

# **TOWN OF BREWSTER CEMETERY RULES AND REGULATIONS**

Adopted by the Brewster Cemetery Commission

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# **RULES AND REGULATIONS**

## **TOWN OF BREWSTER CEMETERIES**

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# **RULES AND REGULATIONS**

## **TOWN OF BREWSTER CEMETERIES**

The following rules and regulations, adopted by the Town of Brewster Cemetery Commission on August 16, 2000, and revised on January 3, 2020, shall govern the operation and Management of all Town Cemeteries, as provided for under Massachusetts General Laws, Chapter 114.

### **I. TOWN CEMETERIES**

The Town of Brewster maintains and operates both active and inactive (ancient) cemeteries within the Town boundaries.

- Active cemeteries: Those in which burial plots remain available for issuance of burial rights to residents and taxpayers of the town.
- Inactive (ancient) cemeteries: Those in which no plots remain available for licensing assignment.

#### **Active Cemetery**

- Brewster Memorial

#### **Inactive Cemeteries**

- Pine Grove—open only for burials of previously purchased burial plots.
- Sears
- First Parish/Breakwater/The Ancient Cemetery
- Dillingham
- Red Top
- Lincoln Foster

Burial rights are granted by the Town of Brewster for the sole purpose of interment of human remains which is acknowledged by written deed for a fee. Burial rights terminate ninety-nine (99) years after date of deed issue. If rights are not exercised within that period of time, all rights revert to the Town of Brewster at that time for reissue. When necessary to avoid an un-authorized taking, due compensation will be provided.

## II. MANAGEMENT

Under the administrative direction of the Town Administrator, the DPW Superintendent and the Cemetery Commission shall have overall responsibility for the proper management of Town Cemeteries in accordance with these rules and regulations and applicable federal and state laws. Under the general direction of the Department of Public Works Superintendent, the Department of Public Works shall have direct responsibility for the day-to-day administration, operation and maintenance of Town Cemeteries. As such, the Department of Public Works staff, under the direction of the Department of Public Works Superintendent, shall be responsible for the enforcement of these rules and regulations.

Any appeal or request for reconsideration of the application of Cemetery rules, regulations, policies, procedures or fees should be directed first to the Superintendent of the Department of Public Works. If satisfaction is not received appeal may be taken next to the Cemetery Commissioners and finally to the Board of Selectmen, whose decision in these matters shall be final and binding.

## III. QUALIFICATIONS FOR PURCHASE OF BURIAL RIGHTS IN BURIAL PLOTS

### **Resident**

The term “Resident” is defined as any person who has been included in the most recent Town of Brewster annual census. The Cemetery Management (Department of Public Works) therefore requires proof, in writing, of an individual’s principal domicile at the time of purchase of burial rights in Brewster of not less than one (1) year, in order to meet this requirement. The residency proof shall be kept as a record with the deed.

Full-time residents of the Town of Brewster, as defined herein, who wish to purchase burial rights in burial plots should visit or call the Department of Public Works administrative office (Cemetery Department) where the Management will aid them in obtaining a Certificate of Right of Burial after payment is received. Any full time resident may purchase burial rights to no more than four (4) single burial plots. Requests for additional spaces must be by petition to the Cemetery

Commission, or if unsatisfied then to the Board of Selectmen. These regulations shall not be applied in a manner which would deny any person his or her constitutional or statutory rights.

### **Non-Resident Taxpayers**

The term “Non-Resident Taxpayer” is defined as any person not meeting the domicile requirements for determining “Resident” status but has paid real estate taxes on residential Brewster property for the prior two (2) years. Non-residents and commercial property taxpayers are not eligible unless they meet the residency requirements.

Non-resident taxpayers, as defined herein, may purchase up to two (2) single burial plots. Requests for additional plots must be by petition to the Cemetery Commissioners. Non-residents do not qualify for purchase of burial rights. These regulations shall not be applied in a manner which would deny any person his or her constitutional or statutory rights.

### **Resident unable to purchase Plot**

Should a Brewster resident be unable to afford a burial plot he/she may petition the Brewster Cemetery Commission for assignment of a no-fee single plot. Upon approval by the BCC, the Director of the Department Public Works or a designated representative will assign a burial plot within Brewster Memorial Cemetery.

#### IV. RULES FOR TOWN OF BREWSTER GREEN BURIAL

1. The Town of Brewster does not provide interment services at any of the Town cemeteries. The services of a contractor approved by the Brewster Department of Public Works (DPW) should be secured for excavation for interment in Section "C".
2. A burial vault (partial, inverted, or otherwise), vault lid, concrete box, slab or partitioned liner should not be used.
3. The deceased should not be embalmed prior to a green burial.
4. A burial container is not required, but if used, it should be a biodegradable one such as wicker, cardboard, or untreated soft wood, and must be nontoxic/nonhazardous. If a shroud is used, it must be made of natural fibers like wool, fiber, cloth, cardboard, seagrass, bamboo, wicker, hemp, or paper maché.
5. Only one full body burial is permitted in each gravesite.
6. The deceased may be brought to the cemetery by a funeral director or the deceased's family and friends.
7. If not using the services of a funeral director, arrangements must be made for a town representative to be present to oversee procedures at the cemetery.
8. The funeral director or family is responsible for arranging for the deceased to be transferred from the transport vehicle to the burial site, making sure to meet the necessary strength and mobility standards required for the task.
9. Burial depth will be three and one-half (3½) feet to the bottom of the container or shroud.
10. Graves will be mounded and allowed to return to their natural state following burial.
11. The site marker should be a flat natural fieldstone or quarried stone, no larger than 2 feet by 1 foot and set without a foundation.
12. Natural wreaths and flowers are permitted. No plantings, artificial flowers, vases, potted plants or other decorations are permitted.
13. Unless a tree is deemed unsafe, unhealthy or contrary to conservation goals, all live trees will be left in place.
14. Pathways will be mowed.

15. Pesticides are prohibited from use at burial sites.

## V. GENERAL RULES

The Town of Brewster is a political corporation organized and existing under the laws of the Commonwealth of Massachusetts. The Town of Brewster owns and operates its municipal cemeteries in accordance with the laws of The Commonwealth of Massachusetts and the rules and regulations of the Town, and reserves the right to refuse admission to the cemetery and to refuse the use of any of the cemetery's facilities at any time to any person or persons whom the Management may deem objectionable to the best interest of the cemetery.

1. The cemeteries will be open from dawn to dusk year-round.
2. Employees of the Cemetery Division are not permitted to do any work for the lot owners except upon order of the Department of Public Works Superintendent.
3. Persons within the cemeteries shall use only the avenues, roads, walks and alleys, to the best of their ability, and no one is permitted to walk upon or across lots or lawns unless it be necessary to do so to gain access to one's own lot. The Management expressly disclaims liability for any injury sustained by anyone entering the cemetery.
4. Persons visiting the cemetery or attending funerals are prohibited from picking flowers, wild or cultivated, breaking or injuring any tree or plant, or from writing upon, defacing or injuring any memorials, fences, signs, etc., within the cemetery grounds.
5. Motor vehicles must be kept under complete control at all times. When meeting a funeral procession they must stop until the procession passes. They must not pass a funeral procession going in the same direction. Motor vehicles must not be left with the engine running and the emergency brakes must be set when the driver is not in his or her seat. Mufflers must not be opened nor the horn sounded within the cemetery.
6. The following are prohibited:
  - A. The driving of motor vehicles through the gates or in the cemetery at excessive speeds.
  - B. Driving or parking any vehicle, or animal upon any grave, lot or lawn.

- C. Making a complete or partial reverse turn of any motor vehicle on any road or driveway within the cemetery.
- 7. No additional decorations unless specifically noted within the Rules & Regulations will be permitted. Management reserves the right to remove momentums, such as boxes, shells, toys, metal designs, ornaments, chairs, vases and similar articles placed upon plots in the event that they are deemed by the management to be hazardous, unsightly, or otherwise inappropriate.
- 8. The Cemetery shall be maintained and used as a place of peace and quiet reverence for reflection and respect for the deceased.
- 9. The following activities are prohibited:
  - A. Loud or boisterous talking.
  - B. Idling or loafing on the grounds.
  - C. Picnicking on the cemetery grounds.
  - D. Peddling or soliciting within the cemetery grounds.
  - E. Placing of signs or notices of any kind within the cemetery, except by special authority of the Management or the Board of Selectmen.
  - F. Firearms are prohibited in the cemetery except by a military escort accompanying a veteran's funeral or attending memorial services.
  - G. Scavenging, foraging and/ or salvaging within the cemeteries of the Town of Brewster is strictly prohibited. Use of any devices, such as metal detectors or dowsing devices is also prohibited.
  - H. Motor biking, roller-blading, skateboarding or other offensive activities are prohibited.
  - I. Unregistered motorized vehicles are prohibited from all parts of the Cemetery.
  - J. Motor vehicles are required to remain on paved road surfaces, except when authorized to be on hearse roads for burial funerals or monument installations.
  - K. Bicyclists are permitted on paved road surfaces only.
  - L. Leash laws apply in all areas of the cemetery and animal owners are responsible for removal of any animal wastes from the premises.



10. Management will enforce the rules and regulations and see that order is maintained to protect and promote the best interests of the cemetery. Upon approval by the Cemetery Commission, Management may make temporary additional rules, which may be needed, from time to time, to meet emergencies, which are not covered by these Rules and Regulations.
11. Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Cemetery Commission reserves the right to make exceptions, suspensions, or modifications of any of these Rules and Regulations, without notice, when in the judgment of the Commission, such action appears necessary. Such temporary exception, suspension or modification shall in no way be construed as affecting the general application of such Rules and Regulations.
12. The Management, with authorization from the Cemetery Commission, reserves the right to adopt additional Rules and Regulations or to amend, alter or repeal any rules, regulations, article, section, paragraph or sentence in these Rules and Regulations, at any time, and without notice.
13. Benches in Brewster Memorial Cemetery must be of solid wood, stone or marble (no metal with wooden seats). The benches must not be longer than four feet in length by two feet wide. The benches shall be placed in the wooded areas of the cemetery and not on the gravesites. Bench placement must be approved by the Brewster Cemetery Commission. The number of plots held does not mean a bench can be added to the plot. A small plaque may be added to the bench with names and dates or poems.

## VI. BURIAL RIGHTS AND BURIAL PLOTS

1. Persons desiring to purchase burial rights in a burial plot, who are residents and/or taxpayers of the Town of Brewster, should visit or call the Department of Public Works administrative office where the Management will aid them in making a selection and will issue a Certificate of Right of Burial after payment is received.
2. No burial plot shall be used for any other purpose than for the burial of human remains.
3. Management and the Cemetery Commission shall have the right to enlarge, reduce, subdivide or change the boundaries of a section or sections including

the right to modify, to change the locations remove or re-grade roads, drives, or walks, or any part thereof. The right to lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling, drainage, etc., is also expressly reserved, as well as the right to use cemetery property not sold to individual burial rights owners for cemetery purposes, including interment of the dead, or for anything necessary, incidental or convenient thereto. The Management reserves to itself and to those lawfully entitled thereto a perpetual right of passage over plots for the purpose of passing to and from other plots.

4. Descriptions of plots will be in accordance with the Cemetery Division plans, which are kept on file in the Department of Public Work's Office and at the Town Clerk's Office.
5. The Management will take all reasonable precautions to protect burial rights and appurtenances within the cemetery from loss or damage; but the Management disclaims all responsibility for loss or damage from causes beyond its reasonable control, and, especially, from damage caused by the elements, natural events or human misbehavior.
6. It is the duty of the burial rights owner to notify the Department of Public Works of any change in his or her legal mailing address.

## VII. CARE OF LOTS

The general care of the cemetery is assumed by the Management and includes the cutting of the grass at reasonable intervals, and the raking and cleaning of the grounds, and removal of all unauthorized plantings or appurtenances.

## VIII. CORRECTION OF ERRORS

The Management reserves and has the right to correct any errors that may be caused by the Management in either the transfer or conveyance of burial rights. These corrections include, but are not limited to, canceling such conveyance or transfer of rights and (a) substituting, in lieu thereof, rights to other interment property of equal value and, as far as possible, in similar location (as determined by the Management) or (b) at the discretion of the Management, refunding the amount of money paid for the conveyance or transfer.

## IX. INTERMENTS

1. The cemeteries will open for interments daily dawn to dusk.
2. Caskets may not be opened.
3. A funeral director or a family representative of the deceased must provide the disposition permit to the management by the time of interment.
4. When an interment is to be made in a lot, the location of such interment shall be designated by the burial right owner. Should the burial right owner fail or neglect to make a designation, the Management reserves the right to designate the location of interment.
5. In addition to being subject to these Rules and Regulations, all interments, dis-interments, and removals are made subject to the orders and laws of the properly constituted public authorities.
6. The Management will not be responsible for any order given by telephone or for any mistake occurring from the want of precise and proper written instructions as to the particular space, size of grave, and location in a plot where interment is desired.
7. The Management will not be liable for the issuance of interment permits, nor for the identity of the person sought to be interred.
8. Excavation for internment and/ or cremation remains shall be provided by a contractor insured and authorized by the Cemetery Commission.

Minimum Insurance requirements are as follows:

Workers' Compensation	As required by State Statute
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### Public Liability and Property Damage

Bodily Injury or Death – each person	\$ 500,000
Bodily Injury or Death – each accident	\$ 1,000,000
Property Damage – each accident	\$ 500,000
Property Damage - aggregate	\$ 1,000,000

### Automobile and Truck Liability

Bodily Injury or Death – each person	\$ 500,000
Bodily Injury or Death – each accident	\$ 1,000,000

Property Damage – each accident	\$ 200,000
Property Damage – aggregate	\$ 500,000

The insurance certificate should indicate type, amount, class of operation covered, effective dates and dates of expiration of policies.

9. Casketed earthen burials must be made in hardened grave liners or burial vaults. Grave liners and burial vaults are not allowed in Area C. See Section IV  
RULES FOR TOWN OF BREWSTER GREEN BURIAL.

## X. PLANTS AND SHRUBS

1. No planting of any kind will be allowed.
2. There shall be no individual beds of shrubbery or flowers allowed on the grounds.
3. There shall be no jars, or glass receptacles left on the premises.
4. The Management shall have authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the Cemetery as soon as, in the judgment of the Management, they become unsightly, dangerous, detrimental, or diseased or when they do not conform to the standard maintained.
5. The Management shall not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached beyond the acceptance of such floral pieces for cemetery services held in the cemetery.

## XI. MONUMENTS

### **Maximum Monument Sizes Allowed**

1 Grave Area	2'0" x 1'0" base, centered at head of lot
2 Grave Area	3'6" x 1'4" base, centered at head of lot.
3 Consecutive Grave Area	4'0" x 1'6" base, centered at head of lot.
4 Consecutive Grave Area	5'0" x 1'8" base, centered at head of lot.
4 Front to Back Grave Area	3'6" x 1'4" base, centered at head of lot.

Overall height of any monument is not to exceed 60" from ground surface.

All above ground monuments/markers must conform to size limitations and be placed at the head of a grave.

In Section "C", designated as a green burial area, the marker will be a flat natural fieldstone or quarried stone, no larger than two (2) feet by one (1) foot and set without a foundation.

### **Maximum Flush or Flat Monument Size Allowed**

Flush or Flat Monuments shall not exceed 2'0" x 1'0" and must be flush and level in ground.

### **Maximum number of markers per grave space**

The maximum number of markers on any grave, including veteran's markers, is:

- one (1) upright and two (2) flush or flat markers, or
- four (4) flush or flat markers.

## **XII. DEFINITIONS**

### **Burial Plot**

The term Burial Plot shall apply to a space of 3' 4" width x 10' length to accommodate one full body casketed earth interment and one cremation or up to four (4) cremation interments. Containers are not required in Area C. See Section IV RULES FOR TOWN OF BREWSTER GREEN BURIAL.

### **Cemetery**

The term Cemetery is hereby defined to include a burial area for human remains to include full-body-casketed and cremated remains. Containers are not required in Area C. See Section IV RULES FOR TOWN OF BREWSTER GREEN BURIAL.

### **Cemetery Office**

The term Cemetery Office shall mean the Administrative office maintained at the Department of Public Works.

### **Certificate of Right of Burial**

The term Certificate of Right of Burial shall apply to the original conveyance given

by the town to the original purchaser. Issued deeds are non-transferable. Right of Burial may be resold only to the Town of Brewster.

The Town may purchase any unwanted sites for no more than the original purchase price, as indicated on the original deed. The Town may deduct a reasonable transaction fee from the re-purchase price in order to compensate for research, paperwork and/ or recording that may be required to execute the repurchase. Brewster will buy back the plot in BMC at full price minus the \$100 administration fee.

### **Cremation Plot**

The term Cremation Plot shall apply to a space limited to the permanent disposition of cremated remains within a burial plot. No more than four (4) cremated remains shall be interred within a 3' 4" width x 10' plot.

### **Death Certificate**

The term Death certificate refers to a record created when the City or Town Clerk in the community where the death occurred enters legal and personal information about the deceased into the Electronic Death Registration System, and releases the electronic record to the burial agent for review prior to issuance of a disposition permit.

### **Disposition Permit**

The term Disposition Permit refers to a permit previously known as a "burial permit," needed to transport a body and dispose of it by burial, cremation, or donation to a medical school.

### **Green Burial**

The term "green" burial or natural burial means a method of final disposition with fewer environmental impacts than traditional burial. A green burial means that the body is not embalmed, no metal or hard wood are used to make the casket, and no grave liner or vault is used. The gravesite may have a low profile grave marker or no marker at all.

### **Interment**

The term Interment shall mean the permanent disposition of the remains of a deceased person by cremation and burial, or casketed burial in the earth. Containers are not required in Area C. See Section IV RULES FOR TOWN OF BREWSTER GREEN BURIAL.

**Lot Marker**

The term Lot Marker means a solid concrete, stone, metal, marble, or granite post (6" x 6" v 24"), installed flush with the ground (flat), used to locate corners of the lot (a grouping of plots) or a single plot. These markers must be contained within the lot or plot area and may be engraved.

**Monument**

The term Monument shall include a tombstone, headstone, bench or other memorial of granite, marble, slate, natural stone, or stone material, approved by the Cemetery Commission, which are footed, installed flush on ground (flat) or installed extending above the surface of the ground no more than 60". Monuments may be faced with engraved, etched, or cast rust-resistant metal, brass, or bronze plates. See Section IV RULES FOR TOWN OF BREWSTER GREEN BURIAL regarding monuments in Area C.

**Shroud**

The term Shroud means a fabric cloth or sheet that is wrapped around the deceased for burial; often shrouds have a built-in rigid board for carrying, or are carried on a shrouding board.

**Shrouding Board**

The term Shrouding Board means a board designed to securely carry a shroud-wrapped body to the grave; also known as a body board or trundle coffin. The board may be simple or ornate, and may be buried with the body or removed prior to interment for re-use.

**XIII. ENFORCEMENT OF RULES**

The Management is hereby empowered to enforce these Rules and Regulations.

meg 10/16/00

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