

ARTICLE 22 - MUNICIPAL CEMETERY ORDINANCE

Article 22-1 Purpose

The Select Board of the Town of Bennington hereby ordains that the following rules and regulations are established to constitute an ordinance for the proper operation and use of municipal cemeteries in the Town of Bennington. The Select Board recognizes that the municipal cemeteries are sacred grounds reserved as a final resting place for the people of the Town and desires to have the cemeteries maintained in the best possible manner and firmly believes that these rules and regulations are necessary for the protection of lot and grave owners, and for the proper conduct and good order.

Article 22-2 Authorization

By authority of 18 VSA, Chapter 121, section 5305, municipalities are enabled to regulate municipal cemeteries.

Article 22-3 General Prohibitions

The following shall be the general rules and regulations for use of municipal cemeteries. No person shall:

- A) Enter a cemetery except through an established gate or entrance way.
- B) Deposit rubbish or debris on cemetery grounds, except in receptacles provided.
- C) Use the cemeteries as picnic grounds.
- D) Use any form of advertising on cemetery premises.
- E) Discharge firearms in or adjacent to any cemetery. This prohibition shall not apply to authorized volleys at burial services conducted by recognized military organizations or associations of the United States.
- F) In any way injure or deface any monument, stone, fence or other structure, or property within any cemetery.
- G) Horseback ride within or through cemeteries.

Article 22-4 Traffic Regulations

- 22-4.01** No person shall operate or cause to operate any vehicle within a cemetery except on roads designed for that purpose and no vehicle

shall be driven at a speed in excess of fifteen (15) miles per hour upon any roads within municipal cemeteries.

- 22-4.02 No person shall enter any cemetery with a loaded truck, except the Town maintenance crews, or those persons engaged in Cemetery business unless permission has been received from the Town Manager or his representative.
- 22-4.03 No person shall unload any stone, dirt or other material from trucks in any cemetery, except the Town maintenance crews in the normal discharge of their work, or encumber walks, avenues or places with such material, without express permission and consent of the Town Manager or his representative.
- 22-4.04 Any person operating a vehicle within any cemetery shall be subject to all the traffic laws of the Town of Bennington applicable to motor vehicle operation.

Article 22-5 Establishment of Cemeteries

- 22-5.01 The Select Board of the Town of Bennington shall have the final authority for the establishment of municipal cemeteries within the corporate limits of the Town of Bennington, and shall as the need arises set aside new ground areas for this purpose.
- 22-5.02 **PLATTING OF CEMETERIES.** Before any new land is opened for cemetery use and the sale of lots, the Town Manager shall have such land area laid out showing the system of roads, and a numbered system of lots.
- 22-5.03 **PLANNING COMMISSION TO REVIEW.** The preliminary plan and layout of new cemetery land areas shall be submitted to the Planning Commission for review and approval. Upon approval, the Planning Commission shall advise the Select Board of its approval with recommendation for adoption.
- 22-5.04 **LOT SIZE ESTABLISHED.** Lot sizes for municipal cemeteries are hereby established as follows:

- (A) Each single grave = 4' x 10 or 40 square feet.

Single grave lot sections shall be established within cemetery areas for those persons desiring single graves, and for the use of the Town for the burial of indigent persons.

(B) In the case of **cremation interment** , the following guidelines shall apply:

(1) Minimum purchase is one (1) grave space.

(2) Maximum number of cremation type interments shall be six (6) per grave space (except in the case of combining full and cremation burials in which only one of each per grave will be allowed).

Article 22-6 Purchase of Lots

22-6.01 **CONDITION OF LOT PURCHASES.** Lots purchased in the laid out sections of cemeteries of the Town of Bennington shall be conveyed by special deed for burial of human remains only.

22-6.02 **PURCHASE PROCEDURE.** Lots in the laid out cemeteries of the Town of Bennington may be selected and purchased from the Town Manager or his representative, and payment for lots purchased shall be made to the Collections Department. Such purchases shall be evidenced by a deed prepared by the Town Managers Office and signed by the Town Manager. Such deed shall state the name of the purchases, purchase price, and amount paid, name of cemetery, lot number(s), grave number(s), and section in which located. In the event that a prospective purchaser may wish to buy more than one grave, or to purchase graves in a pre-need situation, full payment is expected before such ownership is evidenced.

22-6.03 **RECORDS OF CEMETERIES AND PURCHASE OF LOTS.** The keeping of records of the cemeteries of the Town of Bennington shall be the responsibility of the Town Manager or his representative. All maps showing laid out sections of each cemetery, records of lot ownership and burials shall be kept by the Town Manager or his representative.

22-6.04 **TRANSFER OF LOTS.** No transfer or assignment of a lot shall be made by any owner without the express approval of the Town Manager. No resale of lots is allowed unless it is back to the Town of Bennington for its original purchase price.

22-6.05 **CHARGE FOR LOTS.** Prices for Cemetery Lots shall be set by the Select Board from time to time by resolution. A price schedule shall be available from the Town Managers Office.

Article 22-7 Cemetery Maintenance

- 22-7.01** **RESPONSIBILITY OF THE TOWN.** The general maintenance of the cemeteries and grounds, designed to improve and maintain their appearance and condition, shall be the responsibility of the Town. It shall include such items as the upkeep of drives, buildings, fences, spring and fall cleanup, raking of leaves, and the general periodic mowing of grass. Cemeteries will be cleared of all flowers, artificial or natural, on April 1st and October 1st, for a period of one month, each year. Any person wishing to retain their plants, flowers or pots (cement pots excluded) shall remove them prior to those dates.
- 22-7.02** **PLANTING TREES OR SHRUBS PROHIBITED.** No trees or shrub shall be planted in any lot in any municipal cemetery by any person or persons other than the Town. Existing trees or shrubs may be removed by the Town if detrimental to the cemetery, adjoining lots, or inconvenient to the care and maintenance of lots. All natural flowers and plants shall be potted in containers readily movable for maintenance operations. Any plants or flowers permanently planted may be removed and disposed of by the Town.
- 22-7.03** **GRADING AND CARE OF LOTS.** All grading of lots shall be done by the Town upon request of the owner, and no person shall do any grading causing the surface of the ground to be raised above the existing height of the surrounding area. No person shall discharge any chemical or organic fertilizer, herbicide or other substance on any lot without prior authorization by the Town.
- 22-7.04** **CURBING AND FENCING.** No curbs or fences shall be permitted around any individual lot or group of lots.
- 22-7.05** **MONUMENTS AND MARKERS.** All municipal cemeteries shall be permitted to have monuments, markers or cornerstones of such dimension and material as shall be approved by the Town Manager or his representative. All reference to "Monuments" is to mean monumentation of a permanent nature that protrudes above the lawn surface. All such monumentation requires a concrete foundation. Cornerstones and grass markers do not require concrete foundations. The intent of this section is to allow only (1) one above ground monument per owner's lot (grave or group of graves). All cornerstones, grass markers, and markers shall be set flush with the lawn surface so that no part shall protrude above the surface of the ground. In the event that the preceding rules are not observed, the Town Manager or his representative shall notify the lot owner, in

writing, concerning the deficiency and advise a date corrective action must be taken. After which time the marker in violation may be pulled pending correct placement.

- 22-7.06 **MONUMENT FOUNDATION AND MARKER SETTING.** Foundations for monuments shall be constructed of concrete by the monument vendor.

Article 22-8 Burials

- 22-8.01 **CONDITION FOR BURIAL.** No burial shall take place without obtaining a burial permit from the Town Clerk by the person making arrangements for a burial, and all conditions of laws and ordinances having been complied with, including the payment of any back charges, securance of perpetual care, or purchase of any lot(s).
- 22-8.02 **PREPARATION OF GRAVE.** The preparation of graves and laying out of graveside ceremonial material shall be the responsibility of the person(s) making the arrangements for the burial, transit or cremation.
- 22-8.03 **WINTER BURIALS.** The Town will allow burial during the winter months, weather and other circumstances permitting. In case circumstances are such that burial cannot be made, temporary entombment shall be the responsibility of the parties involved.
- 22-8.04 **BURIALS ON SUNDAYS OR LEGAL HOLIDAYS.** Burials will be allowed on all days of the year with the exception of New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; as recognized and posted by the Town of Bennington.
- 22-8.05 **TOWN NOT RESPONSIBLE.** The Town of Bennington shall not be responsible for errors in location of graves on lots arising from improper instructions from persons making arrangements.
- 22-8.06 **OUTSIDE BURIALS.** In matters pertaining to burials by outside agencies, unless the exact lot and grave location is ordered with sufficient identification to the satisfaction of the Town, the body will be entombed pending arrangements.
- 22-8.07 **PERMANENT OUTSIDE CONTAINERS.** In all interments, cremation or full, the remains shall be enclosed in a permanent outside container. The owner of the lot or his/her agent shall provide the container. The following are considered permanent outside

containers: Concrete boxes, copper, bronze or steel vaults or cremation urns or other containers used in the industry with the approval of the Town Manager or his representative.

22-8.08 **BURIAL OF INDIGENTS.** *In the case of single grave lots for the burial of indigents, the Town will provide space and maintenance of a section for such and will provide markers for each. However, no above-ground monumentation will be allowed until such lot has been paid for and perpetual care secured.*

Article 22-9 ENFORCEMENT

A violation of this ordinance shall be a civil matter enforced in accordance with the provisions of 24 VSA Section 1974A and 1977 ET. Seq. A Civil penalty of not more than \$125.00 may be imposed for violation of this civil ordinance, and a waiver fee shall be set at \$100.00. Each day that the violation continues will constitute a separate violation of this ordinance.

Article 22-10 SEVERABILITY

This ordinance and the various parts, sentences, sections and clauses thereof, are hereby declared to be severable. If any part, sentence, section, or clause is adjudged invalid, it is hereby provided that the remainder of this ordinance shall not be affected thereby.

Article 22-11 EFFECTIVE DATE

This ordinance shall take effect sixty (60) days from date of adoption by the Select Board.

This ordinance is hereby adopted by the Select Board of the Town of Bennington, Vermont on this 27th day of February 1996. It shall be printed in full in the minutes of the Select Board, posted in five (5) conspicuous places within the Town of Bennington and a summary published in the Bennington Banner within fourteen (14) days of its adoption and shall become in full force and affect sixty (60) days after the date of adoption subject to the right of petition provided by law.
