

**TOWN OF NAPLES
CEMETERY ORDINANCE**

Adopted June 15, 1996
Amended February 7, 2002
Amended September 13, 2004
Amended June 13, 2023
Amended September 5, 2024

Attested _____
Michelle Thibodeau, Town Clerk

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SECTION 1. Purpose and Intent

For the mutual protection of lot owners and the Cemetery as a whole, the following Ordinance is hereby established. All lot owners and persons visiting the Cemetery shall abide by such Ordinance as herein enacted and as hereafter amended, which ordinance is intended to assist in maintaining our Cemetery as a peaceful and beautiful area as well as a reverent symbol of respect for the dead.

SECTION 2. Administration

- A. The Cemetery shall be administered by the Town Manager, who may appoint a Cemetery Custodian to oversee Cemetery sales, maintenance, improvements, and any other functions of the Cemetery operation.
- B. Conflict, Validity:
 - a. Conflict of Laws. Except as otherwise specifically provided herein, nothing contained in this Ordinance shall be construed as repealing or invalidating any existing law, ordinance, or regulation of the State of Maine or Town of Naples but shall operate in addition thereto.
 - b. Validity. The invalidity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof

SECTION 3. Fees

- A. All Cemetery fees charged for purchase of any burial lot(s), perpetual care, deed preparation, recording expenses, and/or lot boundary location, shall be payable to the Town of Naples.
- B. The Town of Naples does not perform interment or disinterment services, nor does it furnish monuments or markers. The public may contract and pay for such services through any reputable funeral director.

SECTION 4. Rules of Cemetery Conduct

- A. No person shall enter, exit, or trespass upon any Town Cemetery after dark or before dawn without express permission from the Town Manager or Cemetery Custodian.
- B. Persons visiting the Cemetery shall use only the walks and roadways provided, and no person shall walk upon or across lots or lawns unless necessary.

- C.** No person shall destroy, mutilate, deface, injure, alter or remove any monument, gravestone, marker, fence, railing, urn, vase, ornamentation, vegetation, or other structure or growth placed within the Cemetery or any lot within the Cemetery.
- D.** Maximum speed limit is five (5) miles per hour.
- E.** No vehicle may be driven or parked across or upon any grave, lot, or lawn.
- F.** Parking or leaving any vehicle on any road or drive in such a way as to prohibit any car or vehicle from passing is prohibited, and a violation of this rule will be cause for the removal of such vehicle.
- G.** No person shall be in possession of or consume any alcoholic beverage within the Cemetery.
- H.** No person shall sell or offer for sale, hire, lease or rent any object, merchandise, property, service, or other things in the Cemetery, nor shall any person engage in any commercial enterprise in the Cemetery except such as is directly involved in the business of the Cemetery.
- I.** No person shall deposit in the Cemetery any garbage, sewage, refuse, waste, vegetables, foodstuffs, boxes, tin cans, paper, or other litter or waste material or obnoxious material, except in containers designed for such purposes.
- J.** No person shall behave in a loud, indecent, or disorderly manner in the Cemetery or create any unnecessary disturbance.
- K.** No person shall conduct or participate in any sport, game, or contest in the Cemetery.
- L.** No pets are allowed in the cemeteries, leashed, or at large.
- M.** No sign, notice, or advertisement of any kind except directional identification signs placed by Cemetery personnel shall be permitted in the Cemetery.
- N.** The bringing of firearms into the Cemetery, except by a military escort, is prohibited. The discharging of, or carrying offensive weapons of any type, or the hurling of rocks or pellets, or the discharging of fireworks therein is strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person.
- O.** Riding or driving of ATVs, snowmobiles, bicycles, or other recreational vehicles within the boundaries of any Town Cemetery is strictly prohibited.
- P.** Cemeteries are closed to vehicular traffic from December 1 to May 1.

SECTION 5. Lot Ownership

- A. Persons desiring to purchase lots should contact the Municipal Offices. Sale of lots will be limited to persons who own taxable real or personal property within the Town of Naples or who can provide evidence of permanent residency in the Town of Naples at the time of purchase, or family members or legal heirs at law of the aforesaid taxpayers and/or residents. A copy of this Ordinance will be made available to prospective purchasers.
- B. The Municipal Officers Select Board, acting through the Town Manager, areis duly authorized to sell and convey cemetery lots within the Cemetery on behalf of the residents of Naples. The Town Manager is vested with the authority to execute the Municipal Officers' decision to sell and convey cemetery lots within the Cemetery.
- C. The purchase price must be paid in full at the time of purchase, and receipt for such purchase price will be given to the purchaser at that time. The purchase price shall be established by the Board of Selectpersons after notice and hearing. The Selectpersons shall allocate an appropriate portion of the purchase price for perpetual care. A single lot shall have the dimensions of not less than, 3 feet by 8 feet and shall accommodate one burial except as allowed in paragraph 7F below. Within thirty days after purchase, the Town of Naples will forward to the Registry of Deeds for recording the prepared and executed Cemetery lot deed. Descriptions of lots contained in such deed shall be in accordance with Cemetery survey descriptions and designations, which are kept on file in the Municipal Offices. It shall be the duty of the lot owner to notify the Municipal Offices of any change in address after purchase. No lot or grave shall be defined by a fence, rail, curb, hedge, tree, or shrubs for the purpose of describing its comers or boundaries.
- D. No easement or right of interment is granted to any lot owner in any walks or roadways within the Cemetery, but such roadways or walks may be used as a means of access to the Cemetery or buildings so long as it shall be devoted to such purpose.
- E. The Town of Naples reserves the right to:
 - 1. Enlarge, reduce, replot, or change the boundaries or grading of the Cemetery.
 - 2. Modify or change the location of, or remove or regrade roadways or walks.
 - 3. Install, maintain, and operate sprinkler and drainage systems.
 - 4. Use unsold Cemetery property for any purposes deemed necessary.
 - 5. Have a perpetual right of ingress and egress for itself and others over lots forthe purpose of passing to and from other lots.
- F. All reasonable precautions will be taken to protect lot owners within the Cemetery from loss or damage, but the Town of Naples will not be responsible for loss or damage.
- G. The deed and this Ordinance, including amendments hereto, constitute the sole agreement between the Cemetery, the Town of Naples, and lot owners. The statement of any employee or agent, unless confirmed in writing by an authorized representative

Commented [BP1]: Jason: My understanding is that the Select Board intends to allow the Town Manager to sell cemetery lots subject to Select Board oversight and approval. As such, I have slightly revised this language to make that clear. If that is not the intent of this provision please let me know.

of the Cemetery of the Town of Naples shall in no way bind the Cemetery or the Town of Naples.

- H. The Town of Naples shall have the authority to purchase outright, or exchange for other lots, on behalf of the Town of Naples, any unoccupied lot or lots, at such price or prices as may be agreed upon by the owner or owners and the Town of Naples.
- I. Except in the case of a deceased lot owner who passes title by law or Last Will and Testament to legal heirs or devisees, transfers of Cemetery lots, whether oral or written, recorded or unrecorded, shall not be effective without the written verification that the transferee meets the ownership requirements specified in the Town of Naples Cemetery Ordinance adopted June 15, 1996, and amendments thereto. This written verification may be obtained from the Town Manager or Town Clerk. The preceding restriction must be included in all deeds conveying title to Cemetery lots. This provision is intended to allow the Town to provide affordable lots to Naples taxpayers and Naples residents while controlling the resale of this limited resource. Transfer deeds are available at the Naples Municipal Office.
- J. Descent of Title
The laws of the State of Maine govern the descent of title to Cemetery lots, as well as other matters relating to their ownership. It is important that, upon the death of an owner of a lot, the heirs or devisees of such person should file full proof of ownership in the Municipal Offices for the purpose of correcting the record. Notarized statements as to relationship and certified copies of Wills are normally sufficient.

SECTION 6. Care of Lots

The general care of the Cemetery is the responsibility of the Town of Naples. This includes reasonable and practical care of the sold and unsold areas of the Cemetery, park and lawn areas, roadways, walks, fences, shrubs, or trees which have been established by the Cemetery. In no case shall it mean the maintenance, repair, or replacement of any memorial, plaque, or monument erected or placed upon a lot, nor the performing of any special or unusual work in the Cemetery.

SECTION 7. Interments

- A. All funerals entering the Cemetery shall be under the direction of the funeral director or other person(s) deemed responsible by the Town Manager or Cemetery Custodian. Said funeral directors and/or other responsible person(s) shall abide by this Ordinance.
- B. Burial permits must be obtained from the Town of Naples prior to burial of caskets and urns. The Cemetery Custodian and/or Town Clerk must be notified prior to any interment. Since the Town staff is not always informed of transfer of ownership of Cemetery lots, this procedure is necessary so that the Town has accurate documentation regarding the name of persons interred in each Cemetery lot and the date of interment. This information will aid historical and genealogical researchers as well as family members and loved ones who seek to determine the exact location

of burial.

- C. Once a casket containing a body is within the confines of the Cemetery, it shall not be opened except by a funeral director or his assistant(s) or on an order signed by a court of competent jurisdiction.
- D. All orders for interments in lots must be signed by the owner of the lot or his authorized representative. When this is impossible because of absence from town, telegraphic or electronic permission will be accepted in lieu of signed authorization.
- E. No interment of more than one (1) uncremated body shall be made in one grave, except in the case of parent and child, who may be buried in one casket or one adult casket and one small (child) casket, or two infants buried in one casket or two infant caskets. Up to three (3) cremations and their markers, at ground level, may be placed in any one grave, and these three cremations may be in addition to the aforesaid one (1) non-cremated body per grave. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the Town of Naples.
- F. When an interment is to be made, the location and position of such interment shall be designated by the lot owner or his authorized representative. Should they fail to make such designations, the Town reserves the right to make the interment in a location and position designated by the Town Manager or Cemetery Custodian. The Town of Naples shall not be responsible for errors from information as to particular space, location, and position in a lot where interment is desired.
- G. Once an interment has been made, graves will be opened only in accordance with Laws of the State of Maine. When the Cemetery is directed to make a disinterment, by an order of a court of competent jurisdiction, a certified copy of such order must be filed with the Town of Naples. In all cases the responsibility of the Town shall be limited to confirmation of lot location only, and the actual disinterment must be made by the person authorized to do so.
- H. In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, all burials must be made in outside containers constructed of natural stone, metal, reinforced concrete, or approved synthetics. All such containers must be made and installed so as to meet the specifications established by Laws of the State of Maine. (See paragraph K of Section 7 for restrictions regarding burial of urns.)
- I. The Town reserves the right to insist upon at least **forty-eight (48)** hours' notice of any interment and at least one week's notice of any disinterment or removal. The Town reserves the right to postpone interment, disinterment or removal due to acts of nature, God, civil and national emergencies.
- J. Ashes shall be buried in an urn. A vault is not required but is an option. Urns or urn vaults will be buried at a depth of 24 inches. A funeral director's presence is not

necessary for urn or urn vault burial; however, burial permits must be obtained from the Town of Naples for burial of ashes for the reasons outlined in paragraph 7C above.

- K.** The Town of Naples discourages interment and disinterment between December 1 and March 15 due to the difficulty in accurately locating Cemetery lots beneath the customary covering of snow and because of difficulty in removing earth due to frozen ground. The Town will, however, accommodate the family of the deceased whenever necessary to satisfy religious or ethnic customs. For information regarding wintertime vault facilities, contact a qualified funeral director, the Town Manager or the Cemetery Custodian.

SECTION 8. Landscaping and Adornment of Gravesites

- A.** The Cemetery will undertake to maintain, as may be practicable, the maintenance of trees and shrubs to preserve its landscape features, but will not undertake to maintain individual plantings, or containerized potted plants.

- B.** Whenever lot owners choose to plant shrubs or evergreens, thought must be given to selection of a hardy variety and one that will not exceed the limits of the location. All evergreens and shrubs will be limited to a height of 36 inches and must be kept trimmed to within six inches of the inside of the lot borders. The Town will, within its power, trim all vegetation properly placed on lots. Any shrubs encroaching closer than 6" to the lot boundary or taller than 36" will be cut back.
 - a. After June 6, 2023, no new plantings of trees or permanent bushes shall be permitted.
 - b. The planting of non-spreading annuals is permitted. The planting of perennials is not permitted.

- C.** The Town shall have the right to remove all floral arrangements, flowers, weeds, shrubs, or plants, of any kind from the Cemetery as soon as they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in said Cemetery.
 - a. All arrangements must be removed by April 1 for spring clean-up and October 1 for fall clean-up.

- D.** The Town shall not be responsible for any floral arrangements or other ornamentation.

- E.** The Town reserves the right to remove vases or urns not cared for properly.

- F.** Any personal mementos adorning a gravesite must be kept so that it does not interfere with routine landscaping and mowing. The Town shall remove items interfering with maintenance.

- G. No glass items are permitted.
- H. The placement of borders, other than corner markers, bricks, marble chips, stone gravel, or mulch is not permitted.
- I. Fencing, rails, or plot enclosures of any kind are not permitted.

SECTION 9. Monuments

- A. The owner of any lot shall have the right to erect thereon any proper stone or monument subject to the following criteria:
 - 1. For a single lot, the stone or monument shall be no more than 38 inches high, including the base, no more than 34 inches in base length, and no more than 16 inches in width.
 - 2. For a double lot, the stone or monument shall be no more than 38 inches high, including the base, no more than 4 feet in base length, and no more than 16 inches in width.

The location of head stones, lot markers and comer markers shall be approved by the Cemetery Custodian prior to placement. The Cemetery Custodian will be notified at least forty-eight (48) hours prior to placement. Only one monument shall be permitted on a lot. Two individual markers per grave are allowed, so long as the markers are recessed to ground level. In the case of cremation interment, two markers, at ground level, will be allowed for each cremation. Upon request, the Town will consider special provisions for multiple monuments and/or markers as may be required for multiple burials allowed in paragraph 7F above. **Failure to follow these set rules may incur a fine and/or the cost of correcting the error.**

- B. No monument shall be constructed of any material other than cut marble, granite, natural stone, bronze or other material as approved by the Town Manager or Cemetery Custodian.
- C. No stone or monument shall be erected until a suitable foundation is laid. All foundations for monuments shall be no less than 3 feet in depth. The Cemetery reserves the right to inspect and approve all foundations for such structures.

SECTION 11. Correction of Errors

The Town of Naples reserves the right to enforce correction of any errors that may be made in making interments, disinterments, or in the description, transfer, or conveyance of any lot. Lot owners who fail to specify proper interment position, or monument dealers who fail to clearly specify monument or marker foundation positions will be required to correct any such errors at their own expense.

SECTION 12. Enforcement

- A. The Town of Naples and its Town Manager are hereby empowered to enforce the foregoing Ordinance and to exclude from the Cemetery any person deliberately violating such Ordinance. The Town of Naples and its Town Manager shall have charge of the grounds and buildings within the Cemetery and shall have supervision and control of employees and all persons visiting the Cemetery, whether lot owners or otherwise.

- B. Any person willfully violating any section(s) of this Ordinance through acts, which do not result in damage to Cemetery property, appurtenances, fixtures, or other installations therein, shall be subject to a fine of not more than one hundred dollars (\$100). Any person willfully violating any portion or portions of this Ordinance by actions which result in damage to Cemetery property, appurtenances, fixtures, or other installations therein, shall be subject to a fine of not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1000). The Town additionally reserves the right to pursue legal remedies to obtain full restitution for damages sustained.