his assistant shall work under the direction of the trustees and shall have the entire charge of Public Cemeteries, hire and discharge help, shall have the grounds kept in a neat and satisfactory condition, and all work in and around the cemetery shall be under their direct supervision.

SECTION 8 – SUPERINTENDENT DUTIES.

The Superintendent shall keep a record of all interments, and other matters necessary to perpetuate the doings of this Association, and for all such work shall receive such compensation as shall be deemed just and equable by the Board of Trustees.

The Superintendent shall see that all the rules and regulations of the cemeteries are observed by persons employed in the cemetery, either by himself, or by owners of lots, and that all regulations regarding interment, construction and putting in of foundations for monuments and headstones, care and improvement of lots be complied with, and cause all contracts made with owners of lots to be fulfilled.

In absence of the superintendent, the assistant shall have full power to act in that capacity.

SECTION 9 – CEMETERY FUNDS.

The Town of North Berwick Board of Selectmen and Board of Trustees shall develop a policy regarding the investment of cemetery trust funds and shall be added as an addendum to these by-laws. All funds shall be invested pursuant to 30-A MRSA § 5706 et. seq. and shall be insured in accordance with the General Government Accounting Principle Standards. This policy may be amended by majority vote of each board without the need for town meeting approval.

SECTION 10 – LOT LAYOUT PLAN.

A complete plan shall be made of all lots and avenues in said cemeteries, and kept on file in the Town of North Berwick treasurer 's office, and a duplicate be placed in the hands of both the superintendent and his assistant, and the treasurer shall keep a copy of all deeds, according to the plan of said cemetery, giving the number, section, name of purchaser, date of every lot sold, transferred or exchanged.

SECTION 11 – GRADING AND LOT LAYOUT. The grading and laying out lots shall be on the lawn plan. The grading shall be under the direction of the superintendent. Persons desiring to purchase lots should consult the superintendent. The grading of any lot in the cemetery, or the changing of any grade once established, except by an employee of the cemetery, acting under the direction of the superintendent is absolutely prohibited

No raised mounds will be permitted in the cemetery except by permission of the trustees.

Fences, hedges or wooden headboards are prohibited.

SECTION 12 – COST OF LOTS.

The trustees are authorized to determine the price and sale of lots in the cemetery, fixing such Price as in their judgement the locations, surroundings, and condition of the same seem to warrant. Said price shall include the lot cost as well as perpetual care for the lot. The town treasurer on receipt of a certificate, signed by the superintendent or at least two of the trustees, giving the name or names of the purchasers, the section, number and price of the lot or lots, shall make out and deliver to such person or persons (on payment of the required price) a deed in form as proscribed by the trustees.

No deed will be issued by the town treasurer until the price for the lot, charges for grading, and all other bills have been fully paid. No single lot will be sold to joint purchasers, but several contiguous lots may be owned by several persons in a block.

No change will be made on any lot owned by heirs unless an order signed by every heir or their accredited representative. At the discretion of the trustees, however, such change may be made if paid for in advance. Enclosures of any description or curbing will not be allowed in any section.

SECTION 13 – TREES, SHRUBS AND MONUMENTAL WORK.

Headstone: A memorial plaque typically made of granite, marble, bronze or other similar material which is utilized for identifying the buried remains of a deceased person. Typically referred to as a flat or grass memorial. Headstones must be installed flush to the ground.

Marker: A memorial plaque typically made of granite, marble, bronze or other similar material which is utilized for identifying the cremated remains of a deceased person. Typically referred to as a flat or grass memorial. Markers must be installed flush to the ground and shall be no larger than 12" x 30."

Monument: A memorial typically made of granite, marble or other similar material utilized to identify a family burial plot or a singular burial plot of a deceased person which extends above the surface of the ground. Typically referred to as a vertical or horizontal monument.

No trees, shrub or hedge shall be planted, removed, cut down, or destroyed within the borders of any lot or lots without the consent of the trustees.

All persons wishing to do monumental foundation or other work pertaining to lots must deposit with the superintendent a written order signed by the owner or recorded representative of the lot or lots giving them authority to do such work before the work is commenced or material brought into the grounds.

The location of monuments, headstones and markers shall be approved by Superintendent prior to placement. The superintendent shall be contacted at least 48 hours prior to placement of monuments, headstones or markers. All headstones shall be installed flush to the ground in a manner prescribed by the Superintendent. Cremated Remains Markers must be installed flush to the ground and shall be no larger than 12" x 30."

No more than one headstone shall be placed on a single lot, however one headstone and one cremation marker may exist on a single lot. In the case of the burial of cremated remains, two markers are allowed on a single lot. Placement of additional markers shall be at the discretion or the Board of Trustees. The Board of Trustees may establish a cost for the additional marker(s)

No monument or other structure will be allowed to be delivered or set in the spring until the ground is fully settled and in proper condition. Persons delivering any material must send responsible parties to unload and care for the same, and it must not be brought into the cemetery until required for immediate use.

Workmen are not allowed to scatter material over adjoining lots, and they are required to protect the paths and grass by planks when moving heavy material over them, and the person employing him shall be responsible for the injuries sustained through his neglect.

The contractor's order and guarantee on a form furnished by the town authorizing the work to be done must be deposited with the superintendent before any excavation for a foundation is begun.

The first course in masonry above the foundation on all monuments and other bases must be bedded off to an equal thickness, as no building up with chips, spalls, cement or other material will be allowed. All prominent bases must be set in a bed of cement evenly covering the foundation.

A space of not less than three feet in width shall be reserved for placing foundations on the front of all lots facing avenues and two feet in width on all lots facing paths, and no interment shall be made therein.

Foundations shall be made at least as large as the bottom base or first masonry course above the ground. The trustees reserve the right to require a larger foundation when in their judgment the weight of the structure requires it.

SECTION 14 - INTERNMENT PERMIT.

Undertakers are required to have permits for interments. The superintendent will accept such permit as prescribed by State of Maine law.

The interment of any others than the family of the owner or owners of a lot must be by written permission of all the owners or his recorded representative

No body shall be removed from one part of the cemetery to another without permission of the trustees.

No person except a licensed undertaker shall remove to or deposit for burial in a Public Cemetery any body of a deceased person.

It shall be the duty of every undertaker who shall hereafter remove to a Public Cemetery any body of a deceased person for burial or for deposit in the receiving tomb, to first notify the superintendent, and also the trustees, and present a deed to a plot within the public cemetery upon which such burial is made.

Applications for cleaning stones, monuments, etc., must be made in writing to the superintendent. No person unless an employee of the cemetery will be allowed to perform such work without the consent of the trustees or superintendent acting for them.

No person shall open a grave except by or under the direction of the superintendent or the trustees the terms to be made by them.

All other matters pertaining to the welfare of the cemetery shall be at the discretion of the trustees acting through the superintendent.

Some of these rules may seem arbitrary, but are no more so than those adopted and strictly enforced by the best cemeteries in the country. For the proper management of a first class cemetery they are a necessity. They are for the protection of every lot owner and grave in the cemetery. The trustees and superintendent earnestly request every one interested as a lot owner, or in a single grave, to aid them in enforcing these rules by reporting any violation of the same.

SECTION 15 -HOURS OF OPERATION.

All cemeteries operated by the Board of Trustees shall be open to the public from dawn to dusk every day. Any person found in a cemetery between dusk and dawn may be charged with trespassing.

SECTION 16 - RESTRICTED ACTIVITIES.

No dogs or other domestic animals shall be allowed in cemeteries. Picnics, horseplay, sports activities, or any gatherings not in keeping with the purpose and dignity of a cemetery are prohibited.

Non-domestic or Livestock animals shall not be permitted within 25 feet of any public cemetery.

The use of All Terrain Vehicles or snowmobiles within any Public Cemetery shall be prohibited.

SECTION 17 - ADMINISTRATION, ENFORCEMENT AND APPEAL.

These by-laws and regulations shall be administered and enforced by the North Berwick Cemetery Trustees or their designee.

Appeal of decisions made by the Cemetery Trustees's designee under the authority granted by these bylaws and regulations may be made in writing to the Cemetery Trustees. Appeal of decisions made by the Cemetery Trustees under the authority granted by these bylaws and regulations may be made in writing to the Cemetery Trustees. The Cemetery Trustees shall schedule a hearing as soon as possible and render a written decision on the appeal within fifteen (15) days.

SECTION 18 – PRIVATE CEMETERIES. Any person or persons wishing for perpetual care of any lot or lots, in private burying grounds in this Town, shall by depositing with the Treasurer of the Town and taking his receipt for the same, a sum of money, have the amount of accrued interest expended for the care of said specified lot, or private burying ground under the direction of the Superintendent and Trustees of the Cemeteries Association. The Board of Trustees shall determine the appropriate amount of funds required for perpetual care for private cemeteries. The Board of Trustees has the right to refuse the management of perpetual care on private cemeteries.

SECTION 19 – AMENDMENT TO BY-LAWS

These by-laws may be amended after the following criteria have been met:

- The Board of Selectmen and Cemetery Trustees shall hold two public hearings on the proposed amendment;
- Notice of the public hearings shall be published in a newspaper of general circulation in the Town at least twice. The first notice shall be published no more than 30 days in advance of the first hearing and the second no less than seven days in advance of the first hearing; and
- A majority of the Cemetery Trustees and a majority of the Board of Selectmen shall agree on the proposed amendment.

ADDENDUM - INVESTMENT POLICY

TOWN OF NORTH BERWICK, MAINE

POLICY REGARDING INVESTMENT OF CEMETERY TRUST FUNDS

Adopted by the North Berwick Board of Selectmen and Cemetery Trustees

February 1, 1995

Amended January, 2002

1. There shall be a separate trust accounts for each of the cemeteries located in the Town for which trust funds are maintained. These cemeteries include (1) Hillside Cemetery, (2) Mount Pleasant Cemetery, (3) Friends Burial Ground, (4) Neal Cemetery and (5) Private Cemeteries. The funds held in trust for one of these five cemeteries may be commingled, except as provided in section 3, with the funds held for other cemeteries for investment purposes with the stipulation that the investment vehicle utilized must be able to account for all activity on an individual fund basis (typically called sub-accounting).

2. Within the trust funds, the funds contributed by all donors (except as provided in section 3 below) may be commingled for investment purposes in order to reduce expenses and obtain a greater return on the funds. All funds shall be invested pursuant to 30-A MRSA § 5706 et. seq. and shall be insured in accordance with the General Government Accounting Principle Standards. The Town Treasurer shall maintain sufficient records in order that the amounts contributed by specific donors, the investment return thereon and the expenses paid therefrom may be determined. Except as provided in section 3 below, investment return and expenses for a particular cemetery shall be allocated among the funds contributed by the donors in proportion to the balances contributed by the donors.

3. This policy shall not authorize the commingling or expenditure of funds in violation of the terms on which the funds were originally placed in trust.

4. The funds held in trust for each particular cemetery shall be divided into annually two accounts on the books of the Town Treasurer. One account shall be called the "Principal Account" and the other shall be called the "Maintenance Account." Each year, prior to the investment of the Principal Account, the Cemetery Trustees shall establish a budget for expenditures from each individual trust fund and such fund shall include a 10% contingency. The Town Treasurer shall place the amount budgeted for each cemetery into that cemetery's Maintenance Account. The balance of the funds held for that cemetery shall be placed in the Principal Account. The Cemetery Trustees shall determine annually that the amount to be placed in the Principal Account for each cemetery exceeds the total principal balances originally placed in trust by donors for that cemetery.

5. Amounts held in the Principal Account for each cemetery shall be invested and shall not be expended.

6. Amounts in the Maintenance Account for a particular cemetery shall be available for the care and maintenance of that particular cemetery. In deciding whether to make expenditures of funds from the Maintenance Account, the Cemetery Trustees shall consider any care and maintenance currently required, but shall also be mindful of the need to increase the balance of the Maintenance Account to provide for care of the cemetery in the future.

7. The Cemetery Trustees and Town Selectmen may from time to time determine and direct that a portion of the investment earnings held in the Principal Account for a particular cemetery shall be transferred to its Maintenance Account.

8. This policy may be modified by the approval of the Cemetery Trustees and the Board of Selectmen.