



# TOWN OF TOPSFIELD

Department of Public Works  
Parks and Cemeteries  
279 Boston Street, Topsfield, 01983  
978-887-1542

## TOPSFIELD CEMETERIES

## RULES AND REGULATIONS

## **INTRODUCTION**

Topsfield cemeteries are multi-denominational. Some religions may require special arrangements which the department may not be able to provide. The Town of Topsfield's Parks and Cemeteries Department, under the guidance of the previous Parks and Cemeteries Commission, has established the following rules, regulations and guidelines. Special cases may arise in which the literal enforcement of these rules and regulations may impose a hardship. The Parks and Cemeteries Department reserves the right, without prior notice, to make exceptions, suspensions or modifications to any of these rules and regulations, when in our judgement the same appears advisable. Such temporary exceptions, suspensions or modifications shall in no way be construed as affecting the general application of the rules and regulations. Beyond these established rules and regulations, the Town Bylaws, and State and Federal Laws also apply.

## **PURCHASE OF LOTS**

1. Persons wanting to purchase a burial site in one of the Topsfield cemeteries should contact the Parks and Cemeteries Department office at 978-887-1542.

There are no pre-need lot sales from March 1<sup>st</sup> to mid-December. Emergency lot sales only take place during this time. If you have an emergency, please contact the office at 978-887-1542.

2. Lots may be purchased as follows:

1 Grave Lot	-----	4 ft X 10 ft
2 Grave Lots	-----	8 ft X 10 ft
3 Grave Lots	-----	12 ft X 10 ft
4 Grave Lots	-----	16 ft X 10 ft
5 Grave Lots	-----	20 ft X 10 ft

Larger lots may be available by special arrangement with the Superintendent. Please contact the office for a price list and perpetual care information. Rates are subject to change.

3. Lot owners of a lot have the right to use the lot for the burial of human dead and for placing a suitable memorial, subject to the cemetery regulations.
4. A prospective owner must be a current property tax paying Topsfield resident at the time of passing to purchase one or more burial lots in the Town of Topsfield cemeteries. If there are immediate family members interred in Topsfield cemeteries, this does not

automatically mean lots may be purchased by a perspective owner. The residency requirement must be fulfilled to purchase lots.

Exceptions to this rule may be allowed due to extenuating circumstances, or when special situations arise. All exceptions must be requested in writing, reviewed and approved on a case-by-case basis by the Parks and Cemeteries Superintendent. If a perspective owner is allowed to purchase a lot as a "former" resident, the Topsfield residency status must be proven. As of November 12, 2013, lots may be sold to current residents of Little Brook and Washington Meadows.

5. Lots must be paid in full at the time of purchase. A deed will be issued upon receipt of the full purchase payment.
6. Lot owners may not privately resell or subdivide lots. Lot owners wishing to sell their lots must contact the Parks and Cemeteries Department office for a refund. No private sales or subdivisions are allowed. There will be a charge of \$100.00 for the deed research and the processing of a new deed, subject to change. The Parks and Cemetery Department will buy back the grave lots at the amount the owners originally paid.
7. Lot owners wishing to transfer their lots within the cemetery cannot do so until the lot has been owned for at least five (5) years. In addition, there is a charge of \$100.00 for the processing of each transfer, subject to change.
8. Opening rates are charges by the Parks and Cemetery Department to perform actual burials and grave openings. Rates are subject to change. A rate sheet is available by contacting the office.

## **MONUMENTS, STONES AND FOUNDATIONS**

1. Only one upright monument will be allowed per family lot, consisting of at least two (2) grave sites. Upright stone sizes may be no larger than three (3) feet in length and no higher than three (3) feet in height, including the base. The foundation cost is \$100.00 per square foot, with a minimum of \$200.00. The foundation cost is subject to change.
2. Two or more grave lots must be purchased to install an upright memorial stone. These lots must be paid in full before the stone foundation may be constructed. Four (4) corner markers must be purchased for flat or upright stones at the same time the memorial stone is purchased. The Parks and Cemeteries Department will install the four (4) corner markers at a cost of \$100.00, subject to change.

3. Flush markers will be allowed on single grave lots, in designated areas. Corner markers may be required for single grave lots. Flush markers should not exceed one (1) foot in width and two (2) feet in length. Upright monuments are not allowed in single grave lots.
4. The cemetery staff will construct all monument and stone foundations. Foundation orders must be processed through a monument company. Written orders must indicate the exact location for the placement of the stone and distance below grade.
5. Small flower gardens may be set adjacent to the upright stone and may not exceed the length of the stone. The garden area may extend one (1) foot in width from the upright stone, and can be only on one side.
6. No large rocks or benches will be used for monuments without first checking with the Parks and Cemeteries Superintendent. The Parks and Cemeteries Department reserves the right to reject any and all rocks or benches for such use, if the application is not reasonable for that location.
7. Memorial stone foundations will be poured when the weather permits. The Parks and Cemeteries Department will establish a deadline in the fall for cement pouring. This will be approximately the first or second week of November.
8. The Parks and Cemeteries Department requires a minimum period of three (3) weeks for the pouring of a foundation. If the family or monument company requests a foundation sooner, an overtime rate will apply and is subject to work schedules. Foundations are installed by the Parks and Cemeteries Department. The rate is \$100.00 per square foot, with a \$200.00 minimum. Rate is subject to change.
9. The Topsfield Parks and Cemeteries employees and its agents will be held harmless and are not to be held responsible for any engraving or artwork on any monuments, memorials or markers. Monuments, memorials and all other improvements are the property of the lot owner and not the Parks and Cemeteries Department. Care and repair of memorials and their improvements are the sole responsibility of the lot owner. When lot ownership is transferred, gifted or bequeathed, all memorials and lot improvements are also the responsibility of the lot owner(s).

## **FUNERALS AND INTERMENTS**

1. Funeral Directors normally assume the responsibility for making arrangements for a funeral. A 48-hour notice must be provided to the Parks and Cemeteries Superintendent. This notice does not include calls made before or after established work hours of Monday through Friday of 8AM to 3PM, Saturday to Sunday or on holidays. Sunday and holiday (Federal-State-local) funerals are not permitted. The Superintendent reserves the right to refuse a funeral, when in his best judgment, the conditions within the cemetery make the burial unsafe and/or impossible.
2. The family shall pay the additional expense for snow and frost removal and, for the removal of large boulders or ledge during the grave opening. The fee will be established by the Parks and Cemeteries Superintendent.
3. Interments will take place only after the cemetery has received full payment for the lot, payment of appropriate fees, and permits have been submitted to the Parks and Cemetery Department office by the Funeral Director and/or family of the deceased.
4. The Parks and Cemeteries Department shall not be liable for the interment permit or the identity of the person to be interred.
5. An outer container made of reinforced concrete, metal or the equivalent must be used for all ash burials. Urns made of solid metal, stone composite or marble are acceptable. If no such urn is available, an ash burial vault must be utilized.  
  
Only grave burial vaults are allowed for full body interments. A one-piece solid sealed cover is required, no two-piece covers are allowed.
6. Graves shall be opened and closed for interments by the Parks and Cemeteries staff only. All funerals will be under the direction of the Parks and Cemeteries Superintendent and staff when the funeral procession arrives at the cemetery.
7. Bodies of the deceased may not be removed from the cemetery grounds or for reinterment elsewhere in the cemetery, without appropriate family approval and obtained pertinent permits. An application must be made to the Parks and Cemeteries Superintendent.
8. Any notification of interment after Noon on Friday, or any interment to take place before Noon on Monday will be considered at the weekend funeral rate. Any phone calls for emergency lot sales on a weekend will be charged the weekend funeral opening rate.



9. **All funeral arrival times must be approved by the Parks and Cemeteries Superintendent.** Funeral arrival times after **1PM** on weekdays will not be allowed. Weekday funerals which force the crew to work overtime will be charged an overtime hourly rate. Saturday funeral arrival times will not be allowed after **1PM** and an overtime rate will apply. There are no Sunday or holiday (State, Federal or Town holidays) interments.

## **GENERAL RULES AND REGULATIONS**

1. Persons shall not mark upon, deface or injure any grave, marking or monument.
2. Persons shall not gather any flowers, either wild or cultivated, in the cemeteries.
3. No one shall break or mark any tree, shrub, plant, etc.
4. Firearms shall not be discharged in the cemeteries, except at military funerals.
5. The use of all other implements calculated to annoy or destroy wildlife is strictly forbidden.
6. Persons shall not be allowed to bring or to consume alcoholic beverages on the grounds of the cemeteries or parks.
7. Rocks, loam, sod or other materials shall not be taken from the cemeteries without the authorization of the Superintendent.
8. All motor vehicles should be operated on the established roadways within the cemeteries and at a speed no greater than five (5) miles per hour.
9. Private plantings of trees, shrubs, vines and ground cover will not be allowed on the cemetery lots. There are no new plantings allowed after private plantings have been removed. Sites of memorial plantings are available. Please contact the office.
10. The Parks and Cemeteries Department staff will remove decorations and/or flowers from lots whenever it is necessary to do so.
11. The Parks and Cemeteries Department staff will remove, without notification, any tree or shrub in the cemetery any time it becomes detrimental to a lot or to an adjacent lot, avenue, path or that is planted in violation of the rules.

12. Only the Parks and Cemeteries Department staff may build fires on the cemetery property to rid brush.
13. The Parks and Cemeteries Department staff shall have the right to enter upon any lot or any part of the cemetery to perform regular duties.
14. The Parks and Cemeteries Department is not responsible for acts of vandalism on cemetery property.
15. Gravestone rubbing requires the permission of the Parks and Cemeteries Superintendent.
16. The cemeteries will not be used for active recreational purposes, such as skateboarding, winter sports, bicycling, etc. Passive recreation, such as walking, picnicking, nature observation, is encouraged.
17. Dogs must be on a leash at all times and are not allowed on grass areas.
18. No metal detectors, golfing, horses or unauthorized motor vehicles will be allowed into the Topsfield cemeteries or parks.
19. No grave markers of any kind may be put into place without first checking with the Parks and Cemeteries Superintendent.
20. No recreational vehicles, registered or unregistered, may be operated in the Topsfield cemeteries or parks. Examples include motorbikes, skimobiles, ATVs, etc.
21. The Parks and Cemeteries Department will not be responsible for flags, grave markers, flag holders, flowers or decorations which are placed at grave sites.
22. The cemetery staff reserves the right, without prior notification, to move any grave stone or memorial in order to perform their duties and responsibilities on owner's lots or neighboring lots.
23. All flower beds or ornamentation not conforming to the listed regulations will be corrected by the Parks and Cemeteries Department staff at the family's expense and without prior notification.
24. If financial hardship assistance is needed for interments, please contact the Parks and Cemeteries Superintendent to see if special arrangements can be made.

**25. No eternal flames or lit candles in open or closed containers are allowed in Topsfield cemeteries due to fire safety reasons.**

**26. No open flame grilling or burning is allowed in any Topsfield park or cemetery due to fire safety reasons.**





## TOWN OF TOPSFIELD

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Department of Public Works  
Parks and Cemeteries

### **RULES & REGULATIONS ADDENDUM** **Intestate Succession of Cemetery Lots and Burial Rights**

The Topsfield Select Board shall endorse Intestate Succession requests by heirs for grave lot rights not included in a Will by the lot holder using the following criteria.

#### **Massachusetts General Law (MGL) affecting cemetery licenses of burials**

MGL, Part 1, Title XVI, Chapter 114, Section 31 states: *If in a will no express disposition or other mention of a cemetery lot owned by the testator at his decease, and wherein he or any other member of his family is buried, the ownership of the lot shall not pass from his lawful heirs by any residuary or general clause of the will, but shall descend to his heirs, as if he had died intestate.*

#### **Determination of heirs and burial rights**

- a) Heir-at-Law – Anyone who has a legal right to inherit from someone who dies without leaving a *Last Will and Testament* or other estate plans relative to a cemetery license of burial.

The status can be important in settling the license of burial rights and to determine who might be entitled to challenge a cemetery license of burial when the deceased does not leave a will.

- b) Heirs-at-Law and their rights to inherit are typically decided in “intestate succession”; namely the surviving spouse and/or children of the deceased. If there is no surviving spouse, the children of the deceased share equally.

The typical succession order is as follows:

- Surviving spouses and children – First to inherit
  - The deceased's parents, if no surviving spouse or children
  - Surviving siblings of the deceased and their children if the deceased's parents are pre-deceased.
  - Collateral heirs –Other next of kin would inherit if there were no surviving spouse, children, parents, siblings or their children.
- c) The Topsfield Parks and Cemeteries Department shall follow the intestate succession line set forth immediately above when resolving contested burials if the deceased owner of a lot does not leave a will or leaves a will that does not make express disposition or other mention of a cemetery lot owned by the deceased. The Topsfield Parks and Cemeteries Department shall require a document allowing for the proposed burial of an heir signed by all eligible heirs-at-law over the age of 18. The fully executed and notarized document must accompany each request for burial. If necessary, the Department reserves the right to request a family tree and affidavit to verify the validity of the request.
- d) Burial rights shall terminate after a lapse of generation unless so documented by a fully executed and notarized letter from the preceding successor heir-at-law.

The Town of Topsfield, Topsfield Parks and Cemeteries Department and its employees and its agents will be held harmless and are not to be held responsible for any burials or interments where the heirs-at-law misrepresented their position in intestate succession.

The Town of Topsfield reserves the right to amend this Addendum at any time without notification. The amended Addendum, as part of the cemeteries' Rules and Regulations, will be available on the Town's website or by contacting the Parks and Cemeteries Department.

### **Perpetual Care**

The lot holder, heirs or assigns are responsible to contribute to perpetual care for the burial grave or graves. Perpetual care is a one-time payment that is made at the time of purchase. If there has not been a contribution towards perpetual care during the lot's ownership, a payment at the current rate must be made prior to any subsequent burial. Interest from the perpetual care fund is used towards the care and maintenance of Topsfield's cemeteries.

Approved June 27, 2022