

CHAPTER 8
CEMETERY

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CHAPTER 8

CEMETERY

SECTION 8-1. DEFINITIONS.

The following words or phrases shall have the following meanings unless the context otherwise clearly requires:

- A. The terms “lot owner” or “purchaser” and “grave owner or purchaser” shall mean the owner or purchaser of burial privileges or the collateral right of use of any burial lot evidenced by a certificate of right of burial for a described lot or by proved and recognized descent or devise from the original owner.
- B. The term “lot” shall mean one (1) single grave in the town cemetery. Lot size shall be 48” X 11’. (Amended 04-14-1998)

SECTION 8-2. THE NAME.

The burial ground of the Howell Town shall be known and designated by the name of Howell Cemetery.

SECTION 8-3. APPOINTMENT OF CEMETERY SUPERINTENDENT.

The appointment of a cemetery superintendent shall be by the town council. The person appointed may be the mayor, one of the councilmen, or an appointed official of the town.

SECTION 8-4. DUTIES OF THE SUPERINTENDENT.

The cemetery superintendent shall have the general supervision and administration of the cemetery including but not limited to: (1) to dig or cause to be dug all graves required for the burial of the dead, (2) removing floral pieces or displays left on any grave as deemed necessary to the appearance of the cemetery after 10 days of placement, (3) improve the grounds, (4) recommend to the town council such additional rules and regulations as may be necessary for the operation, maintenance, use and protection of the cemetery, (5) file all permits with the town clerk.

SECTION 8-5. BURIALS – RECORD OF BURIALS – INFORMATION FILED WITH LOCAL REGISTRAR.

- A. No burial of any body will be made in the town cemetery unless the burial is made by a licensed funeral director or person with a burial transit permit.

- B. The cemetery superintendent shall keep a record of all burials in the cemetery, stating the name of the decedent, place of death, date of burial and name and address of the funeral director or person making the burial.
- C. Not later than the 10th day of each month on forms provided by the state registrar, the cemetery superintendent shall send to the local registrar a list of all burials made in the town cemetery during the preceding month.

SECTION 8-6. BURIAL PERMIT.

No one shall bury the body of a deceased person in the town cemetery without first obtaining a certificate of burial right for the lot used or producing satisfactory evidence of a right to burial based on a properly acquired certificate of burial right.

SECTION 8-7. WHEN A BODY MUST BE DELIVERED FOR BURIAL; BURIAL ON SUNDAY.

The remains must be delivered at the cemetery at or before 4:00 p.m. for interment if the grave is to be filled in with earth the same day.

There shall be no burials on Sunday.

SECTION 8-8. BURIAL IN CEMETERY REQUIRED; PERMISSION REQUIRED TO ESTABLISH A CEMETERY.

No person shall be allowed to bury the body of any person within the limits of the town except in the town cemetery; no cemetery shall be established unless by permission of the town council.

SECTION 8-9. DISINTERMENTS.

No person shall disinter any body buried in the town cemetery, except under the direction of the cemetery superintendent. Before disinterment, the superintendent shall require written order from the heirs, on blanks furnished by the town, authorizing such removal. All disinterments shall comply with applicable state law.

SECTION 8-10. VAULTS REQUIRED.

No person can be buried in the town cemetery unless the casket shall be placed in a vault made of concrete, fiberglass or of such other material approved by the town council, substantially constructed and covered with a similar durable material. No wood shall be used as a permanent part of the construction of any part of the vault.

SECTION 8-11. SALE SUBJECT TO RULES.

Every lot where the right of burial has been sold is subject to rules and regulations that have been or may be adopted. The rules and regulations shall be subject to such changes as

are found necessary for the protection of lot owners, the remains of the dead and the preservation of the cemetery.

SECTION 8-12. CARE RESERVED.

The town reserves the right to enter upon any grave and to perform all work necessary for the care and upkeep of all lots and graves in it cemetery.

SECTION 8-13. INJURY TO CEMETERY PROPERTY.

Any person who shall injure, molest or deface any headboard, tombstone, curbing, fence, monument, tree, shrub or flower or any other property in the cemetery shall, upon conviction, be guilty of a misdemeanor.

SECTION 8-14. LANDSCAPING BY PRIVATE PERSONS.

It shall be unlawful for any person to plant, place, maintain or cause to be planted, placed or maintained in the town cemetery any trees, shrubs, flowers bushes, fences, foot markers, or any other obstruction or installation, excepting a headstone or marker. Any such obstruction in the cemetery shall be removed under the direction of the cemetery superintendent.

Nothing in this section shall prohibit the planting and maintaining of trees, shrubs, flowers, bushes, fences and other installations by the cemetery superintendent in his official capacity.

SECTION 8-15. HEADBOARDS OR MARKERS REQUIRED.

The relatives of deceased persons buried in the town cemetery are hereby required to place headboards or markers at the heads of graves at the time of burial, with the name of the deceased plainly inscribed thereon. All markers shall be of a suitable material and be erected according to the regulations of the town council. Single headstones shall not exceed 48". Double headstones shall not exceed 96". (Amended 04-18-1998)

SECTION 8-16. CEMENT BORDER AROUND HEADSTONE OR MARKER.

No permanent headstones or markers of marble or granite or other rock construction shall be installed in the cemetery without also installing a cement border around such headstones or markers six inches in width, which border shall be flush with the lawn so that the lawn may be cut conveniently without contact with the headstones or markers.

SECTION 8-17. ADDITIONAL RULES AND REGULATIONS.

The town council may promulgate by resolution such additional rules and regulations concerning the care, use, operation and maintenance of the cemetery as it shall deem necessary.

Any changes in the rules and regulation shall be adopted by the town council before such changes shall be official.

SECTION 8-18. COLLECTION OF FEES.

The town clerk is hereby authorized and directed to collect, at rates prescribed from time to time by the town council by resolution; for all services specified by law or ordinance, including digging of a grave and other services performed and shall include the replacing of earth in all graves dug by the cemetery superintendent and the removal of all excess material from the lot. The family is responsible for the opening and closing of the grave under the direction of the cemetery superintendent. (Amended 04-14-1998)

SECTION 8-19. PURCHASE PRICE AND FEES.

The town council shall from time to time by resolution fix the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services provided.

SECTION 8-20. SALE OF RIGHT TO BE BURIED.

- A. The clerk, and such other person as the town council may designate, are hereby authorized to sell the use of lots in the town cemetery for burial purposes only and to collect all sums arising from the sale. The clerk shall keep a complete record of all sales, which record shall describe the location of the lot and the price paid therefore. The clerk or designated person shall deliver to each purchaser a certificate of burial rights, which certificate shall among other things, describe the location of the lot and the purchase price and the type of maintenance services which is provided, i.e., perpetual care.
- B. A certificate and right to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant to this section shall not be construed to be in payment for cemetery service other than perpetual care.
- C. No other improvements, changes, or service, except perpetual care shall be made on any lot without the certificate holder or his heirs first submitting to and receiving from the cemetery superintendent, written approval for such improvements, changes or services, which improvements, changes or services shall be subject to the rules and regulations promulgated by the town council.

SECTION 8-21. RESALE OF RIGHT OF BURIAL.

- A. Any person having purchased the right of burial can re-sell, transfer, convey, or assign this right to another person.
- B. Where title to the right of burial is to be transferred or reverts back to the town, the original certificate shall be cancelled and the record so corrected. A fee as set by resolution by the town council shall be paid to the clerk for such service. The town council shall be the sole judge of the number of rights of burial sold to any person or family.

- C. The certificate shall be issued and signed by the mayor and shall be attested by the town clerk. All lots as provided in this section, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment.

SECTION 8-22. CARE INCLUDED.

The essential perpetual care that the town agrees to give shall consist of care of the cemetery generally, and shall include, but is not limited to mowing of all lots and graves at reasonable intervals, re-sodding, seeding, and filling in sunken graves, sodding the surface of the graves to lot level, removing dead flowers and trimming trees and shrubbery when necessary, raking and cleaning the lots and straightening of tilting stones or markers, but shall not include repairing or replacing markers or memorial structures of any nature, except when the need for repair or replacement is directly caused by the town.

SECTION 8-23. DECORUM.

Cemetery grounds are sacredly devoted to the interment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.

SECTION 8-24. CEMETERY HOURS.

No person shall visit the cemetery between the hours of one-half hour after sunset and one-half hour before sunrise without the previous consent of the cemetery superintendent.

SECTION 8-25. FINANCIAL RESPONSIBILITY. (Amended 11-12-15, Ord. 2015-04)

The town shall be responsible for the perpetual care and maintenance of the town cemetery as set forth in this Chapter 8, Section 22. Any and all funds received for rights of burial or lots, services, etc., including donations, shall be deposited into the Town's general fund, which shall be specifically earmarked for cemetery purposes. The Town shall keep a separate ledger and accounting of all transactions related to the cemetery funds received and paid.