

## Town of Chebeague Island Cemetery Rules and Regulations<sup>1</sup>

The Chebeague Island Cemetery is owned and administered by the Town of Chebeague Island. It is the place where the community's dead are buried and where family and community members can visit, decorate and maintain the graves of family and friends, and generally show respect for the dead. Ownership of a burial plot frequently extends for many generations, and is often a place where family members not only from Chebeague, but also from many parts of the U.S. and the world are buried by their families who gather for such rituals.

The Cemetery is also a wonderful place to learn about Chebeague's history and people. Walking tours discussing the Island's history and genealogy are encouraged. The Town, the Historical Society and the Library can provide guidance on the island's history and genealogy to give context to the silent testimony provided by the headstones.

The Cemetery should be a peaceful place, quiet and verdant in the summer as well as shrouded in snow during the winter. It is maintained by the joint work of owners of family plots and individual graves, and by the Town, in part from the proceeds of the Cemetery's Perpetual Care Fund.

These rules are intended to guide the behavior of people using and visiting the Chebeague Cemetery.

### **1. Respect for the Dead**

The Cemetery is primarily a place for funerals and memorial services, and for honoring the dead who are buried there.

- a) The Town is responsible for decorating graves of veterans of the Armed Forces of the United States of America with an American flag in an appropriate flag holder on Memorial Day observed. They are also required to request that the Church bell be rung at 11:00 on Veterans Day [Title 30 MRSA part 2 subpart 3, chapter 131 sec 2901.1]. These duties are part of the normal operating responsibilities of the Cemetery Committee.
- b) Buffering from surrounding land uses will be provided by the Town with plantings. The Transfer Station will be closed 15 minutes before any funeral and reopened 15 minutes afterward.
- c) Vehicles, other than authorized cemetery vehicles, shall only enter the Cemetery through established entrances and shall only use the authorized roads.
- d) Snowmobiles are prohibited within the Cemetery [Title 12 MSRA Sec 13106-A.27.A(1)]

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#### **1 Definitions: Under these rules**

- a. Burial: The remains of a single person, whether in a casket or in cremated form.
- b. Grave: A portion of a cemetery plot suitable for one burial in a casket. A single grave may contain several burials.
- c. Plot: a defined block of graves, usually 6 or 8 graves. In some cases all the graves in a plot are owned by a single family but some plots are owned by two or more families.

- e) The Town of Chebeague Island has a leash law which applies everywhere on the island. Dogs in the Cemetery must be on leash or in voice control of their owner. Persons walking their dogs must collect any droppings that their dogs leave, and dispose of them off the Cemetery property.
- f) Violation of the rules or conduct that is disrespectful of the dead may result in a request to leave the Cemetery. No person shall destroy, mutilate, deface, injure or remove any monument, gravestone, marker or cemetery property within the cemetery. These actions violate State law [Title 17 MSRA part 2 chapter 21 sec. 507A] and may be prosecuted.

**2. Purchase and ownership of the right to bury people in the Chebeague Cemetery**

- a) No lot or grave shall be used for any other purpose than the burial of the human dead.
- b) Persons desiring to purchase a “right of interment” meaning the purchase of a family plot or a single grave should notify the Cemetery Superintendent who will then aid them in making a decision. The person who purchases the plot or grave is “the grantee”.
- c) Complete payment for the lot or grave must be made by the grantee to the Town Clerk. Payment must be made in full at the time of purchase. No partial payments will be accepted. All lots purchased shall include in the purchase price a fee for perpetual care [Title 13, MRSA sec.1306] that the Town of Chebeague Island will hold and invest. The income there from will be used to defray part of the cost of the general operation of the Cemetery.
- d) Upon full payment, the Town Clerk will register the sale of the plot or grave in the Cemetery records, and will issue a deed for the Cemetery plot or grave to the grantee. The grantee/owner will also be given a copy of these rules and will sign and return a statement acknowledging their responsibility to follow them. Whoever the grantee is at any given time must notify the Town of any change of address.
- e) The grantee or assigns may specify in his/her will who will inherit the right of interment, meaning the plot or grave. If no provision is made in the will and a lineal descendent (relative in direct descent from the original owner) or collateral descendent (relative descended from a brother or sister of the original owner) makes a request for burial, the Cemetery Superintendent may use the following process to determine the applicant’s right of internment.
  1. The Superintendent will notify the public of the request on the Town’s website (TownOfChebeagueIsland.org), in the Island Calendar, Chebeague.org, and by posting on the Town’s regular posting places around the island. Postings will take place on or before the first of the month. Interested parties will have at least 15 days to contact the Town if they have questions or concerns.
  2. If more than one person claims the lot through either lineal or collateral descent, all parties must prove their connection to the original owner of the lot by providing documentation.
  3. Claimants must reach an amicable decision regarding use of the lot and file a written and signed agreement with the Town Clerk before a burial permit will be issued.
  4. Should the parties not reach an agreement, the Town will not arbitrate, and the parties may pursue their claim through legal means.

5. A burial permit will be issued upon the receipt of a written agreement signed by all parties.
- f) If not an owner/grantee or assignee, Sections 7 d) and e) regarding transfers.

### **3. Installation and Maintenance of Monuments**

- a) Monuments (headstones, footstones and flush plaques) may be erected on a plot or grave. Monuments shall be maintained in a safe condition by the grantee or his or her heirs and assigns. The repair and replacement of a monument, after damage, shall be at the expense of the grantee. However, the Town reserves the right to clean and/or repair monuments, especially if they pose safety problems.
- b) All monuments shall be located and set by the Superintendent, or a person designated by the Superintendent, at the lot owner's expense.
- c) Because of the need to mow the grass without damaging the monuments, no single grave shall have more than one (1) headstone and/or three (3) flush memorials. Because of the multiple cremation burials that are allowed in any grave site, and because the graves in the Cremation Garden are close together, only flush monuments are allowed on them. On new family plots, a single, central, aboveground family monument, and flush monuments for individual graves are encouraged.
- d) On single graves, the base of any headstone shall be no wider than thirty-two (32) inches. The depth of the concrete foundation for the headstone shall be at least two and a half (2.5) feet. Monuments that are flat to the ground must have a base of at least 4 inches of gravel.
- e) The Town disclaims all responsibility for losses or damages to monuments from causes beyond its reasonable control as a result of the elements, acts of God, thieves or vandals.

### **4. Care of Lots**

Graves in the Cemetery are small and close together. The largest family plot is 20' by 25' so graves are 5' by 10' at the largest. Many are smaller. Graves in the Cremation Garden are 2.5' by 2.5'. The space between lots is 3 feet except where there is a road, which is seven feet wide. As much mowing as possible is done by riding mower.

- a) The general care of the Cemetery is done by the Town, and includes the cutting of grass, raking and cleaning of the grounds and pruning or removal of trees. This is the reason for including "perpetual care" in the price of a plot or grave.
- b) No plot or grave created after July 1, 2007 may be defined by a fence, railing, hedge, crypt or enclosure of any description. Fences, railings, hedges, crypts or enclosures in place on July 1, 2007 are exempt. There shall be no eternal flame or other open flame design on any lot or grave.
- c) Planting of trees on individual plots or graves is not allowed since they can take up a great deal of space and can prevent use of part of a plot for burial purposes. The Town will plant and maintain trees on land that is not sold as graves or plots.
- d) Prior approval from the Superintendent must be obtained before the planting of any shrub. The Cemetery Committee provides a list of shrubs that will not be popular with deer<sup>2</sup>, or invasive and will grow only to a reasonable size for a small piece of land that will include future graves.

<sup>2</sup> Any starving animal will eat any vegetation that it can find.

- e) Shrubs or vines planted or growing beyond the owner's plot or grave may be pruned or removed at the discretion of the Superintendent.
- f) The Superintendent shall conduct a fall cleanup between October 1 and November 15, and a spring cleanup between April 1 and May 15 of every year. Family members should remove any vases, urns and other non-plant decorations that they wish to put back after the cleanup. Any items to be disposed of except for plant material should be taken to the Transfer Station. The Superintendent or his designee has the right to remove such items as urns or vases if necessary. Families are encouraged during the spring clean-up period to do maintenance on their plot or grave and to plant flowers, if they choose. They are encouraged to dispose of dead plants after frost in the fall. A compost pile is located at the Hearse House for material from plants and bushes.

## 5. Burials

- a) Since burials cannot be done when the ground is frozen, the cemetery shall be open for interments at the discretion of the Superintendent, based on the condition of the ground.
- b) The Superintendent must be notified in advance, in writing (letter or email) or by telephone, of both full burials with a casket and burials of cremated ashes. In the case of full burials the Superintendent must sign the death certificate. In the case of cremated remains, the grantee must provide the certificate of cremation to the Superintendent. Both kinds of burials are subject to an administrative fee paid to the Town to cover its expenses. At the time of arrangement for burial, the grantee or designee will be given a copy of the *Town of Chebeague Island Cemetery Rules and Regulations*.
- c) At least forty-eight (48) hours' notice must be given prior to any interment.
- d) When an interment is to be made on a family plot, the location of such interment shall be designated by the plot owner (the current grantee) or their designee, and clearly located by the Superintendent. Should the plot owner fail or neglect to make such designation, the Superintendent shall decide where on the plot the grave shall be.
- e) If burial instructions are not given in writing and/or are not precise as to the particular space, the size of the grave or the location on the plot, the Town will not be responsible for any errors that result from these instructions or the lack of them.
- f) In order to eliminate sunken graves, it is required that full burials be made in outside containers (called "vaults") made of natural stone, metal, reinforced concrete, fiberglass or any other material approved by the Superintendent. Cremated remains are usually interred in a container.
- g) No interment of three (3) or more bodies shall be made in one (1) grave except in the following cases: a mother and child or two (2) infants may be buried in one grave; one (1) casket and three (3) cremations may be buried in one grave; and three (3) cremations may be buried in one grave. No double depth full burials (one casket on top of another) are allowed, but a cremation grave may be placed above a full casket. All interments shall be located and made by the Superintendent.
- h) The Town shall take precautions to keep the Cemetery safe, for example, when graves are opened. If precautions have been taken, the Town is not responsible for injuries

## 6. Disinterments

- a. Disinterments are governed by State law [Title 22 MRSA subtitle 2, part 6 chapter 701 sec 2843.2] which requires a permit from the Town Clerk. The applicant for the disinterment/disinurnment must provide the Town Clerk with the Maine Center for Disease Control and Prevention Application for Disinterment or Removal of Human Remains form and the Town of Chebeague Island Disinterment Authorization form. The permit can only be issued upon receipt of a court order, or receipt of a notarized application signed by the next of kin of the deceased who verifies that the signer is the closest surviving known relative. If there are other relatives of similar closeness, they must agree.
- b. The Superintendent must observe the opening of the grave.
- c. The Superintendent shall decide who shall pay for the cost of the disinterment.

## 7. Administration

- a) The Cemetery Committee reserves the right to recommend to the Selectmen the adoption of additional rules and regulations, or the amendment or repeal of any rule or regulation at any time as shall be deemed necessary.
- b) A copy of these Rules and Regulations must be given or sent with every Cemetery deed issued by the Town with a form for "Grantee Acknowledgement" that they have received and read the rules.
- c) The Town reserves the right, in areas that have no burials in them, to revise any existing plan for the arrangement of new graves. If a decision is made to enlarge the Cemetery, the Town reserves the right to set the new boundaries and to plan the new section. It also reserves the right to lay and use water pipes to serve the Cemetery.
- d) Transfer of plots or graves: The owner of an unused grave or plot may sell the unused grave(s) or plot back to the Town for the amount the original owner paid for the grave(s) or plot. The Town may then sell the grave(s) or plot to a new owner at the current price including perpetual care. The owner of a lot or plot may sell the unused graves to another person for the amount that the original owner paid for it. If the original deed did not include perpetual care, at the time of the sale the new owner must pay the Town for perpetual care at the current price. An owner may transfer all or a portion of the lot or plot to some other person(s). The Town may also allow exchanges of graves or plots, under these same rules. In all these cases the seller or the person making the transfer must show that s/he has approval for the transfer from other family members see Section 2.
- e) No lot, grave or right of interment shall be transferred without endorsement by the Town Clerk and the Cemetery Superintendent. With a few exceptions, if a plot was bought before 1962 "perpetual care" was not included on the original deed. At the time of transfer or assignment, the person who is acquiring the lot, grave or right of interment must pay the Town for perpetual care at the current rate, even if no other money is involved. This payment must be made in full prior to the issuance of the new deed. Forms for the transfer of rights of interment may be obtained from the Cemetery Superintendent. Such a transfer will not be recognized without the consent of the Superintendent.
- f) When a gravesite or right of interment is sold back to the Town, the perpetual care portion of the sale price cannot be reimbursed. The refunded amount shall be the original purchase price less the perpetual care portion. The Town has no obligation to repurchase any plots, graves or interment rights.

- g. Reclaiming graves or plots: The Town may reclaim plots or graves that have been abandoned for interment for 75 consecutive years or more. This involves a “substantial search” by advertising for existing heirs or devisees. If no owner can be found, then the cemetery may use up to one-half of the unoccupied lots [Title 13 MSRA subchapter VI, sec.1381].<sup>3</sup>

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<sup>3</sup> Though the Statute refers to “perpetual care and maintenance”, this is not the issue here; it is abandonment. Cumberland and Chebeague have always provided care and maintenance, whether the owner of a plot has paid for perpetual care or not.