

TOWN OF JAFFREY

CEMETERY RULES AND REGULATIONS



Approved by the Board of Selectmen: January 24, 2005

[Copies of the signed Regulations can be obtained by contacting the Jaffrey Department of Public Works at 603-532-6521](#)

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**TOWN OF JAFFREY  
CEMETERY RULES AND REGULATIONS**

**SECTION I - GENERAL ADMINISTRATION**

**A. Purpose**

These Rules and Regulations are hereby set forth for the mutual protection of lot owners and the cemetery as a whole. The public often misunderstands the purpose and function of cemetery rules and regulations and the role that they play in the beautification and preservation of cemetery grounds. They are intended to safeguard the lot owner from misdirected sentiment or poor taste of those who might otherwise erect unsightly monuments or impair the dignity and beauty of the cemeteries. The following Rules and Regulations have been adopted by the Town of Jaffrey as the Rules and Regulations for all publicly owned cemeteries within the Town of Jaffrey. All lot owners and visitors to the cemeteries as well as all lots sold, shall be subject to said Rules and Regulations and any amendments or alterations thereto as may hereafter be adopted.

Reference to these Rules and Regulations in the Deed to a lot shall have the same force and effect as if set forth in full therein.

**B. Authority**

The Town of Jaffrey shall provide and maintain one or more suitable public cemeteries for the interment of deceased persons within its limits pursuant to New Hampshire Revised Statutes Annotated as amended (RSA Chapter 289) [See Appendix B].

These Rules and Regulations and all amendments hereafter are adopted pursuant to the New Hampshire Revised Statutes Annotated. The Town Manager is responsible for the daily care of all cemeteries (RSA 37:6,VII(i)) [See Appendix B] and shall confer with the Selectmen and may call upon individuals and/or a standing advisory committee established for this purpose to assist in this effort and to regularly review these Rules and Regulations. (NOTE: The Cemetery Committee, appointed by the Selectmen, was created in 1991 and advises the Town on cemetery matters.)

The creation, operation and care of cemeteries within the Town of Jaffrey shall conform to all present and future applicable statutes as may be amended. These Rules and Regulations shall at all times be governed by pertinent statutes of the State of New Hampshire.

NH Revised Statutes Annotated, Chapters 289 (Cemeteries) and 290 (Burials and Disinterments) and other chapters with reference to these subjects appear below as Appendix B and are considered as part of these Rules and Regulations.

**C. Definition of Terms**

**1. Cemetery.** Cemetery is hereby defined to include a burial park for earth interments, a mausoleum for vault or crypt interments, a crematory or crematorium for cinerary interments, or a combination of one or more of these.

**2. Corner Marker.** The term corner marker refers to a device used by a Lot Holder to mark the corners of a lot.

**3. Deed.** A Deed to a burial lot is issued by the Town of Jaffrey for the purpose of granting to the holder of the Deed, to his or her family and



cemeteries and shall oversee all cemetery buildings and grounds. The Director shall exclude from these properties any person violating the Rules and Regulations and shall also have control of all persons within a cemetery including the conduct of individuals, funerals, traffic and Town employees and contractors.

**Article 3:** The Director in order to protect the best interests of a cemetery is authorized to make temporary additional rules, exceptions, suspensions or modifications of these Rules and Regulations when in the Director's judgment it is necessary to do so in order to meet emergencies, to avoid an unnecessary hardship or as may in the Director's judgment appear to be advisable with or without notice.

**Article 4:** Such temporary suspension or modification of the Rules and Regulations will in no way be construed as affecting the general application of such rule or regulation or a waiver of the rules or regulation upon the conclusion of the emergency.

**Article 5:** The Town may develop policies, guidelines and rules and regulations specific to any individual cemetery if in the opinion of the Director the conditions in that cemetery warrant such attention.

**Article 6:** The Town may, and it hereby expressly reserves the right, to adopt new Rules and Regulations, or to amend, alter or repeal any rule, regulation or article, section, paragraph or sentence in these Rules and Regulations after a public hearing. Notice shall be given for the time and place of each public hearing at least 10 calendar days before the hearing. The notice required under this section shall not include the day notice is posted or the day of the public hearing. Notice of each public hearing shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places. The full text of the proposed change need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice. All rules formerly adopted which are contrary to these Rules and Regulations are hereby repealed and declared to be no longer in effect.

## **B. Personal Conduct**

**Article 7:** It is of the utmost importance that there should be strict observance of proprieties in a cemetery. Hence, all persons within a cemetery should avoid conduct unbecoming a sacred place.

**Article 8:** Persons traveling within a cemetery shall use only the roadways, avenues and walks provided by the Town unless it is necessary to do so to gain access to one's own lot. The Town expressly disclaims liability for any injuries sustained by anyone violating this rule.

**Article 9:** Children under the age of twelve (12) shall not be permitted within a cemetery or its buildings unless accompanied by an adult.

**Article 10:** The gathering of flowers, breaking or cutting of trees, shrubbery or plants, defacing or otherwise damaging of monuments or structures or disturbing bird or animal life shall be strictly prohibited.

**Article 11:** No person shall be permitted to consume food or drink within a cemetery with the exception of Town employees and contractors actively engaged in their duties.

**Article 12:** No persons are permitted to sit or lounge on any of the grounds, graves or monuments in a cemetery with the exceptions of lot owners or relatives.

**Article 13:** No persons shall make loud noises on cemetery grounds within hearing distance of funeral services.

**Article 14:** The leaving of rubbish on cemetery grounds or in cemetery buildings is strictly prohibited.

**Article 15:** No signs, advertisements of any nature, peddling or soliciting the sale of any commodity shall be permitted within a cemetery.

**Article 16:** Pets are not permitted in a cemetery or its buildings.

**Article 17:** Firearms are not allowed in a cemetery except by a military escort accompanying a veteran's funeral or attending memorial services.

**Article 18:** The use of cemetery grounds for commercial purposes (such as settings for movies, plays, etc.) is not allowed without the approval of the Director and only under controlled circumstances where the dignity of the setting will not be compromised.

### **C. Motor Vehicle Traffic within a Cemetery**

**Article 19:** Motor vehicles shall not be allowed to park or come to a full stop in front of an open grave unless said vehicles are in attendance at a funeral.

**Article 20:** Motor vehicles must be kept under control at all times. They must not pass a funeral procession going in the same direction. When meeting a funeral procession, they must stop until the procession has passed.

**Article 21:** Motor vehicles shall not be left with their engines running, and their emergency brakes shall be set when the vehicles are left unoccupied by their operators.

**Article 22:** Drivers of motor vehicles hired to attend a funeral must remain quietly in their seats during the funeral services.

**Article 23:** Motor vehicles and their operators must refrain from unnecessary noise while in a cemetery.

**Article 24:** No motor vehicle shall be left, driven across or parked upon any grave or lot.

**Article 25:** The parking or leaving of any motor vehicle on any road, driveway or path which is left in a manner or position so as to prevent any other motor vehicle from passing the same is prohibited. Such a vehicle may be removed by the Director at the owner's expense.

**Article 26:** The use of a cemetery as a thoroughfare is prohibited. Commercial or industrial vehicles may enter a cemetery only with the permission of the Director.

**Article 27:** Off-road recreational vehicles (OHRVs), snowmobiles and the like are prohibited from all cemeteries.

### **D. Service Charges and Overdue Indebtedness**

**Article 28:** The charges for the services to be performed by the Town will be paid at the time of the interment, disinterment or in the case of repairs, payment will be made upon acceptance of the estimated cost by the Director.

**Article 29:** The Town reserves 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 due to the Town for work performed upon the lot.

### **SECTION III - INTERMENTS AND DISINTERMENTS**

#### **A. General Provisions**

**Article 30:** In addition to these Rules and Regulations, all interments and disinterments shall be made in accordance with and subject to orders by duly constituted authorities of the Town, County or State of New Hampshire.

**Article 31:** Cemeteries will be open for interments from 7:30 am to 3:30 pm daily, with the exception of Sundays and legal holidays, Interments may be made outside of these hours or days if required by the laws of New Hampshire or if in the opinion of the Director a delay would cause an undue hardship or inconvenience. In that event an additional fee will be added to the regular interment charges (overtime rates).

**Article 32:** The Director reserves the right to refuse an interment in any lot if in the Director's judgment there is a question as to ownership or the right of interment.

**Article 33:** When the location of an interment space in a lot cannot be determined, is indefinite or is otherwise unclear, or if for any reason an interment space cannot be opened, the Director may at his discretion open another space in such location in the lot as he deems proper. In such circumstances, neither the Director nor the Town shall be liable for any damages for this or any other error.

**Article 34:** To prepare for an interment/disinterment, the Director shall be given written detailed instructions by the lot owner or Funeral Director. Neither the Director nor the Town will be responsible for any errors resulting from any order given verbally or by telephone or for any mistake occurring from the lack of precise written instructions.

**Article 35:** The Town of Jaffrey reserves the right to correct any errors that may be made by it either in making interments, disinterments or removals, or the description, transfer or conveyance of any lot, either by canceling such conveyance and substituting and conveying in lieu thereof another lot of equal value and similar location as far as possible, or as may be selected by the Director, or, in the sole discretion of the Director, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such lot, the Town of Jaffrey reserves the right to remove or transfer such remains so interred to another lot of equal value and similar location as may be substituted and conveyed in lieu thereof.

**Article 36:** The Town 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 where the Rules and Regulations have not been complied with. The Town further reserves the right to place the body into a receiving vault until such time as the protest has been resolved. The Town is under no obligation to recognize any protest unless it is submitted in writing to the Director.

**Article 37:** No interment of any body or the cremated remains of any body other than that of a human body shall be permitted.

**Article 38:** Containers for full earth burials or cremated remains must be enclosed in a concrete, stone or other permanent vault or section liner of approved specifications provided by approved vendors.

**Article 39:** It is prohibited to remove a body or cremated remains so that a lot may be re-sold.

**Article 40:** A body or cremated remains may be removed with proper permits from its original grave to a different grave within the same lot or to another lot in the same or another cemetery.

**Article 41:** In cases where the Town is required to disinter a body or cremated remains, the utmost care in making the removal will be exercised. However, the Town will assume no liability for damages resulting to any casket, urn, burial case, memorial, vault or body.

**Article 42:** Advance notice of interment must be given to the Director equal to at least two (2) working days.

**Article 43:** Funeral Directors, upon arrival in a cemetery, must present all necessary burial documents.

**Article 44:** Artificial grass, lowering devices and any other materials or equipment associated with the burial ceremony shall be provided by the Funeral Director.

**Article 45:** The receiving vault is for temporary use only and on a semi-annual basis and under no circumstances shall a body be considered as interred or buried by reason of being placed therein.

**Article 46:** The Director reserves the right, without notice, to remove at once from any vault and inter any remains not in good state of preservation.

**Article 47:** The remains of any person who has died of infectious or contagious disease may only be deposited in a receiving vault when in compliance with prevailing State health regulations.

#### **B. Cremations**

**Article 48:** No cremains shall be independently and privately buried in the cemetery by individuals. All burials shall be under the supervision of a funeral director or the Town of Jaffrey.

**Article 49:** In a full grave plot, three and a half feet by twelve feet (3.5'x 12'), up to four (4) individual containers of cremains may be buried. The ashes of more than one person may be commingled in one individual container.

**Article 50:** The location of each container buried shall be reported to the Director for recording purposes.

**Article 51:** Cremains may be buried in the foundation of a future monument:

- a. If done through a funeral home, there shall be no burial charge from the Town. The funeral director shall be responsible for signing the burial permit and for notifying the Director so that the burial information can be recorded.
- b. If the burial is not done through a funeral home, burial must take place during regular Town working hours; the Director or the Director's designee must be present to verify placement of ashes and to sign any required permit.

**Article 52:** All rules and regulations, except those that relate exclusively to the burial of physical remains, shall also apply to burial of cremains.

### **SECTION IV - ACQUISITION AND OWNERSHIP OF LOTS**

#### **A. Purchase**

**Article 53:** A lot holder is the purchaser or owner of a right of interment in a specified grave or lot within a specified cemetery. The lot holder does not own the land in question in the usual sense of the word.

**Article 54:** Persons wishing to purchase the right of interment in a cemetery lot should contact the Director or the Director's designee for the purpose of inspecting available space and discussing current Rules and Regulations.

**Article 55:** Once a cemetery lot has been selected, the purchaser shall remit to the Town Clerk the required fee.

**Article 56:** Upon complete payment, the Town Clerk will deliver to the lot holder a Deed fully describing the designated lot. At this time, if not before, the lot holder will be provided with the current Cemetery Rules and Regulations and will be asked to sign a receipt to the effect that the Rules and Regulations have been received.

**Article 57:** The Town reserves the right to refuse to sell any cemetery lot to a purchaser if it is determined that the best interests of the Town will not be served by such a sale.

#### **B. Lot Sizes and Pricing**

**Article 58:** As lot sizes and prices are subject to change, a separate addendum is available which lists applicable charges. Please check with the Director for current information.

#### **C. Transfer of Cemetery Lots**

**Article 59:** The Director may refuse to consent to a cemetery lot transfer if there is any indebtedness due the Town from the lot owner of record.

**Article 60:** When cemetery lots are transferred to the Town, the Town shall compensate the lot owner of record in an amount equal to the sum originally paid to the Town for said lot.

**Article 61:** All transfers of cemetery lots shall be subject to a nominal charge which must be paid to the Town when the transfer is recorded. (See addendum)

**Article 62:** The subdivision of cemetery lots may be permitted by the Director when written consent by the owner and the proper signatures and/or affidavits have been furnished to the Director.

#### **D. Records**

**Article 63:** The Town shall keep a record of every burial showing the date of burial and name of the person buried, when these particulars can be obtained, and the lot or part of such lot, in which the burial was made.

**Article 64:** It shall be the duty of the lot owner to notify the Town Clerk of any change in the owner's mailing address. Notice sent to a lot owner at the last address on file shall be considered sufficient and proper legal notification.

#### **E. Property Rights of Owners**

**Article 65:** All cemetery lots conveyed shall be presumed to extend the right of interment to the person or persons named as the grantee in the Deed, provided however that the spouse shall have the vested right of interment of his/her body in any burial lot conveyed to the other.

**Article 66:** The Town reserves to itself and to those lawfully entitled thereto a perpetual right of ingress and egress over lots for the purpose of passing to and from other lots.

#### **F. Protection from Loss or Damage**

**Article 67:** The Town shall take reasonable precautions to protect its cemeteries and the lots, structures and monuments therein from loss or damage from causes beyond its reasonable control and especially from damage caused by the elements, acts of God, thieves, vandals, malicious mischief makers, and unavoidable accidents.

## **SECTION V - SOLE AGREEMENT**

**Article 68:** The Deed and these Rules and Regulations of the Town of Jaffrey and any amendments thereto shall constitute the sole agreement between the Town and the lot owner. The statement of any employee or agent, unless confirmed in writing by the Director, shall in no way bind the Town of Jaffrey.

## **SECTION VI - CONTROL OF WORK WITHIN CEMETERY**

### **A. General Provisions**

**Article 69:** All grading, landscaping and improvements of any kind, and all care on lots shall be done, and all trees, shrubs, and herbage of any kind shall be planted, trimmed, cut or removed and all openings and closings of lots, and all interments and disinterments, and removals shall only be made with the expressed permission of the Director.

**Article 70:** All improvements or alterations of individual lots in a cemetery shall be under the direction and subject to the consent and satisfaction of the Director and should they be made without the Director's consent, the Director shall have the right to alter or change such improvements or alterations at the expense of the lot owner or, in any event, at any time should they become in his judgment unsightly to the eye.

**Article 71:** No trees, bushes, shrubs or other permanent woody vegetation shall be planted on any lot. The Town shall have the authority to remove all non-permitted floral designs, flowers, weeds, trees, bushes, shrubs, plants or herbage of any kind from a cemetery, as well as those which in the judgment of the Director have become unsightly, dangerous, detrimental or diseased.

**Article 72:** The Town shall not be liable for floral pieces, baskets or other receptacles beyond the use of such items for a funeral held in a cemetery. Furthermore, the Town shall not be responsible for plants which may be lost, misplaced, broken, damaged by the elements, loss by thieves or vandals or any other causes beyond its control. The Town also reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs or plants of any kind without the written consent of the Director.

**Article 73:** 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 prolong the freshness of the flowers.

**Article 74:** The use of glass or china receptacles, tin cans or other than approved metal or plastic vases is prohibited and subject to immediate removal.

**Article 75:** Artificial plant material shall not be permitted, and will be subject to immediate removal by the Director. Wires used in them may become deadly projectiles if hit by a lawn mower.

**Article 76:** The placement of boxes, shells, metal designs, ornaments, balloons, toys, stuffed animals, photographs, chairs, settees, fencing, colored stones, statuary, vases, glass, wood or iron cases and similar articles upon lots shall not be permitted, and will be subject to immediate removal by the Director.

**Article 77:** All fittings, adornments, urns, inscriptions, materials and layout of monuments or other structures shall be and are declared to be subject to the approval and control of and acceptance or rejection by the Town.

**Article 78:** All flags will be removed without notice when they become soiled, faded, torn or otherwise unsightly. This shall not be construed to

require the removal of American flags in good condition or the removal of approved flag holders.

**Article 79:** The Director shall have the right and responsibility to remove without notice any articles deemed inappropriate (including but not limited to those noted in Articles 71, 74, 75 and 76), improper, unsafe, or detrimental to the maintenance and/or general appearance of a cemetery. Articles removed shall be held by the Director for retrieval by the lot holder. Articles still in the possession of the Director at the end of any calendar year may be disposed of.

**Article 80:** Any articles placed on graves in recognition of Memorial Day shall be removed no later than two weeks after Memorial Day. After this period the Director shall have the right and responsibility to remove without notice such articles.

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

**Article 81:** The right to enlarge, reduce, replant or change the boundaries or grading of a cemetery or of a section or sections, including the right to modify or change the location of or to remove or regrade roads, drives, or walks, or any part thereof, is hereby expressly reserved for the Town. The right to lay, maintain, and operate or alter or change pipe lines or gutters for sprinkler systems, drainage, water bodies, etc., is also expressly reserved for the Town.

#### **C. Care of Lots and Graves (Perpetual Care)**

**Article 82:** Perpetual care is included in the price of all lots sold within Town-owned cemeteries.

**Article 83:** Perpetual care shall include the cutting of grass upon the lot at reasonable intervals and the raking and cleaning of the lots. It shall not include maintenance and/or repairs to monuments.

**Article 84:** The funds received from the sale of lots shall be held in trust and invested by the Trustees of the Trust Funds as provided by law.

**Article 85:** Expenditures from these trusts shall only come from income and not from principal and such income may only be used for cemetery purposes.

**Article 86:** It is understood and agreed between the purchaser and the Town that all funds from the sale of lots 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, lot or space other than as defined above.

**Article 87:** The income from the perpetual care fund shall be expended by the Town in such manner as will, in its judgment, be most advantageous to the lot 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 Town is hereby given the full power and authority to determine 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, construction, reconstruction, repair and/or maintenance of all or any portion of any Town cemetery for any purpose necessary to the execution of its duties.

### **SECTION VII - MONUMENTS AND MARKERS**

#### **A. General Provisions**

**Article 88:** Bases and monuments shall be of the same or complementary materials acceptable to the Director.

**Article 89:** Corner markers shall be of first quality stone placed flush with the grade, lettering to be incised not raised.

**Article 90:** Lettering on all monuments, markers, and corner markers shall be hand carved, bronze or sandblasted letters and numerals. If plaques are attached to stone monuments, they shall only be made of bronze.

**Article 91:** While the Town will exercise care to protect the monuments or other structures on any lot and the raised lettering, carving or ornaments on such monuments or other structures, it disclaims responsibility for any damage or injury thereto.

**Article 92:** 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 Director reserves the right to remove same if so erected, planted or placed.

**Article 93:** It is required that a plan drawn to scale showing design and complete inscription in detail with all dimensions be submitted in duplicate to the Director and that approval in writing be secured from the Director before the foundation for the monument is installed. It is important that the approval of the materials, style, and size of the monument be secured before commencing work.

**Article 94:** The Director shall have the authority to reject any plan or design for any monument which in the Director's opinion, on account of size, design, inscription, kind or quality of stone is unsuited to the lot on which it is to be placed or is not in conformity with these Rules and Regulations. If said plan is to be rejected, such rejection shall be made within fifteen (15) days of submission and a written explanation given. Appeals of a decision to reject such a plan will be made to the Town Manager's Office in writing.

**Article 95:** The Director reserves the right to stop all work of any nature whenever in the Director's opinion, 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 Director has been disregarded or when work is not being executed according to specifications or in violation of the provisions of these Rules and Regulations.

**Article 96:** The making of stone rubbings is not allowed in any cemetery.

**Article 97:** The coloring, painting, enameling or of letters or other parts of any monument is prohibited with the exception of the use of lithochrome to enhance the visibility of incised lettering.

**Article 98:** It is necessary that persons erecting, cleaning, or repairing monuments give advance notice of their intentions to the Director and comply with these Rules and Regulations. Persons performing such services or those who are engaged in erecting monuments are prohibited from attaching ropes to other monuments, trees, shrubs, or from scattering their materials over adjoining lots. They must do as little injury to the grass, trees, or shrubs as possible and shall restore said grounds to their original condition thereafter.

**Article 99:** Damage done to lots, walks, drives, trees, shrubs or other property by dealers, contractors, vendors, funeral directors, etc., shall be repaired by the Town and the cost of such repairs shall be charged to the responsible party.

**Article 100:** While a funeral or interment is being conducted nearby, all work of any description shall cease.

## **B. Size of Monuments and Markers**

**Article 101:** The size of a monument above ground level shall be governed according to the ratio of its face area (length multiplied by height) to the total area of the lot and the relation of its length (greatest horizontal dimension) to the average width of the lot. The face area of the monument shall not exceed 15% of the total area of the lot and its length shall not exceed 60% of the average width of the lot. All monuments shall be at least six (6) inches thick with the exception of slate monuments which shall be a minimum of two (2) inches thick.

It is often desirable to build a monument that is less than the maximum size. The size and proportions of nearby existing monuments should be considered in the design of new monuments.

**Article 102:** The size of a marker (a monument flush with the ground) shall not exceed a total of four (4) square feet and shall be a minimum of four (4) inches thick. It shall be made of granite or similar hard stone so as to accommodate the weight of mowing equipment.

**Article 103:** There shall be no more than one upright monument per lot.

## **C. Materials Permitted**

**Article 104:** All monuments, mausoleums or tombs shall be constructed of first quality natural stone. Such materials shall be free from sap and components which cause rust stains and from natural faults which might cause cracks. The use of cement, artificial stone, composition, wood, tin, iron or other metal shall not be permitted for any monument. The Director reserves the right to reject any materials. The materials used in nearby existing monuments should be considered in the design of new monuments.

**Article 105:** Mausoleums or tombs, either wholly or partially above ground, shall be constructed only on lots designated by the Director. The location and design, plans and specifications of the a mausoleum or tomb are subject to the review and approval of the Director.

**Article 106:** At no time shall the Town become liable for the replacement or repair of monuments.

**Article 107:** The use of bronze is allowed for doors and window grilles of mausoleums, also for any tablets when attached to monuments of natural stone provided the bronze has been cast from an alloy containing not less than eighty five percent (85%) copper nor more than five percent (5%) lead. No other metals may be used unless they are substantially non-corrosive, of proved permanency, and have been reviewed and approved by the Director.

## **D. Foundations and Settings**

**Article 108:** As a grantee of good work and as a protection to all lot owners, the Town reserves the right to oversee, inspect and approve all excavations for and the building of all foundations, setting of all markers and monuments, and to regulate all work done in a cemetery.

**Article 109:** No foundation shall be built when the weather is such that injury from frost may occur. No heavy stone work may be set in inclement weather or until the cement in the foundation has had time to harden thoroughly.

**Article 110:** Corner markers require no foundations. They shall be six (6) inches square on their face and shall be a minimum of eight (8) inches in depth and shall be set at the extreme corners of the lot and square within the bounds of the lot. They shall be set flush and level with the grade.

**Article 111:** Individual markers shall be a minimum of one (1) foot wide by two (2) feet long and shall be placed at the end of the grave farthest from the base of the monument. In single graves, all monuments shall be placed at the head of the grave.

**Article 112:** Foundations shall be of concrete.

**Article 113:** The bottom surfaces of bases, monuments 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.

**Article 114:** Foundations will be made at least as large as the bottom base or first masonry course above ground but the Town reserves the right to require a larger foundation when, in its opinion, the weight of the structure requires it. Foundations shall be a minimum of four (4) feet in depth. Slate monuments shall be buried to a minimum of two (2) feet in depth. Foundations for markers (monuments flush with the ground) shall be a minimum of two (2) feet in depth.

**Article 115:** Should any monument, 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 same at the expense of the owner.

**Article 116:** No monuments or markers shall be removed from a cemetery except by the Town unless the written order of the lot owner be presented to and permission granted by the Director.

**SECTION VIII - VIOLATIONS AND PENALTIES**

**Article 117:** Any person violating these Rules and Regulations shall be guilty of a violation as set out in RSA 289:8 and shall be subject to the penalties set out in RSA 635:8. See Appendix B.

**SECTION IX - APPEALS**

**Article 118:** Any person aggrieved by any provision of these Rules and Regulations or a decision rendered by the Director may appeal said decision or action to the Town Manager.

**Article 119:** All appeals must be submitted in writing and include all pertinent documentation as well as specific reference to the rule or regulation or decision giving rise to the appeal. Appeals must be made within ten (10) working days of the applicant's knowledge of action causing the grievance. The Town Manager will call upon all interested parties or other experts as the Town Manager may deem appropriate to assist in reaching a decision on the matter being appealed and will respond in writing within ten (10) working days thereafter.

**Article 120:** No liability shall attach for any delays, or costs incurred or for any other damages which may occur which are associated with time required for the appeal process.

**SECTION X - SAVINGS CLAUSE**

**A. General Provisions**

**Article 121:** In the event that any portion of these Rules and Regulations is held to be in violation of State or Federal law, or found to be unenforceable by a Court of competent jurisdiction, then that specific section or article shall be stricken or amended to the extent necessary to conform to existing law, rule or regulation. The remainder of these Rules and Regulations will continue in full force and effect.

These Rules and Regulations are hereby adopted by the Town of Jaffrey through its governing body and shall become effective on the date of adoption.

Reviewed and Approved:

/s/ Franklin W. Sterling  
/s/ Michael C. Barlick  
/s/ G. Clay Hollister  
Board of Selectmen

/s/ Jonathan B. Sistare  
Town Manager

Date:

DATE SIGNED AND APPROVED BY THE BOARD OF SELECTMEN: JANUARY 24, 2005

**TOWN OF JAFFREY  
CEMETERY RULES & REGULATIONS**

**ADDENDUM - BURIAL LOT SIZES AND PRICING:**

**A. Burial Lot Sizes and Pricing**

Single Grave Lot (3.5'W x 12'L)	\$350.00
Double Grave Lot (7.0'W x 12'L)	\$700.00
Four Grave Lot (14'W x 12'L)	\$1,400.00
Cremation Lot (3.5'W x 6'L) (suitable for up to four cremation burials)	\$350.00

Note: All above charges include perpetual care.

**B. Burial and Miscellaneous Service Charges**

(These charges cover opening, closing, reseeding and recording.)

Interments or Disinterments (full earth burial)

Weekdays	\$350.00
Weekends	\$450.00
Holidays	\$550.00
Children (under the age of 12)	\$150.00
Simultaneous Burials (in same lot; above charges plus an additional. . .)	\$100.00

Interments or Disinterments (cremation)

Weekdays	\$200.00
Weekends	\$300.00
Holidays	\$400.00
Children (under the age of 12)	\$100.00
Simultaneous Burials (in same lot; above charges plus an additional. . .)	\$100.00

<u>Lot Transfers</u> (change of ownership)	\$10.00
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Approved by the Board of Selectmen after a public hearing on April 23, 2003.

**RATES SUBJECT TO CHANGE**

APPENDIX A - Graphical Explanation of Monument Sizing and Lot and Grave Relationship

Please Contact the Jaffrey Department of Public Work for further information  
or a copy of this Appendix

603-532-6521  
603-532-4290 fax

**APPENDIX B - State Law Relating to Cemeteries (Jan 2005)**

**TITLE III  
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES**

**CHAPTER 37  
TOWN OR VILLAGE DISTRICT MANAGERS**

**37:6 Powers and Duties in Particular.** – The town manager shall have the power and it shall be his duty:

I. To organize, continue, or discontinue, from time to time, such departments as the selectmen may from time to time determine.

II. To appoint, upon merit and fitness alone, and to remove, all subordinate officers and employees under his control, and to fix their compensation.

III. To attend such regular or special meetings of the selectmen as they shall require.

IV. To keep full and complete records of the doings of his office, and to render to the selectmen an itemized monthly report in writing, showing in detail the receipts and disbursements for the preceding month; and annually, or oftener at the request of the selectmen, to make a synopsis of all reports for publication.

V. To keep the selectmen fully advised as to the needs of the town, within the scope of his duties, and to furnish them on or before the thirty-first day of January of each year a careful, detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest on maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department; and to submit at the same time an estimate in writing of the amount of income from all sources of revenue, exclusive of taxes upon property, and of the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town. For the purpose of enabling the town manager to make up the annual estimate of expenditures, all boards, officers, and committees of the town shall, upon his written request, furnish all information in their possession and submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the fiscal year.

VI. To examine or cause to be examined, with or without notice, the affairs of any department under his control, or the conduct of any officer or employee thereof; and for that purpose he shall have access to all town books and papers, for the information necessary for the proper performance of his duties.

VII. To have charge, control, and supervision, subject to the direction of the selectmen and to the bylaws of the town, if any, of the following matters:

(a) The management of municipal water works, lighting, and power systems.

(b) The construction, maintenance, and repairing of all town buildings and of all town roads, highways, sidewalks, and bridges, except as otherwise specially voted by the town.

(c) The purchase of all supplies for the town.

(d) The police and fire departments of the town, if any.

(e) The system of sewers and drainage, if any.

(f) The lighting of streets, highways, and bridges.

(g) The sprinkling of streets and highways, the laying of dust, and the removal of snow.

(h) The maintenance of parks, commons, and playgrounds.

(i) **The care of cemeteries when the town has adopted the provisions of RSA 289:6, II.**

**[Emphasis added]**

(j) The letting, making, and performance of all contracts for work done for the town.

In municipalities adopting the provisions hereof, the town manager shall supersede any board of commissioners or other supervisory officer or officers previously established, elected, or appointed to have superintendence of any of the matters specified in the foregoing paragraphs (a) to (j) inclusive; except that he shall not supersede, nor shall adoption of this chapter in any way impair the authority and duties of, fire engineers, the commissioner of public works and highways and his assistants, or any police commission created by act of the legislature.

VIII. To administer the poor relief of the town, either directly or through a person or persons appointed by him, and under the supervision of the selectmen.

IX. To perform such other duties, consistent with his office, as may be required of him by vote of the selectmen.

**TITLE XXVI  
CEMETERIES; BURIALS; DEAD BODIES**

**CHAPTER 289  
CEMETERIES**

**289:1 Definitions.** – In this chapter, unless the context clearly requires otherwise:

- I. “Burial ground” means a private cemetery on private property and not available for use by the public.
- II. “Burial space” means a lot in any cemetery as designed and intended for the interment of a human body or bodies, but presently not used for such purpose.
- III. “Cemetery” means any cemetery owned, managed, or controlled by any municipality within this state or owned and managed by any cemetery corporation chartered by the state.
- IV. “Cemetery association” means a cemetery corporation, the voting members of which are the owners of burial spaces in the cemetery owned and operated by the association.
- V. “Cemetery corporation” means a corporation organized for the purpose of operating a cemetery.
- VI. “Cemetery trustees” means town cemetery trustees elected pursuant to the provisions contained in this chapter.
- VII. “Corporate officer” means the elected or appointed managing officer of a corporation established to operate a cemetery for public interment.
- VIII. “Owner” means any person or persons owning or possessing the privilege, license, or right of interment in any burial space, as determined under RSA 290:24.

**289:2 Municipality to Provide.** – Every municipality shall provide one or more suitable cemeteries for the interment of deceased persons within its boundaries, which shall be subject to such regulations as the municipality may establish. In the absence of regulations established by vote of the legislative body, the cemetery trustees may establish such regulations pursuant to RSA 289:7, I(a). The operation and maintenance of all cemeteries owned and maintained by the municipality shall be in the charge of the cemetery trustees.

**289:3 Location.** – All cemeteries and burial grounds shall be laid out in accordance with the following requirements:

- I. No cemetery shall be laid out within 100 feet of any dwelling house, schoolhouse or school lot, store or other place of business without the consent of the owner of the same, nor within 50 feet of a known source of water or the right of way of any classification of state highway. Existing cemeteries which are not in compliance with the above set-back requirements may be enlarged, provided that no portion of the enlargement is located any closer to the above-listed buildings, water sources or highways than the existing cemetery, and provided further that no such enlargement shall be located within 50 feet of any classification of state highway.
- II. Burials on private property, not in an established burial ground, shall comply with local zoning regulations. In the absence of such regulations, such burial sites shall comply with the requirements in paragraph I. The location of the burial site shall be recorded in the deed to the property upon transfer of the property to another person.
- III. New construction, excavation, or building in the area of a known burial site or within the boundaries of an established burial ground or cemetery shall comply with local zoning regulations concerning burial sites, burial grounds or cemeteries, whether or not such burial site or burial ground was properly recorded in the deed to the property. In the absence of such regulations, no new construction, excavation, or building shall be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established burial ground or cemetery, whether or not such burial site or burial ground was properly recorded in the deed to the property, except when such construction, excavation, or building is necessary for the construction of an essential service, as approved by the governing body of a municipality in concurrence with the cemetery trustees, or in the case of a state highway, by the commissioner of the department of transportation in concurrence with the cemetery trustees.
- IV. Nothing in this section shall be construed to conflict with RSA 290, local ordinances, or cemetery rules concerning burials and disinterments of human remains.

**289:4 Maintenance.** – Every municipality shall raise and appropriate sufficient funds, by taxation or otherwise, to provide for the suitable care and maintenance of the municipal public cemeteries within its boundaries which are not otherwise provided for, and to provide and maintain around all such cemeteries a good and sufficient fence, and to supply the fence with necessary gates. Every municipality may raise and appropriate annually a sufficient sum to provide for the suitable care and maintenance of deserted burial grounds and cemeteries which have been declared abandoned in accordance with RSA 289:19-21.

**289:5 Cemetery Records.** – The corporate officer or designee of a cemetery corporation or town cemetery trustees charged with the responsibility of operation and administration of any cemetery under their control shall keep a record of every burial showing the date of burial and name of the person buried, when these particulars can be obtained, and the lot, plot, or part of such plot or lot, in which the burial was made. Such records shall also be kept of every private burial site within a municipality by the owner of the land containing the burial site, and a copy of the information shall be supplied to the cemetery trustees who will maintain the municipal records of such sites. A copy of such record, duly certified, shall be furnished to any person on demand and payment of a fee established in compliance with RSA 91-A:4. The location of each cemetery and private burial site may be annotated on the municipal tax map.

### **Cemetery Trustees**

#### **289:6 Cemetery Trustees.** –

I. Every municipality shall elect a board of cemetery trustees consisting of 3 members, unless a town at an annual or special town meeting votes that the board shall consist of 5 members. In the initial election of cemetery trustees, they shall be elected by ballot at an annual town meeting. One shall be elected for a one-year term, one for a 2-year term and one for a 3-year term. In towns with a board of 5 trustees the 2 additional trustees shall be appointed by the selectmen, one for one year and one for 2 years. Subsequent trustees shall be elected by ballot at the annual town meeting to replace those whose terms expire. The term of each trustee shall be 3 years. Vacancies shall be filled by the selectmen for the remainder of the term. In cities the trustees shall be chosen and hold their office for such term as shall be provided by city ordinance. Trustees shall organize by electing one of their number chairperson and another bookkeeper, who shall keep the records and books of the trustees, and shall issue vouchers as necessary for funds to be expended. The chairperson and the bookkeeper may be the same member.

II. Any town that has the town manager form of government may vote to not have cemetery trustees by delegating all of the duties and responsibilities of cemetery trustees to the town manager, as specified in RSA 289. This option may be adopted by a vote of the town meeting. The warrant article question to be voted shall be: “Shall we discontinue the board of cemetery trustees by delegating their duties and responsibilities to the town manager?” If the majority votes in the affirmative, then the discontinuance shall take effect 90 days after adoption.

II-a. (a) Any town, with a traditional town meeting form of government, may adopt by a vote of the town meeting to have the board of selectmen serve for the term of elected office as the cemetery trustees. The warrant article to be voted shall be:

“Shall we delegate the duties and responsibilities of the cemetery trustees to the board of selectmen?”

(b) If the majority vote in the affirmative then the delegation shall take effect 90 days after adoption and shall continue until rescinded by vote of the town meeting.

III. At any subsequent town meeting, the town may vote to reinstate the board of cemetery trustees. A new board of cemetery trustees shall be elected at the town meeting next following the vote to reinstate the board of cemetery trustees.

IV. Any town that has a municipal charter form of government may specify in its charter the procedure to be utilized for the election or appointment of cemetery trustees. Such procedure shall be adopted under the provisions of RSA 49-B.

### **Cemetery Trustees**

#### **289:7 Powers and Duties.** –

I. Except in those municipalities in which other provisions have been made by a general or special act of the legislature, all cemetery trustees in the state shall:

(a) Adopt bylaws and regulations for their transaction of business and for the establishment and management of all municipal cemeteries within their responsibility.

(b) Prepare an annual budget indicating what support and maintenance of the municipal public cemeteries will be required out of public funds for submission to the appropriate agency of the municipality. A separate budget request shall be submitted for planning and establishment of a new public cemetery and for capital improvements or expansion of an existing public cemetery.

(c) Expend all moneys raised and appropriated by the municipality for cemetery purposes. Such funds shall be maintained in the general fund and paid in the same manner that funds of other municipal departments are paid.

(d) Expend income from all trust funds for cemetery purposes in accordance with the conditions of each donation or bequest accepted by the municipality. Such trust funds shall be held in the custody and under the management of the trustees of trust funds. The trust income shall be transferred to the cemetery trustees by the trustees of trust funds in response to vouchers executed by the cemetery trustees, if the requested funds are available. Such trust fund income shall not be commingled with the moneys raised and appropriated by the municipality.

(e) Prepare deeds of cemetery lots for the governing body to sign.

II. Cemetery trustees may appoint a cemetery custodian or sexton who shall not be a trustee and who shall be responsible to the cemetery trustees for supervising work done in the cemeteries.

**Cemetery Trustees**

**289:8 Enforcement.** – Any person designated as a cemetery trustee failing to comply with the provisions of RSA 289:7 shall be guilty of a violation. Any other person who violates this chapter or any regulation established under the authority of this chapter shall be guilty of a violation.

**Cemetery Trustees**

**289:9 Use of Trust Funds.** – Cemetery corporations and the trust fund trustees of municipalities may take and hold funds in trust, and may apply the income of the trust to the improvement, watering, or embellishment of the cemetery, or to the care, preservation, or embellishment of any lot or its appurtenances.

**Cemetery Trustees**

**289:10 Investments.** – Cemetery corporations holding funds in trust as provided in RSA 289:9 may establish, maintain, and operate common trust funds as provided in RSA 31:27-30.

**Cemetery Trustees**

**289:11 Accounting.** – Whenever any cemetery corporation shall take and hold trust funds according to the provisions of RSA 289:9, such corporation shall keep in its books an account of all funds received and held by it in the same manner as required of municipalities, and the account of any such fund shall be open to inspection by any person having an interest in the proper administration of the trust.

**Cemetery Trustees**

**289:12 Reports.** – A copy of the annual financial report of such corporations shall be filed with the attorney general, unless otherwise required by law to file such a report with any town, city, county, or state agency.

**Cemetery Trustees**

**289:13 Cemetery Association Termination.** – Any cemetery laid out by an individual or corporation and located within the municipality, in which all lots have been sold and for the care of which trust funds are held by the municipality, may be deeded to the municipality with no implied financial liability to the municipality for the maintenance of the cemetery over and above the trust fund income, provided the municipality votes to accept such cemetery transfer. Municipalities may raise and appropriate additional funds for the care of such cemeteries. Upon the transfer of the title to the cemetery, the municipal cemetery trustees shall have the sole management responsibility for the cemetery.

**Cemetery Trustees**

**289:14 Right of Way to Private Burial Ground.** – Any person wishing to have a temporary right of entry over private land in order to enter a private burial ground enclosure to which there is no public right of way may apply in writing to the selectmen of a town or the mayor of a city stating the reason for such request and the period of time for which such right is to be exercised. The applicant shall also notify in writing the owner or occupier of the land over which the right of way is desired. The selectmen or mayor, in the exercise of discretion and in consultation with the cemetery trustees, may issue a permit for such temporary right of entry designating the particular place where the land may be crossed. The owner or occupier of the land may recommend the place of crossing which, if reasonable, shall be the place designated by the selectmen or mayor.

**Cemetery Trustees**

**289:15 Discontinuance.** – Whenever there is a public necessity for the discontinuance of any municipal cemetery and the removal of the remains of persons buried in such cemetery, the cemetery may be discontinued by a 3/4 vote of the legal voters present and voting at any town meeting held for the purpose, or by 3/4 of each board of the city councils present and voting.

**Cemetery Trustees**

**289:16 Reinterment.** – The governing body may, at the expense of the municipality, disinter all the remains of persons buried in such cemetery and reinter the same in the unoccupied part of another cemetery within the municipality, such reinterment to be in the place designated by the nearest surviving relatives of the deceased

persons or, in the absence of such surviving relative, by the cemetery trustees. Such removal and reinterment shall be done prudently and with proper care and attention.

#### **Cemetery Trustees**

**289:17 Removal of Monuments.** – The monuments, gravestones, and other appurtenances attached to the graves shall be carefully removed and properly set up at the place of reinterment with as little injury as the nature of the case will admit. In case of injury to any monument, gravestone, or appurtenance, the damages shall be assessed by the governing body in the same manner and with the same right of appeal as in the case of alteration of the grade of highways.

#### **Abandoned Burial Spaces**

##### **289:18 Forfeiture Procedures.** –

I. Whenever a burial space or spaces in any cemetery subject to the provisions of this subdivision have remained unused for a period of 50 years, and the owner has not improved such space or spaces by causing a monument, gravestone, or other permanent appurtenance to be placed on the burial space, the person, corporate manager, or cemetery trustees having jurisdiction over such cemetery may institute proceedings for the termination and forfeiture of the rights and interests of such owner. All purchase contracts for burial spaces executed after August 7, 1994, shall include a notice that this procedure may be invoked in the future.

II. Whenever such person, corporate manager, or board of trustees determines that the conditions stated in paragraph I have been met, then they may send to the owner a notice of the intent to terminate and forfeit the owner's rights, served on the owner personally by a competent person or sent by certified mail with return receipt requested to the owner's last known address.

III. When the owner receives the forfeiture notice, the owner may notify the cemetery management of continued intent to use the space, in which case this procedure shall be cancelled, or the owner may return the space to the cemetery and receive in compensation the same amount the owner paid for the space, less any portion of the original purchase price that was specified for inclusion in a perpetual care trust fund.

IV. If no response is received from the owner for 60 days, the cemetery management may advertise in a paper of local distribution for information regarding the present whereabouts of the owner. If information is forth-coming, the notification process shall be repeated using the new address information. If no information is received, the original purchase contract may be voided and the space sold to a new owner. Any owner contacting the cemetery management after the space has been resold shall be reimbursed the amount he originally paid, including the portion set aside for perpetual care.

#### **Abandoned Burial Grounds**

**289:19 Neglected Burial Ground.** – Whenever a burial ground within the boundaries of the town has been neglected for a period of 20 years or more, the municipality may declare it abandoned for purposes of preservation, maintenance or restoration.

#### **Abandoned Burial Grounds**

##### **289:20 Procedure.** – To declare a burial ground abandoned:

I. The municipality shall place an advertisement in at least one newspaper having general distribution in the municipality and surrounding area. The advertisement shall state the intent of the municipality, identifying the burial ground by name, if known, and by names and dates of the oldest stones in the burial ground, with a request for any direct descendent to contact the town selectmen's office, the town manager, or mayor, as applicable. If the burial ground contains no stones with legible inscriptions, the site may be identified by a detailed description of its location.

II. Not less than 60 days nor more than 90 days after the notice of the intent has been published, the notice shall be read at a regularly scheduled selectmen's meeting or in the case of a city, a city council meeting.

III. If any descendants were located and grant permission, or if no descendants were located, then, after a public hearing, the municipality may declare the burial ground abandoned by a majority vote of the selectmen or city councilmen present and voting.

#### **Abandoned Burial Grounds**

**289:21 Rights and Responsibilities.** – Any burial ground declared abandoned under these provisions shall become a municipal cemetery for management purposes and shall be managed by the cemetery trustees, who shall assume all the authorization and rights of natural lineal descendants.

#### **Prohibited Conduct**

**289:22 Stone Rubbings.** – No person shall make gravestone rubbings in any municipal cemetery or burial ground without first obtaining the written permission of the town selectmen or the mayor of a city or designee. Before granting such permission, the selectmen or mayor will ascertain to the best of their ability that the person making the request knows the proper precautions to be taken and the proper materials to be used for this activity. The town selectmen or city mayor or their designee shall notify the cemetery trustees of the request and its disposition. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

**Prohibited Conduct**

**289:23 Other Unauthorized Acts.** – All other unauthorized conduct under RSA 635:6 and 635:7 regarding the abuse of cemeteries shall be penalized as provided in RSA 635:8. [See below]

**CHAPTER 290  
BURIALS AND DISINTERMENTS**

**290:1 Death Records.** – Whenever a person shall die, the physician attending at the last sickness shall complete and deliver to the funeral director, next-of-kin as defined in RSA 290:16, IV, or designated agent under RSA 290:17 or shall complete electronically and forward immediately to the division of vital records administration, a death record, duly signed, setting forth, as far as may be, the facts required by rules of the department of state, division of vital records administration as provided in RSA 5-C:7. The cause or causes of death shall be printed or typed on all records required to be furnished under this section. The funeral director, next-of-kin, or designated agent shall transmit electronically the record of death to the division of vital records administration.

**290:1-a Fetal Death Records.** – Whenever a fetal death shall occur, the attending physician shall fill out a fetal death record. This will be solely a statistical report.

**290:1-b Pronouncement of Death by Registered Nurses.** – If an anticipated death occurs in a hospital, a nursing home, a private home served by a home health care provider licensed under RSA 151, or a hospice, the registered nurse attending at the last sickness may pronounce the person dead and release the body to the funeral director, next-of-kin as defined in RSA 290:16, IV, or designated agent after certifying the fact of death and completing the death record by hand or other approved electronic process. If a contagious disease is known to be present at the time of death, that fact shall be indicated on the death record in accordance with RSA 5-C:7.

**290:2 Repealed**

**290:2-a Release of Body.** – No dead body of a human being shall be removed from a hospital, a nursing home, a private home served by a home health care provider licensed under RSA 151, or a hospice without a pronouncement of death certified by hand or other approved electronic process by a physician or a registered nurse in accordance with RSA 290:1-b, including the time and date of death. Whenever a contagious disease is involved, the death record shall so state before the body shall be released from the facility.

**290:3 Burial Permits, Obtaining.** – It shall be the duty of the funeral director, next-of-kin as defined in RSA 290:16, IV, or designated agent under RSA 290:17 to add to the death record the date and place of burial, and having certified the same by hand or other approved electronic process, to forward it to the division of vital records administration or as otherwise directed by the registrar of vital records, and to obtain a permit for burial from the division of vital records administration in accordance with RSA 5-C:7. In case of a contagious or infectious disease the record shall be completed and transmitted immediately.

**290:3-a Burial Permit for a Fetus.** – Whenever it shall be determined that a dead fetus will be disposed of by means of burial or cremation, the burial permit will be issued in accordance with the rules and regulations of the department of health and human services.

**290:3-b Emergency Burial Permit.** – The division of vital records administration, department of state, may issue an emergency burial permit in an emergency as defined by RSA 5-C:7.

**290:4 Repealed**

**290:4-a Record of Interment Date.** – In any case in which the town where the death occurred and the town of residence or burial is different, the burial permit shall indicate the actual date of interment where the dead body is stored in a tomb or vault prior to burial.

**290:5 Burial Permit Required.** – No interment of the dead body of a human being, nor disposition of the body in a tomb or vault, shall be made without a permit, and only in accordance with it. No disinterment, except as otherwise provided in this chapter, of the dead body of a human being shall be made without a permit from the department of health and human services, countersigned by the local health officer, and only in accordance with such permit. Such disinterment permit shall not be required for removal of such dead body from a tomb or vault for the purpose of burial, for reinterment of dead bodies after discontinuance of a public cemetery, as provided in RSA 289:15 and 289:16, if a body is to be removed within the geographic boundaries of the same cemetery, nor in a case where an autopsy has been ordered by a county attorney or the attorney general. No person shall assist in, assent to, or allow an interment or disinterment to be made until a permit has been obtained under this section. Any person who violates the provisions of this section shall be guilty of a misdemeanor.

**290:6 Return.** – It shall be the duty of every funeral director, next-of-kin as defined in RSA 290:16, IV, or designated agent under RSA 290:17, or other person having charge of a burial place, who shall receive the permit, to complete it and forward it to the town clerk within 6 days after the burial.

**290:7 Repealed**

**290:8 Prerequisites.** – No such permit shall be issued until there has been delivered to the division of vital records administration a death record completed in accordance with RSA 290:1.

**290:9 Repealed**

**290:10 Record of Death.** – The record of death upon which the permit is issued shall be forwarded to the town clerk within 6 days after it is received.

**290:11 Release; Transfer of Body; Liability Limited.** –

I. No dead body of a human being may be released or transferred from any residence, hospital, or other facility to any person other than a funeral director or designee, or to the next-of-kin as defined in RSA 290:16, IV, or designated agent under RSA 290:17 who shall be responsible for the completion of forms as required by RSA 290:12.

II. The body of any deceased person may be transferred to another town for preparation or for burial or cremation only under the direction of a funeral director, next-of-kin, or designated agent; provided that death was not sudden, or the result of violence, and provided that such body shall be returned to the town in which death occurred within 36 hours, or a permit for permanent removal, as required by this chapter, has been secured within that time.

III. Any person or institution releasing a body pursuant to this chapter shall be held harmless against and shall not be liable for, any harm, loss, cost, injury, damage, or claim of any kind whatsoever incurred by any party in connection with the release of the body.

**290:12 By Whom.** – Such transfer shall be made under the direction of a funeral director, next-of-kin as defined in RSA 290:16, IV, or designated agent under RSA 290:17, and the funeral director, funeral director's representative, next-of-kin, or designated agent shall leave with the institution from which or the person from whom such body is received, on forms supplied by the department of health and human services, the name of the funeral director, next-of-kin, or designated agent, the name of the person making the transfer, such person's address, the funeral director's license number or the address of the next-of-kin, or designated agent, and the date and hour such body was delivered.

**290:13 To Another Town.** – Any body for which a burial or removal permit has been secured, in accordance with the provisions of this chapter, may be taken through or into another town for funeral services without additional permits.

**290:14 Penalty.** – Any person who shall violate any of the provisions of RSA 290 shall be guilty of a misdemeanor.

**290:15 Order for Disinterment.** – A justice, upon complaint made on oath by any person that he has reasonable ground for suspecting that a deceased person who has been interred came to his death by some unlawful means, may issue his warrant, requiring that the body shall be disinterred and examined, and may summon and examine witnesses in relation to the truth of such complaint.

#### **Custody of Remains of Deceased Persons**

**290:16 Definitions.** – In this subdivision:

I. “At-need funeral arrangements” means funeral arrangements made after death.

II. “Custody and control” means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including but not limited to possession, at-need funeral arrangements, final disposition, and disinterment.

III. “Estranged” means living in separate residences and having a relationship characterized by hostility or indifference.

IV. “Next-of-kin” means a person having the following relationship to the subject, in the following order of priority:

- (a) The spouse.
- (b) An adult son or daughter.
- (c) A parent.
- (d) An adult brother or sister.
- (e) An adult grandchild.
- (f) An adult niece or nephew who is the child of a brother or sister.
- (g) A maternal grandparent.
- (h) A paternal grandparent.
- (i) An adult aunt or uncle.
- (j) An adult first cousin.
- (k) Any other adult relative in descending order of blood relationship.

V. “Subject” means the person whose remains are placed in the custody and control of another person pursuant to this section.

#### **Custody of Remains of Deceased Persons**

**290:17 Custody and Control Generally.** – The custody and control of the remains of deceased residents of this state are governed by the following provisions:

I. If the subject has designated a person to have custody and control in a written and signed document, custody and control belong to that person. The person designated by the subject shall be entitled to no compensation or reimbursement of expenses related to the custody and control of the subject’s body.

II. If the subject has not left a written signed document designating a person to have custody and control, or if the person designated by the subject refuses custody and control, custody and control belong to the next of kin.

III. If the next of kin is 2 or more persons with the same relationship to the subject, the majority of the next of kin have custody and control. If the next of kin cannot, by majority vote, make a decision regarding the subject’s remains, the court shall make the decision upon petition under RSA 290:19, IV.

#### **Custody of Remains of Deceased Persons**

**290:18 Estranged Spouse.** – Notwithstanding RSA 290:17, if the surviving spouse and the subject were estranged at the time of death, the spouse shall not have custody and control of the subject’s remains. In this case, custody and control belong to the next of kin following the spouse.

#### **Custody of Remains of Deceased Persons**

**290:19 Court Determination.** – Notwithstanding other provisions of this subdivision, the court of probate for the residence of the deceased may award custody and control to the person determined by the court most fit and appropriate to carry out the responsibilities of custody and control, and may make decisions regarding the subject’s remains if those having custody and control cannot agree. The following provisions apply to court determinations under this section:

I. Before the subject’s death, the subject or subject’s legal representative may file a petition regarding custody and control of the subject’s remains.

II. A relative of the subject may file such a petition.

III. A person who claims and establishes through evidence that person has or had a closer personal relationship to the subject than the next of kin may file a petition, if that person lived with the subject and was not in the employ of the subject or the subject's family.

IV. If the next of kin is 2 or more persons with the same relationship to the subject, and the next of kin cannot, by majority vote, make a decision regarding the subject's remains, 2 or more persons who have custody or control or a funeral director may file a petition asking the court to make a determination in the matter. The court shall consider the following in making its determination:

- (a) The reasonableness and practicality of the proposed arrangement.
- (b) The degree of the personal relationship between the subject and each of the 2 or more persons with custody and control.
- (c) The desires of the person or persons who are ready, able and willing to pay the costs of the arrangements.
- (d) The convenience and needs of other family and friends wishing to pay respects.
- (e) The expressed written desires of the subject.
- (f) The degree to which the arrangements would allow maximum participation by all wishing to pay respect.

#### **Custody of Remains of Deceased Persons**

**290:20 Wishes of Subject.** – If the subject has left written and signed instructions regarding funeral arrangements and disposal of the subject's remains, the person having custody and control shall abide by those wishes to the extent that the subject paid for those arrangements in advance or left resources for the purpose of carrying out those wishes.

#### **Custody of Remains of Deceased Persons**

**290:21 Effect of Payment by Others.** – Except to the degree it must be considered by the court under RSA 290:19, IV, the fact that a person other than the subject has paid or agreed to pay for all or part of arrangements does not give that person a greater right to custody and control than that person would otherwise have.

#### **Custody of Remains of Deceased Persons**

**290:22 Authority of Personal Representative.** – The personal representative of the estate of the subject does not, by virtue of being the personal representative, have a greater right to custody and control than the person would otherwise have.

#### **Custody of Remains of Deceased Persons**

**290:23 Immunity.** – A party who, in good faith, acts upon the instructions of the party having custody and control is not liable for having carried out those instructions.

**290:24 Ownership of Cemetery Plots or Burial Spaces.** – The ownership of a cemetery plot or burial space, as defined under RSA 289:1, II, shall be governed by the following provisions:

I. If the deceased has designated a person to assume ownership of the cemetery lot or burial space in a written and signed document, ownership passes to that person, subject to the regulations established under RSA 289:2.

II. If the deceased has not designated a person to assume ownership of the cemetery lot or burial space in a written and signed document, ownership shall be determined under the provisions of RSA 561:1 and RSA 289:2.

III. Notwithstanding other provisions of this subdivision, when the ownership of a cemetery plot or burial space is unclear or in dispute, the court of probate for the residence of the deceased may, upon receipt of a petition filed by the next of kin or other interested party, render a determination regarding ownership of the cemetery plot or burial space in compliance with applicable law, including any regulations established by the municipality or cemetery trustees under RSA 289:2.

## **TITLE LXII CRIMINAL CODE**

### **CHAPTER 635 UNAUTHORIZED ENTRIES**

#### **Cemeteries, Burial Grounds, Gravestones**

**635:6 Interference With Cemetery or Burial Ground. –**

I. No person, without the written authorization of the owner of a burial plot, or the lineal descendant of the deceased, if such owner or lineal descendant is known, or the written authorization of the governing board of the municipality in which the burial plot lies, if the owner or lineal descendant is unknown, shall:

(a) Purposely or knowingly destroy, mutilate, injure or remove any tomb, monument, gravestone, marker, or other structure, or any portion or fragment thereof, placed or designed for a memorial of the dead, or any fence, railing, gate, curb, or plot delineator or other enclosure for the burial of the dead.

(b) Purposely or knowingly disturb the contents of any tomb or grave in any cemetery or burial ground.

II. The governing board of the municipality in which the burial plot lies shall not grant approval for the removal or disturbance of a tomb, monument, gravestone, marker, or plot delineator without first giving 30 days' notice, along with a report of the full circumstances, to the division of historical resources, that such approval has been requested. The governing board of the municipality shall maintain a record of the date, circumstances, and disposition of the request for removal or disturbance.

**635:7 Unlawful Possession or Sale of Gravestones and Gravesite Items. –** No person shall possess or sell, offer for sale or attempt to sell, or transfer or dispose of any monument, gravestone, marker, or other structure, or any portion or fragment thereof, placed or designed for a memorial of the dead, or any fence, railing, gate, plot delineator, or curb, knowing or having reasonable cause to know that it has been unlawfully removed from a cemetery or burial ground.

**635:8 Penalties. –** Any person who is convicted of an offense under RSA 635:6 or 635:7 shall be guilty of a class B felony, and shall be ordered by the court to make restitution for damages resulting from the offense and for replacement of removed items.