

**PROCEDURES AND REGULATIONS
FOR USING THE DURHAM CEMETERY
Revised September 2010**

with 2015 change and 2013 Addendum

PROLOGUE

This incorporates and updates various previous documents that described the rules, regulations and procedures for use of the Durham Town Cemetery, located on the north side of Route 155A (Lee Road)) in Durham, NH. It is meant to serve as a guide to town officials and existing and prospective owners of burial plots within the Cemetery.

A. GOVERNANCE

The Durham Cemetery Committee is composed of the Trustees of Trust Funds and three members of the Town Council. A member of the Trustees, selected by the Trustees, serves as Chair of the Cemetery Committee. The Town's Director of Public Works shall be an ad hoc (non-voting) member of the Committee.

The Cemetery Committee is responsible for overseeing the annual operations of the Cemetery as well as long-term planning including but not limited to setting fees and rules of operation.

The Chair of the Cemetery Committee, or appointee, is responsible for the day-to-day operations of the cemetery, including but not limited to, sales of burial plots, repurchase of plots, the locating and recording of internments, and other duties as appropriate.

Maintenance of the Cemetery is the responsibility of the Town's Public Works Department, including but not limited to, grass mowing, road and utilities maintenance, major repairs.

These regulations may be changed or modified at any time at the discretion of the Cemetery Committee by a vote of the majority.

B. HOURS & DATES OF OPERATION

The Cemetery is open to the public from dawn until dusk everyday, from approximately May 1st to November 30th and shall be closed from approximately December 1st to April 30th at the discretion of the Cemetery Committee, depending on weather and ground conditions. When the cemetery is closed the driveway shall be blocked and signed as closed. No burials shall be permitted when the cemetery is closed.

C. LOT PURCHASE PROCEDURE:

The following describes the general procedures to be followed by the Chair or appointee when selling burial plots or responding to inquiries.

Prospective purchaser or their representative contacts the Cemetery Committee Chair either directly or through the Town Office. Typically, the Chair arranges to meet the representative at the Cemetery to show what lots are available and to explain these rules and regulations and assist the representative in selecting a lot.

Lot prices:

As of: April 2005	Residents	Non-residents*
Whole Lot (20' x 20' – 12 burial plots)	\$5,000	\$7,500
Half Lot (10' x 20' – 6 burial plots)	\$2,500	\$3,750
Four Graves	\$1,800	\$2,750
Three Graves	\$1,500	\$2,250
Two Graves	\$1,000	\$1,500
Single Grave (include cremains graves)	\$500	\$750

*Non-residents may purchase lots at Resident rates provided:

1. A member of the family is employed by the Town of Durham, or
2. A member of the family has lived in Durham six or more years

Funds received from the sale of burial plots shall be placed in the following Town accounts under the auspices of the Trustees of the Trust Funds:

- 50% (or \$250 per single grave) to the Cemetery Trust Fund (#032962)
- 50% to the Cemetery Improvement account (#032963)

The Chair gathers information regarding the purchaser on a Worksheet, which is filed in the annual Cemetery file.

A check for the lot or for a down payment should be made payable to “Trustees of Trust Funds” and left at the Town Clerk’s office with arrangements for completing payments. No deed is issued until payment in full has been made.

The Chair furnishes the purchaser with a deed executed by the Chair and the Clerk (usually the Trustee Chairperson) of the Durham Cemetery Committee and retains two duplicate copies, one for the worksheet file and the other for the official Cemetery Deed book.

The Chair then records the purchaser of the lot on the Official Durham Cemetery Map, in the Cemetery database and in the Cemetery Lot Book.

D. BURIAL PROCEDURE for CASKETS :

Family representative, typically the Funeral Home that is making the arrangements, advises the Chair or appointee of the date and time that the burial is to take place, along with additional information about the deceased. A worksheet is available to record this information.

The Chair shall see that the name of the person being buried is placed in the Cemetery Lot Book, showing proper section, plot gravesite and name of person to whom plot was sold.

Chair or appointee will mark and layout correct location of grave in cemetery.

The family representative obtains a permit for burial and arranges for the proper opening and closing of the grave. The Cemetery Committee and/or the Town are not responsible for the digging or refilling of graves; however, all work in the Cemetery shall be overseen by the Chair or appointee.

The Funeral Home will provide the usual greens cover, lowering device and tent, as requested by the family of the deceased.

The Funeral Home arranges for the use of a tomb or other arrangements if the season does not permit the digging of a grave.

A concrete vault must be used for all casket internments.

A maximum of one interment (casket), two cremains or one casket and one cremain on top of the casket is allowed per grave.

E. **BURIAL PROCEDURE for CREMAINS:**

The family of the deceased or the Funeral Home makes crematory arrangements and must arrange for burial of cremains after checking with the Chair for proper location and providing needed information for the records.

Should the family prefer, arrangements may be made with the Chair for burial of cremains.

Cremains must be buried in a permanent (non-biodegradeable) container and should be buried at least 18" deep.

Appropriate recording will be made as with a casket burial.

A maximum of four cremains per cremains grave is allowed.

F. **MONUMENT AND MARKERS:**

Any monument dealer who has been requested by a lot owner to install a monument in the Durham Cemetery should contact the Chair of the intended placement of a monument and/or markers, and be made aware of these rules and regulations. All markers and monuments are subject to approval by the Cemetery Committee.

Appropriate monuments and/or markers are required to be installed on all burial plots or graves within six (6) months of the initial burial within that plot. Upright monuments should, at a minimum, contain the name of the owner (or the deceased). Grave markers and/or monuments for burial plots without markers should also contain the name of the deceased and date of death.

Only one upright monument is allowed per family burial plot. Individual graves within the plot may be identified by flush markers no larger than 12" x 24" (footstones).

Upright monuments shall be placed in the center of full (12 grave) plots and centered at the top edge or bottom of all other plots, typically in-line with other monuments in that section of the Cemetery. All monument locations must be approved by the Chair or appointee.

Granite corner markers of burial plots are permitted and recommended for larger plots. Location of lot corners shall be approved by the Chair or appointee.

Concrete foundations reaching below frost line are required for all upright monuments. Foundations are not required for flush markers; however, markers should be set on a well-drained bed of stone dust or similar material at least 4 inches deep. All flush markers shall be set and kept level with the ground so as not to be damaged by mowing machines.

In the Cremains area, the Town shall provide adequate foundations for monuments, with each foundation shared by the two adjoining lots.

Maximum monument size shall be governed by the following:

Plot Size (# of graves)	Max. Width of Die (base)	Max. Height of Monument
Full (12)	60"	48"
Half (6)	48"	48"
Third/Quarter (4/3)	48"	36"
Double (2)	36"	24"
Single (1)	24"	18"
Cremains	24"	18"
Note: Height includes base. Base not to exceed 8" above average ground level. Base to extend a maximum of 4" beyond die on ends, 2" on sides.		

Monuments shall be placed and faced to be read from the nearest driveway, except for the Cremains areas, where they should face the plot.

No mausoleums or tombs are permitted.

The installation, care and maintenance of monuments and markers are the responsibility of the owner of the burial plot (or heirs and assigns).

G. CARE OF LOT – GRASS, PLANTINGS, FLOWERS AND FLAGS:

1. The payment for any lot will provide routine care of grass. Payments do not include opening or filling of graves, placing of foundations for monuments, or the care thereof.
2. Planting of small shrubs or trees is permitted with the permission of and in consultation with the Chair. Plantings selection and location should be made with consideration to maintenance and size as they mature. If plantings interfere with lawn care or other nearby plots, they may be removed at the discretion of Cemetery Chair or appointee.

The planting of flowers on graves should be to the side and in close proximity of the upright monument so as not to impede or interfere with grass mowing and trimming. The Town and Cemetery Committee are not responsible for damage to plantings from mowing and trimming activities.

Non-natural grave decorations, including plastic or silk flowers, are discouraged and may be removed at the discretion of the Chair. Solar or battery powered lights are prohibited.

All dead or damaged plantings, broken pots, vases and other unsightly grave decorations will be removed and disposed of.

H. DEED RESTRICTIONS:

The lot owner should note the reservations, limitations and conditions listed on the deed to a cemetery lot which are as follows:

FIRST: The said lot of land shall not be used for any other purpose than as a place of burial of the human dead. The use and occupancy of said lot to be subject to all regulations which the Cemetery Committee may have made or shall hereinafter make in relation to said Cemetery.

SECOND: Owners cannot sell or transfer their lot or any part thereof, to any person or persons whomsoever, without the consent of the Cemetery Committee first hand and obtained in writing. And it is hereby understood and agreed by and between the Cemetery Committee and the Grantee above named, that in case the said Grantee shall at any time wish to sell or convey the lot or lots herein described, the Cemetery Committee shall have the first right to purchase the same, at the actual price paid by the lot owner.

THIRD: No walkway or depression will be permitted as a boundary between adjacent lots in any section and any person or persons owning a part or parts

of any lot will be required to maintain a uniform grade throughout the same. All grades subject to the approval of the Cemetery Committee.

FOURTH: No granite, or other curbing, fence, or enclosure of any kind, will be permitted in or around any lot, and no post indicating either an intermediate or extreme bound in any lot, will be allowed to protrude above the level of the walkway adjacent thereto.

FIFTH: The Cemetery Committee reserves the right to put in foundations of all kinds; to supervise the erection of all monuments, headstones and markers, to inter and to disinter bodies, to plant and prune all trees, shrubs and flowering plants, and to do and perform all work pertaining to the maintenance and improvement of said property, subject to such charges and fees as may be in force at the time such work is performed.

SIXTH: No structure shall be constructed, either above or below the level of the ground without the written consent of the Cemetery Committee, and then only in accordance with the plans and specifications duly approved by said Cemetery Committee. All monuments, headstones and markers must be provided with suitable foundations.

SEVENTH: Permanent and suitable grave markers will be installed for every burial at the expense of the Grantee, such installation to be completed within one year of burial. Such marker shall be made of materials now or formerly in use in New Hampshire cemeteries and shall meet all standards established by the Cemetery Committee.

I. PRIVATE CEMETERIES:

Private cemeteries are covered in detail in a separate document. They are under the jurisdiction of the Trustees of the Trust Funds. None the less, they should adhere to procedures and regulations for the Durham Cemetery.

J. TRANSFER OF BODIES:

If bodies are transferred to any cemetery in Durham from a previous interment, all appropriate procedures and regulations in this document should be adhered to.

K. DISINTERNMENTS

No disinterment of buried remains, including cremains, is permitted without express written permission of the Chairman of the Cemetery Committee and without full legal documentation as per State law.

Addendum 1 to Cemetery Regulations: Private Burial Grounds
Approved: 11 July 2013

This addendum is intended to assist Durham residents in complying with state statutes regarding burial grounds. The law which governs burial grounds is found in NH RSA Chapters 289 and 290.

By RSA 289:1, a “burial ground is a private family or religious institution's cemetery, mausoleum, or columbarium on private property and not available for use by the public.”

Specific location requirements for burial grounds are laid out in RSA 289:3, along with the requirement to comply with local zoning regulations:

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. (Remainder of paragraph is not applicable and is omitted.)

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.

RSA 289:3 also requires that the plot location of the burial site, and the lot location of each burial within the plot, shall be recorded in the deed to the property upon transfer to a new owner. RSA 289:5 requires that the owner of land containing a burial site shall keep records of the date of burial, name of person buried, and the plot or lot in which the burial was made, and a requirement that this information be reported to the Cemetery Trustees. It is important to consider carefully who is to be buried in the site so that the size of the site plot will accommodate planned burials. Each lot (or burial space) within the plot should be 4 feet by 8 feet for a whole body burial, and 2 feet by 2 feet for a cremains burial. A 2 foot buffer should be provided around each 4-lot grouping. Once the planned capacity of the plot has been reached, no further burials may take place in that plot without taking specific steps to enlarge the plot.

It is the expectation of the Cemetery Trustees that when a private burial ground is established it is the intent of the land owner of the plot to provide for the management of the burial ground in perpetuity. This purpose should be explicated in the deed to the property as required in RSA 289:3. While the surface of a burial plot could become undetectable over time, the skeletal remains in a grave could remain for many decades. If the remains are inadvertently exposed because the site is not known, a police investigation will be required to determine the identity and cause of death of the remains. Careful documentation at the time of burial will prevent the need for such intrusive action. Specific provisions must be included in the deed to assure that

someone is named to be responsible for each burial made in a private burial ground. This would be especially important for the second to die of a married couple, or the last to die of a family.

If there are easements or use restriction covenants on the property containing the plot the party(ies) holding the easement or restriction should provide written permission for the establishment of a burial ground on the property. A copy of this permission should be furnished to the Trustees.

Written and signed final wishes of the person(s) buried will be under the administration of the person having custody and control of the remains as provided in RSA 290:20.

The following checklist is provided to assist in the process of establishing and reporting a burial ground:

1. Check the RSAs to be sure there are no recent changes to the law which are not provided for in the planning.
2. Check with the Code Enforcement Officer to be sure that there are no zoning issues.
3. Check to be sure that the location conforms to RSA 289:3.
4. Prepare a detailed and referenced (GPS coordinates if possible) plot plan of the burial ground location and burial sites within the plot. This plot should be recorded in the deed along with a covenant to manage the site in perpetuity. A copy of the deed is to be forwarded to the Trustees. If there are written and signed final wishes a copy of these should also be forwarded to the Trustees.
5. After a burial occurs, report the date and name of the person buried and verify plot and site information to the Cemetery Trustees.
6. Check to be sure that all required permits are obtained and required reports are made (RSA 290:5).