

CEMETERY ORDINANCE
TOWN OF CHELSEA, MAINE

TOWN OF CHELSEA

CEMETERY ORDINANCE

2015

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CEMETERY ORDINANCE for the TOWN OF CHELSEA, MAINE

June 2015

Purpose:

- ✚ This ordinance is for the purpose of regulating the operation and use of public cemeteries and documentation and use of Trust Funds held by the Town of Chelsea.

I. ORGANIZATION:

A. SUPERINTENDENT OF CEMETERIES

- ❖ Appointment: The Town Manager of the Town of Chelsea shall be the superintendent of the cemeteries. The superintendent may appoint a deputy superintendent upon approval of the Board of Selectmen and compensation of such deputy must be voted and approved by the majority of the Board of Selectmen.
- ❖ Responsibility: The superintendent shall be responsible for overseeing all aspects of cemetery management within the Town and seeing that this ordinance is enforced.
- ❖ Duties: The employment of individuals, subject to the approval of the Board of Selectmen, as may be required to adequately maintain the cemetery grounds.

B. SEXTON

- ❖ Appointment: The sexton shall be appointed by the Board of Selectmen for a three (3) year term. Each term shall commence at the beginning of the Town's fiscal year. The appointment shall be made from a list of nominees provided by the Superintendent and the Cemetery Trustees.
- ❖ Responsibility: The Sexton shall be directly responsible to the Superintendent.
- ❖ Duties: The Sexton shall prepare and keep updated plot maps of each cemetery; supervise all interments, including opening and closing of each grave site; supervise removal of bodies from graves; and prepare an accounting of all cemetery activities for inclusion in the annual town report. The sexton may be the 'grave digger' and if not, shall recommend to the Board of Selectmen a person for that position.

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C. CEMETERY COMMITTEE

- ❖ Appointment: The Board of Selectmen shall appoint a five member Cemetery Committee. The term of each member shall be for three years or until the member's successor is appointed. Each member shall be a resident of Chelsea with a knowledge and passion for cemeteries and their history. In the event that there is a need to make changes to this process, the Board of Selectmen shall make all appointments according to their discretion without being in conflict with this ordinance.
- ❖ Responsibility: The Cemetery Committee is directly responsible to the Superintendent.
- ❖ Duties: The Cemetery Committee shall act as Trustees to the town's cemeteries. They shall monitor all aspects of the management of the cemeteries and advise the Superintendent of needed improvements; nominate Sexton(s) for appointment by the Board of Selectmen; and act as an advisory board when needed.
- ❖ Meetings: The Cemetery Committee shall hold at least four regular meetings each year. The times of these meetings shall be established by the Committee and the Superintendent. The Committee may hold additional meetings as necessary.

D. CEMETERIES

- The tracts of land situated in the Town of Chelsea, purchased by the Town or acquired by the Town, as by their several deeds, or owing to 'responsibility of care' such as an old burial ground. These tracts are set apart and appropriated by the Town of Chelsea for the burial of the dead, with each area known by names listed in **appendix A** and new lands to be known by names given each by the majority vote of the Board of Selectmen of the Town of Chelsea upon recommendations from the Cemetery Committee.

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II. FINANCIAL MATTERS

It is intended that the town support the maintenance of the cemeteries through a combination of tax revenues, gifts, donations and the interest on the Trust Funds.

A. BUDGET

- The Town Manager and the Cemetery Committee shall annually prepare a recommended budget for the operation of the cemeteries within the Town for the following fiscal year. The Town Manager shall use the budget recommendations as a guide in the preparation of the cemetery appropriation portion of the budget to be recommended for consideration by the Town Meeting. The Town Manager shall also include in the budget recommendation an estimated revenue, the amount of interest projected to be earned during the current fiscal year by the Trust Funds described in Section II, E of this ordinance.

B. SALE of GRAVE SITES/LOTS

- The Town will sell cemetery lots at prices stated in Section II. C. 1. of this ordinance, to residents of Chelsea only. A resident is defined to be a person living within the Town of Chelsea at the time of the purchase of the lot. The Town shall issue a certificate of ownership of the lot(s) along with a map showing the location of such lot(s) and a copy of this Cemetery Ordinance. *Request for exception will be reviewed by the Cemetery Committee and Board of Selectmen.

C. FEES

- The following schedule of fees and charges is in effect and applicable to all cemeteries where lots are still available. These fees and charges are subject to change without notice at such time as the Board of Selectmen may deem necessary.

(1) Perpetual Care lot purchase price:

Full Lot (4 graves)	\$ 1,300
Half lot (2 graves)	\$ 700.
One grave site	\$ 400.
Each addition lot >4 graves	\$ 500.

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- **Fees:** Fees for lots and perpetual care shall be determined by the Board of Selectmen following recommendation by the Superintendent and Cemetery Committee. If changes are made, they will then be considered an amendment to this ordinance by virtue of an appendix. In accordance with Maine Cemetery Law Article 13, section 1306: A Cemetery Perpetual care fund must be created by depositing in the fund at least 30% of the proceeds received from the sale of lots and plots in the cemetery. See Section II. D. All expenditure shall be approved by the trustee's and approved in the same manner as any other town expenditure and according to the laws of the State of Maine.

- **Re-sale of lots:** Sale of lots by the owner to any other person or entity is prohibited. However, the Town may purchase unused lots from an owner who no longer requires the space. The price paid by the Town will be the original price paid to the Town for the lot(s).

D. PERPETUAL CARE

The term perpetual care means the obligation which the Town assumes for furnishing such care as mowing grass, trimming, raking and cleaning lots. It is understood that such expenditures shall be made at the discretion and under the direction of the Superintendent and the Cemetery Committee. Perpetual care funds are Trust Funds and shall be invested according to Maine State Law Article 5, section 1223, and the annual income (interest) only shall be expended in performance of the requirements of the trust.

E. TRUST FUNDS

Perpetual Care Trust Funds shall be established according to the laws of the State of Maine and this Ordinance by the Town Treasurer who shall maintain an accurate accounting thereof. The Treasurer shall see that a detailed report of the Trust Funds is published in the annual report for the fiscal year ending June 30, 2015 and every year thereafter. All funds received from the sale of perpetual care services shall be placed in a special Perpetual Care Fund, invested in compliance with the laws of the State and used for the purposes herein provided. The income (interest only) from the Perpetual Care Funds shall be used to pay the upkeep of the cemeteries as specified by this Ordinance.

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The **Trust Funds** shall consist of four subsections, namely:

1. The sale price of gravesites. The proceeds from the sale of lots received subsequent to the adoption of this ordinance shall be deposited in a General Cemetery Fund account, previously known as the 'Town of Chelsea's Cemetery System General Fund Account'. The Treasurer shall be required to show in the account only the cumulative total of receipts, and not the individual amount or names of persons purchasing such gravesites.
2. The principal amount received for establishing perpetual care. The Treasurer shall maintain a complete listing of perpetual care lots. The listing shall include the owner's name, the principal amount of the donation/fee and the name of the cemetery wherein each lot exist, with the lot number when that is available. The listing shall include all perpetual care lots existing at the effective date of this ordinance plus all lots for which perpetual care donations/fees are received subsequent to such effective date. A lot (single burial site) may be designated as a perpetual care lot upon receipt of a donation/fee in the amount established by the Town. The Board of Selectmen may accept these perpetual care donations on behalf of the inhabitants of the Town of Chelsea.
3. Trust funds for perpetual care previously held in trust by Cemetery Associations within the Town before being turned over to the Town of Chelsea. The interest only from these accounts may be used to provide perpetual care for those designated lots according to name and location as established at the time of the trust. Reference Maine Revised Statues 1223 Investment of funds states: "the annual income only shall be expended in performance of the requirements of the trust". These perpetual care Trust Funds are listed in **Appendix B** of this ordinance.
4. Cemetery Association funds accepted by the Town of Chelsea in Trust when turned over to the Town by Cemetery Associations as listed in **Appendix C**. The interest from these accounts shall be used for maintenance for the cemeteries specific to each trust fund account as recommended by the Cemetery Committee and approved at a Town Meeting.

III. RECORDS & MAPS

- The Superintendent shall see that a record system is established to provide up to date records of interments, lot owners, and trust funds along with up to date plot maps. These records shall be kept safe and protected in the Town Office.

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IV. GROUNDS MAINTENANCE

- All lots within each cemetery shall be mowed and trimmed during the summer season as required. The Superintendent shall insure that adequate contractual agreements are in force to provide for sequential maintenance. Additional grounds maintenance and improvements such as gates, fencing, shrubs, and posting of signs shall be accomplished by direction of the Superintendent within the limits of available budget considerations and as recommended by the Cemetery Committee.

V. Veterans' Graves

- See Maine Revised Statutes, Title 13, Section 1101

A municipality in which a public burying ground is located may, in collaboration with the property owners (privately owned cemeteries), veterans' organizations, cemetery associations, civic and fraternal organizations and other interested persons, adopt standards of good condition and repair to which grave sites of veterans of the Armed Forces of the United States must be kept. The standards at a minimum must detail how to maintain the grave, grass and headstones.

The standards for the Town of Chelsea at a minimum are as follows:

- A. From May 1st to September 30th of each year, ensure that grass is suitably cut and trimmed.
- B. Keep a flat grave marker free of grass and debris.
- C. Keep the burial place free of fallen trees, branches, vines and weeds.

Annually, on the day Memorial Day is observed, the graves of veterans of the Armed Forces of the United States of America shall be decorated with an American flag and appropriate flag holder.

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VI. INTERMENTS

- 1) Permit for burial. The person in charge of burial grounds shall submit a disposition permit with the date the body was interred to the Town Clerk of Chelsea or the State Registrar of Vital Statistics within seven (7) days after the date of disposition. [22 MRSA, Section 2843, dated 2013]
- 2) No lot shall be used for any other purpose than for the burial of the human dead.
- 3) The interment of two bodies in one single grave space will not be allowed, except in case of mother or father and child, twin children or two children buried at the same time or in one casket, or three cremated remains or one full burial and one cremation. All interments of multiple bodies/cremains shall be located and made by the Superintendent. No double depth standard interments will be made.
- 4) All cremation burials must be authorized by the Superintendent if being performed by family members. Otherwise our grave digger must be contacted and present for the burial of cremains.
- 5) As soon as flowers, wreathes, emblems, etc., used at funerals, become unsightly and faded, they will be removed and no responsibility for their protection or maintenance is assumed.
- 6) Interments are to be handled only by funeral directors licensed by the State of Maine.

VII. STONES & MONUMENTS

- 1) All gravesites shall be marked with a permanent grave marker in the ground.
- 2) The Town of Chelsea shall not be responsible for the cost of erecting any gravestones that have been damaged through criminal action, vandalism or the weather conditions; excepting and reserving those lots under currently accepted perpetual care trust funds, or those mandated by the State of Maine in any ancient cemetery including Veteran's stones. See **appendix B** for list of perpetual care trust funds.

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VIII. RULES & REGULATIONS

- 1] On and after the effective date of this ordinance no lot or grave site shall be partially or fully enclosed by a fence, rail, hedge, trees, or shrubs.
- 2] Grave decorations are not permitted which obstruct general maintenance procedures. This includes, but is not limited to: toys, metal designs, ornaments, chairs, settees, glass vases, crushed stones, and/or similar articles. If so placed the Town reserves the right to remove the same without notice.
- 3] The Superintendent shall have the right to remove all floral designs, receptacles, flowers, weeds, trees, shrubs, plants, herbage of any kind from the cemetery when in the opinion of the Superintendent they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemetery.
- 4] Firearms will not be allowed in the cemeteries except for military funerals and at official celebrations such as Memorial Day, Veterans Day, etc.
- 5] Off road dirt-bikes, snowmobiles and all-terrain vehicles are prohibited within the cemeteries. Pets must be on a leash at all times.
- 6] The picking of any flowers (either wild or cultivated) or injury to any shrub, tree or plant or the marring of any monument, stone or structure in any Chelsea cemetery is forbidden.
- 7] Artificial floral arrangements are allowed only until they become unsightly and then may be removed at the discretion of the Cemetery Trustees.
- 8] Cemetery grounds are sacredly devoted to the internment and repose of the dead. Strict observance of decorum due such a place shall be required of all persons.
- 9] There shall be no trespassing in any public or private cemeteries under the supervision of the Town of Chelsea between ½ hour after sunset and ½ before sunrise.
- 10] If any person shall willfully injure any fence, ornamental tree, walk, grave, monument or tombstone, they shall be subject to criminal prosecution under state law and shall also be required to pay for any damage done.

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IX. PENALTIES

Any person who violates any provision of Section VIII of this ordinance shall be punished by a fine of not less than \$50.00 and not more than \$500.00, plus reasonable attorney fees and costs, recoverable in a civil action in Maine District Court. The Town of Chelsea or any appropriate officer may institute proceedings to enjoin such violations. Any fines collected shall inure to the Town of Chelsea. The Town Council may authorize the expenditure of such fines for the repair of damages done in the cemeteries but in no case may such fines be used for routine repair and maintenance. Any monies received from such fines which are not expended during any fiscal year shall be carried over to subsequent fiscal years in a special fund.

X. SEVERABILITY

If any portion of this ordinance is held to be unconstitutional, or invalid, this will not affect the remaining provisions of the ordinance.

XI. REPEAL OF CONFLICTING ORDINANCE

The ordinance entitled "Town of Chelsea Cemetery Maintenance Ordinance", adopted by the Chelsea Town Meeting on June 17, 2004 and "Appendices A, B and C", as amended, which were adopted in accordance with the terms of that Ordinance, are hereby repealed.

ORDINANCE HISTORY

ADOPTED:

AMENDED:

AMENDED:

AMENDED: 06/17/04

AMENDED:06/11/15

***NOTE:** Any requests for exception to this ordinance will be considered on an individual bases by majority vote of the Cemetery Committee and Board of Selectmen.

Effective Date:

The effective date of this ordinance shall be when voted and passed by the majority of voters at a Town Meeting of the Town of Chelsea and filed with the Town Clerk of the Town of Chelsea.

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APPENDIX A

❖ The following are the current names and locations of cemeteries in the Town of Chelsea. There are six (6) privately owned cemeteries in the Town of Chelsea.

Allen Cemetery Registry of Deeds	Rt. 17 (Eastern Ave) Dated September 13, 1916	Map 16	T, A, V
Alexander Cemetery	Rt. 9, River Road	Map 4	P, A
Ashman Cemetery	Rt. 9, River Road	Map 4	P, A, V
Chase family Burying Ground	Intervale Road	Map 4	Lost
Chelsea Heights Cemetery Registry of Deeds	Rt. 9 (River Rd) Dated April 29, 1844	Map 14	T, A, V
Davenport Cemetery Registry of Deeds	Dr. Mann Road Dated April 10, 1882	Map 14	T, I, SO, V
Douglas Cemetery Registry of Deeds	Windsor Road Dated Oct. 4, 1973 (family)	Map 6	P, A, V
Douglas Cemetery Extension Registry of deeds	Windsor Rd. Book 1681 page 37 Year 1973	Map 6	T, A
Goodwin Cemetery Registry of Deeds	Route 9, River Rd Dated September 5, 1815	Map 4	T, I, SO, V
Hayes-Hall Cemetery Registry of Deeds	Windsor Road Dated January 18, 1904 (family)	Map 7	P, A

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Hussey Cemetery	Intervale Road	Map 4	Lost
Littlefield Cemetery	Ferry Road	Map 14	I, SO, V
Morrill Cemetery	Rt. 226 (Togus Rd) Registry of Deeds Dated December 27, 1849	Map 2	T, A, V
Riverside	Rt. 226 (Togus Road) Registry of Deeds Dated November 19, 1852	Map 15	T, A, V
Searls Mills Cemetery	Windsor Road Registry of Deeds Dated April 1, 1914 to Association	Map 3 & Map 6	P, A
Trask Cemetery	Hallowell Road	Map 5	P, I

NOTE: All map references are those as shown on the Town of Chelsea Property Maps as prepared by Aerial Survey and Photo, Inc. April 1, 2012.

CODE: In an attempt to distinguish the many categories of our cemeteries, this code has been devised and applied:

- A Active
- T Town owned
- P Privately owned
- I Inactive
- V Veteran
- SO State ordered maintenance

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APPENDIX B

TRUST FUNDS HELD BY THE TOWN OF CHELSEA

The following **trust** funds previously held in trust for **perpetual care** may be included in the Town of Chelsea's Cemetery General Trust Fund account for investment and bookkeeping purposes only. An accounting of these funds will be listed in the annual report for the Town of Chelsea. The INTEREST from these accounts may be used, as designated at the time of the trust agreement, to provide perpetual care for these designated lots according to name and location.

- | | |
|--|---|
| <p>a. Date: 12-26-33 Book 2, Article 10
Name: George Woodbury
Cemetery: Riverside Cemetery
Principal amount: \$100.00</p> | <p>e. Date: 05-10-60 Book 5, Article 9
Name: Kirkwood - Dondero
Cemetery: Chelsea Heights
Principal Amount: \$200.00</p> |
| <p>b. Date: 09-07-50
Name: William Robbins
Cemetery: Chelsea Heights
Principal amount: \$100.00</p> | <p>f. Date: 03-11-63 Book 5, Art.10
Name: HS Patterson
Cemetery: Morrill Cemetery
Principal Amount: \$500.00</p> |
| <p>c. Date: 05-07-55
Name: Dewey Seguin
Cemetery: Chelsea Heights-trust
Principal amount: \$100.00</p> | <p>g. Date: 03-29-69 Book 7, Article 25
Name: Harry Morrill
Cemetery: Morrill Cemetery
Principal Amount: \$100.00</p> |
| <p>d. Date: 05-10-60 Book 5, Article 9
Name: Thomas & William Winter
Cemetery: Chelsea Heights
Principal amount: \$250.00</p> | <p>h. Date: 03-09-1925 Book 2, Art. 17
Name: Frances Gardner
Cemetery: Riverside Cemetery
Principal Amount: \$200.00</p> |
| | <p>i. Date: 11-21-91
Name: Carson lot
Cemetery: Chelsea Heights
Principal Amount: \$500.00</p> |

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APPENDIX C
CEMETERY TRUST FUNDS

❖ Cemetery Association Trust Funds are funds turned over to the Town of Chelsea by the Cemetery Association. These funds shall be held in trust by the Town of Chelsea according to Maine Revised Statute 1223 and the annual income (interest) only shall be expended in performance of the requirements of the trust. Interest may be spent on each cemetery as listed:

- a. Date: 03-13-1882 Book 1 Article 11
Name: Davenport Burying Ground Trust Fund
Cemetery: Davenport Cemetery
Principal Amount: \$50.00
- b. Date: 03-15-73 Book 7, Article 23
Name: Chelsea Heights Cemetery Association Trust
Cemetery: Chelsea Heights
Principal Amount: \$2,855.37
- c. Date: 05-22-78 Book 7, Article 12
Name: Hayes-Hall Cemetery Trust Fund
Cemetery: Hayes-Hall Cemetery (privately owned)
Principal Amount: \$500.00
- d. Date: March 2000 Town records 2000-2001, Article 9
Name: Searls Mills Cemetery Trust Fund
Cemetery: Searles-Mills Cemetery
Principal Amount: \$9,995.00
- e. Date: 2007
Name: Virginia Katon bequest
Cemetery: Searls-Mills
Principal Amount: \$10,000.00