**CHAPTER 14: CEMETERIES**

**CHAPTER** **14:** **CEMETERIES**

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***ARTICLE I. IN GENERAL***

**14‑1 DEFINITIONS.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

***CEMETERY, TOWN CEMETERY.*** Any cemetery owned, operated or controlled by the town.

***CERTIFICATE OF OWNERSHIP.*** The original conveyance given by the town to the original purchaser.

***INTERMENT.*** The permanent disposal of the remains of a deceased person by cremation, entombment or burial lot meant the numbered divisions, as shown on the recorded plats each of which consists of two or more plots.

***LOT MARKER.*** An indicator made of concrete or other suitable material used by the town to locate corners of the lot.

***MONUMENT.*** A tombstone or memorial of granite or other material which shall extend above the surface of the ground.

***PLOT.*** A space of sufficient size to accommodate one adult interment, approximately three feet by nine feet.

(1970 Code,  12‑1; 2001 Code,  14‑1)

***Cross-reference:***

*Definitions generally, see  1‑2*

**14‑2 PENALTY.**

Any violation of this chapter subjects the offender to a civil penalty of $100, as outlined in  1‑6.

(2001 Code,  14‑2)

**14‑3 BURIALS TO BE ONLY IN AUTHORIZED CEMETERY.**

It shall be unlawful for any person to bury any dead body within the town, except in a cemetery authorized by the Board of Commissioners, and no new cemetery shall be established and maintained within the limits of the town without the consent of the Board of Commissioners.

(1970 Code,  12‑2; 2001 Code,  14‑3)

**14‑4 GENERAL MANAGEMENT AND CONTROL.**

The Town Manager shall have the general management and control of the town cemetery or cemeteries and he or she may, from time to time, delegate the authority to those he or she deems responsible persons. The Town Manager shall have charge of the grounds and buildings of the town cemetery as well as the conduct of funerals, traffic, employees, plot owners and visitors and, at all times, shall have supervision and control of all persons in the cemetery, and shall, from time to time, assist the general public in the location of lots or burial spaces and in interpreting the meaning of this chapter.

(1970 Code,  12‑3; 2001 Code,  14‑4)

**14‑5 USE FOR BURIAL OF HUMAN DEAD.**

The town cemetery shall be used only for the burial of human dead.

(1970 Code,  12‑8; 2001 Code,  14‑5)

**14‑6 RULES AND REGULATIONS AS TO MAINTENANCE.**

The Town Manager may make rules and regulations, not inconsistent with the Charter and the provisions of this code and other ordinances of the town, relative to the proper maintenance of town cemeteries and the guidance and direction of persons employed as he or she may deem necessary. It shall be unlawful for persons to fail, neglect or refuse to comply with the rules and regulations.

(1970 Code,  12‑4; 2001 Code,  14‑6)

**14‑7 REMOVAL OF FLORAL DESIGNS; IMPROPER MONUMENTS.**

The Town Manager, or his or her delegated agent, shall have the power to remove all floral or funeral designs or decorations, flowers, weeds, plants or herbage of any kind from the town cemeteries as soon as, in the judgment of the Town Manager or his or her agent, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the standard maintained. If any trees or shrubs situated in any lot in the town cemetery shall, by means of their roots, branches or otherwise, become detrimental to the adjacent lots or avenues or paths, or dangerous or inconvenient to pedestrians, the trees or shrubs may be removed by order of the Town Manager or his or her agent. If the Town Manager or his or her agent, in the use of his or her discretion, determines that any monument or effigy, or any structure whatever, or any inscription placed in or upon any lot in any town cemetery fails to comply with the rules and regulations, the Town Manager or his or her agent shall notify the owner to remove the structure or inscription; and, in the event of his or her failure to do so within ten days, the Town Manager or his or her agent shall enter upon the lot and remove the monument, effigy, structure or inscription unless the owner requests in writing a hearing before the Board of Commissioners. The Board shall conduct the hearing in a timely manner.

(1970 Code,  12‑5; 2001 Code,  14‑7)

**14‑8 PROTECTION OF LOT OWNERS FROM LOSS OR DAMAGE.**

The town shall take reasonable precautions to protect lot owners and the burial rights of lot owners within the town cemeteries from loss or damage; however, the town disclaims all responsibility for loss or damage from causes beyond its reasonable control and, especially, from damage caused by the elements and acts of God, common enemy, thieves, vandals, strikers, malicious mischief‑makers, explosions, unavoidable accidents, invasions, insurrections, riots or order of any military or civil authority, whether the damage be direct or collateral, other than as provided in this chapter.

(1970 Code,  12‑7; 2001 Code,  14‑8)

**14‑9 PLAT BOOK; COLLECTION AND DEPOSIT OF FUNDS.**

The Town Clerk shall keep a plat and plat book of the town cemeteries on which shall be shown all lots which have been sold and all lots which are for sale, and he or she shall collect all money in payment for lots and for all services rendered by employees of a town cemetery in the performance of their duties as regulated by the Board of Commissioners and Town Manager and shall deposit the funds when collected in the official depository of the town.

(1970 Code,  12‑9; 2001 Code,  14‑9)

**14‑10 ACCOUNTS AND FINANCIAL RECORDS.**

(A) The Town Manager shall cause to be kept accounts and financial records in relation to the maintenance and operation of a town cemetery as, in his or her judgment, may be necessary to facilitate the efficient maintenance and operation, consistent with a uniform system of accounting.

(B) The fee to be charged for the purchase of a plot at any town‑owned cemetery shall be set from time to time and is contained in the annual budget ordinance.

(C) If a plot is being purchased on behalf of the deceased person, the fee shall be charged according to where the deceased person resided.

(1970 Code,  12‑10; 2001 Code,  14‑01) (Ord. 1997‑08, passed 7‑8‑1997)

**14‑11 NOTICE OF CHANGE OF ADDRESS OF LOT OWNERS.**

The owners of lots in town cemeteries shall notify the Town Manager of any change in post office address, since notice sent to a lot owner at the last address on file in the office of the Town Manager shall be considered sufficient and proper legal notification, except where publication is required.

(1970 Code,  12‑11; 2001 Code,  14‑11)

**14‑12 CHANGE OF BOUNDARIES; REPLATTING.**

The town may, and it expressly reserves the right to, enlarge, reduce, replat or change the boundaries or gradings of the town cemeteries or of a section of a cemetery not already developed, from time to time, including the modification or change of the locations of, or removing or regrading of roads, drives or walks, or any parts thereof, in the town cemeteries.

(1970 Code,  12‑21; 2001 Code,  14‑12)

**14‑13 LAYING OF PIPELINES.**

The town may, and it expressly reserves the right to, lay, maintain and operate, or alter or change, pipelines and gutters for sprinkling systems, drainage and other uses in the town cemeteries.

(1970 Code,  12‑22; 2001 Code,  14‑13)

**14‑14 EASEMENT FOR PASSAGE TO AND FROM PLOTS.**

The town reserves to itself and to those lawfully involved, a perpetual right of ingress and egress over plots in the town cemeteries for the purpose of passage to and from other plots.

(1970 Code,  12‑23; 2001 Code,  14‑14)

**14‑15 CORRECTION OF ERRORS IN INTERMENTS; CONVEYANCES.**

The town may, and it expressly reserves the right to, correct any error which may be made by it, either in making any interment, disinterment or removal, or in the description, transfer or conveyance of any interment property, either by canceling the conveyance and conveying in lieu thereof other interment property of equal value and similar location insofar as may be possible, or by refunding the amount of money paid on account of the purchase of the property.

(1970 Code,  12‑24; 2001 Code,  14‑15)

**14‑16 HARDSHIP CASES.**

(A) In connection with the town cemeteries, the Town Board of Commissioners may, and it expressly reserves the right to, make exceptions to, suspensions of or modifications, without notice in any of the provisions of this chapter, when, in the judgment of the Board of Commissioners, the action appears advisable.

(B) The special exceptions, suspensions or modifications shall not be construed as affecting the general application of the rule.

(1970 Code,  12‑25; 2001 Code,  14‑16)

**14‑17 PREVENTION OF IMPROPER ASSEMBLAGES, EXPULSION OF PERSONS.**

The Town Manager or his or her agent shall have the power to prevent any unlawful assemblages in the town cemeteries, and any person disturbing the quiet and good order of the town cemeteries by unlawful noise or conduct or violating any of the provisions of this chapter or the rules and regulations prescribed, as provided in this chapter, shall be compelled to leave the grounds immediately.

(1970 Code,  12‑31; 2001 Code,  14‑17)

**14‑18 SIGNS, NOTICES AND ADVERTISEMENTS.**

It shall be unlawful for any person to erect, post or maintain any sign, notice or advertisement of any kind in the town cemetery. This shall not be construed to apply to the town.

(1970 Code,  12‑32; 2001 Code,  14‑18)

**14‑19 PEDDLING OR SOLICITING.**

(A) It shall be unlawful for any person to peddle flowers or plants or to solicit the sale of any commodity in the town cemetery.

(B) This shall not be construed to apply to sales made by the town for lots and fees for the opening of graves as permitted in G.S.  160A‑348.

(1970 Code,  12‑33; 2001 Code,  14‑19)

***Cross-reference:***

*Peddlers and solicitors, see Ch. 28*

*Streets, sidewalks and other public places, see Ch. 32*

**14‑20 MOTORCYCLES.**

It shall be unlawful for any person to ride any motorcycle, motorbike or motor scooter in any town cemetery, or to bring a motorcycle, motorbike or motor scooter into any town cemetery, except when the person is in attendance at a funeral or for other lawful purpose.

(1970 Code,  12‑34; 2001 Code,  14‑20)

***Cross-reference:***

*Traffic and vehicles, see Ch. 36*

**14‑21 AUTOMOBILES.**

It shall be unlawful for any person to drive an automobile through the grounds of any town cemetery at a greater speed than 15 mph or to fail, neglect or refuse to keep an automobile on the right-hand side of the cemetery roadway. It shall be unlawful for any person to drive or propel any vehicle, baby carriage or bicycle upon the lots or the lawns of any town cemetery. Persons driving in any town cemetery shall be responsible for any damage done by them, and the Town Manager or his or her authorized agent may make claim and collect for any damage so done.

(1970 Code,  12‑35; 2001 Code,  14‑21)

***Cross-reference:***

*Traffic and vehicles, see Ch. 30*

**14‑22 DISCHARGE OF FIREARMS.**

It shall be unlawful for any person to discharge any firearm on the grounds of any town cemetery, except at military funerals.

(1970 Code,  12‑36; 2001 Code,  14‑22)

**14‑23 CHILDREN.**

It shall be unlawful for any children under the age of 15 years to enter or remain in any town cemetery unless accompanied by a parent, guardian or other caretaker of adult age to take care of them.

(1970 Code,  12‑37; 2001 Code,  14‑23)

**14‑24 DOGS OR OTHER ANIMALS.**

It shall be unlawful for any person to bring, allow or permit to be brought any dog or other animal of any type or description into any town cemetery other than a legally recognized disability assistance animal.

(1970 Code,  12‑38; 2001 Code,  14‑24)

***Cross-reference:***

*Animals, see Ch. 6*

**14‑25 RESTRICTED HOURS.**

It shall be unlawful for any person to enter any town cemetery between sunset and sunrise without first securing permission of the Town Manager.

(1970 Code,  12‑310; 2001 Code,  14‑25)

**14‑26 PLACING OF OBJECTS IN TOWN CEMETERIES.**

(A) It shall be unlawful for any person to place boxes, shells, toys, metal designs, ornaments, chairs, settees, vases, glass, wood or iron cases and similar articles upon plots in any town cemetery.

(B) If any such article is so placed, the Town Manager or his or her agent may remove the article.

(1970 Code,  12‑312; 2001 Code,  14‑26)

**14‑2714‑60 RESERVED.**

***ARTICLE II. INTERMENTS AND DISINTERMENTS***

**14‑61 TIME, MANNER AND CHARGES.**

In any town cemetery, all interments, disinterments and removal shall be made at the time and in the manner and upon the payment of any charges that may be determined by the Town Board of Commissioners and pursuant to G.S. Chapter 65.

(1970 Code,  12‑41; 2001 Code,  14‑61)

**14‑62 GRAVE OPENINGS REGULATED.**

(A) The dimensions of a grave shall be measured and laid to accommodate a burial case and allow four inches clearance between each side of the burial case and the walls of the grave. The intent of this subsection is to provide sufficient clearance for a tamping tool to be inserted between the burial case and the walls of the grave so that adequate compaction can be achieved.

(B) The sod or turf of a grave to be opened shall be cut in approximately 14‑inch squares and placed to the side in such a way that each section of sod or turf can be replaced in the position from which it was removed. Each square shall be undercut to a depth to provide each square with adequate topsoil and root system to ensure survival of the sod and turf.

(C) All graves shall be dug to a depth as to provide a minimum of 18 inches between the top of the burial case and surface of the ground. This subsection shall not be construed to exclude or prohibit the use of vaults designed to be aboveground in the town cemeteries.

(D) All excess soil is to be removed from the grave site to a location in the cemetery as directed by the Town Manager or his or her authorized agent.

(E) The floor of the grave shall be adequately compacted so as to not allow the burial case to settle.

(2001 Code,  14‑62) (Ord. 1989‑3, passed 5‑9‑1989)

**14‑63 GRAVE CLOSING REGULATED.**

(A) During refill, all soil shall be tamped and tightly packed in a way as to prevent any settling. The sod or turf shall then be replaced on the grave and tamped to ground level, and then neatly raked.

(B) For a period of 90 days after the grave has been closed, it shall be the responsibility of the funeral home to prevent or repair any settling of the soil and to maintain the grave plot to a ground level state.

(2001 Code,  14‑63) (Ord. 1989‑3, passed 5‑9‑1989)

**14‑64 COMPLIANCE WITH ARTICLE.**

(A) It shall be unlawful for any person to fail, refuse or neglect to comply with the provisions of this article.

(B) Failure to abide by any provision of this article by any funeral home, corporation, company or person may, with written notification by the Town Manager or his or her assignee, result in the temporary revocation of the privilege of interment or disinterment in any town cemetery; provided, the revocation shall be terminated upon the satisfactory repair of the grave or graves violating the provisions of this article, as determined by the Town Manager or his or her assignee.

(C) Permanent revocation of the privilege related to interment or disinterment shall be the result of two violations of this chapter within a 12‑month period.

(D) Any privilege of interment or disinterment that is revoked may be appealed to the Board of Commissioners by written notice filed within ten days of the privilege revocation. The Board of Commissioners shall hold the hearing within a reasonable time.

(2001 Code,  14‑64) (Ord. 1990‑2, passed 6‑12‑1990)

**14‑65 OPENING OF INTERMENT SPACE WHEN LOCATION CANNOT BE OBTAINED.**

(A) In any town cemetery, when instructions regarding the location of an interment space and a lot cannot be obtained, or when the instructions are indefinite, or when, for any reason, the interment space cannot, be opened where specified, the Town Manager or his or her authorized agent may, in his or her discretion, open the interment space in the part of the lot as he or she may deem best under the circumstances, so as to avoid delaying the funeral.

(B) In that case, neither the town nor any of its employees shall be liable for any error in failing to open the interment space in the proper location.

(1970 Code,  12‑43; 2001 Code,  14‑65)

**14‑66 LIABILITY FOR DELAY OF INTERMENT.**

Neither the town nor any of its employees shall be liable for any delay in the interment of a body where a protest against the interment has been made or where there has been a failure to comply with the provisions of this article.

(1970 Code,  12‑44; 2001 Code,  14‑66)

**14‑67 REQUIREMENTS AS TO PROTEST OF PROPOSED INTERMENT.**

The town shall be under no duty to recognize any protest proposed of interments in any town cemetery unless the protest shall be in writing and shall have been filed in the office of the Town Manager.

(1970 Code,  12‑45; 2001 Code,  14‑67)

**14‑68 LIABILITY OF TOWN; EMBALMING, IDENTITY OF BODY.**

In connection with any town cemetery, the town shall not be liable, in any way, for the embalming of any body nor for the identity of any body thought to be interred or cremated.

(1970 Code,  12‑46; 2001 Code,  14‑68)

**14‑69 REMOVAL OF BODY CONTRARY TO WISHES OF ORIGINAL OWNER OF LOT OR PLOT.**

It shall be unlawful for any person to remove a body from a plot or lot in any town cemetery contrary to the express or implied wishes of the original owner of the lot or plot.

(1970 Code,  12‑47; 2001 Code,  14‑69)

**14‑70 CARE IN MAKING REMOVAL.**

The Town Manager or his or her authorized agent shall exercise reasonable care in making a removal of a dead body in or from any town cemetery, but the town shall not be liable for damage to any casket or burial case sustained in making the removal.

(1970 Code,  12‑48; 2001 Code,  14‑70)

**14‑71 PAYMENT OF PURCHASE PRICE PREREQUISITE TO INTERMENT.**

No interment shall be permitted in any lot or plot in the town cemetery nor shall any memorial or monument be placed on any lot or plot until the purchase price of the lot or plot shall have been paid in full.

(1970 Code,  12‑49; 2001 Code,  14‑71)

**14‑72 RESPONSIBILITY OF TOWN FOR VERBAL ORDERS.**

(A) In any town cemetery, the town shall not be held responsible for any order given verbally, either in person or by telephone, with reference to interment space or for any mistake resulting from want of precise or improper instruction as to the particular size, space and location of an interment space in a lot where interment is desired.

(B) If the error shall involve the interment of the remains of any person in a different location, the town shall have the right to remove or transfer the remains so interred to other property of equal value and similar location as may be conveyed in lieu thereof.

(1970 Code,  12‑410; 2001 Code,  14‑72)

**14‑73 PRICE OF LOT.**

The price of any lot or plot in any cemetery owned by the town shall be set from time to time by the Board of Commissioners. Time and method of payment shall be set by the Board of Commissioners.

(1970 Code,  12‑411; 2001 Code,  14‑73)