

## Chapter 113

### CEMETERIES

#### § 113-1. Creation of Commission; membership; definitions.

- A. The Board of Trustees of the Village of Horseheads hereby establishes a Board of Cemetery Commissioners.
- B. The members of the Cemetery Commission shall be the members of the Board of Trustees. The Trustees shall automatically be Cemetery Commissioners only for the duration of their terms as Trustees. The Chairperson of the Board of Cemetery Commissioners shall be the Mayor of the Village.
- C. Throughout this chapter, the terms "Village," "Board of Trustees," "Commissioners" or "Cemetery Commissioners" shall mean the Board of Trustees of the Village of Horseheads and those persons then currently serving in such capacity. As used in this chapter, the following terms shall have the meanings indicated:

GRAVE — The individual feature or area in the cemetery where a body or human remains (occasionally more than one) is buried in a pit or its equivalent, including any marker or monuments associated with it.

LOT — A portion of the spatial organization of the cemetery, located in a section, laid out to contain up to six or seven graves.

OWNER — The person(s) to whom the cemetery has conveyed the right of burial or the person(s) who holds such right by inheritance pursuant to New York State General Municipal Law § 163.

#### § 113-2. Maple Grove Cemetery rules and regulations.

In its capacity as the Board of Cemetery Commissioners and pursuant to § 15-1504 of the Village Law,<sup>1</sup> the Board of Trustees hereby establishes the following rules and regulations for the operation of Maple Grove Cemetery:

- A. Sale of lots.
  - (1) Application for the purchase of a grave in Maple Grove Cemetery for the purpose of interment shall be made to the Village Clerk.
  - (2) Upon payment in full of the price of such grave, as established from time to time by the Board of Trustees by local law or resolution, the Clerk shall issue to such applicant a cemetery deed for the same.
  - (3) No grave shall be sold unless at the same time such applicant gives to and deposits with the Clerk a sum of money to be held in trust by the Village for the perpetual care of said grave, which sum shall be in an amount as determined by the Board of Trustees from time to time by local law or resolution. At such time, the applicant shall be issued a perpetual care receipt.

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1. Editor's Note: NY Village § 1-100 et seq.

- B. Ownership rights. The purchaser of a cemetery grave acquires no title to the soil but merely an easement or right of burial therein. Such right of burial descends to his or her heirs at law or devisees. While an owner may convey such grave to any other party if no burials have been made therein, after a burial, he or she can do no more than permit others to be buried thereon. Upon the death of such owner, the rights of burial descend unto his or her heirs or devisees, who may exercise such burial rights or permit others to be buried therein. Nothing prevents the owner or owners of the burial rights from surrendering such rights to the unused portion of a lot to the Village for the purpose of resale by such Village. Descent and devise of such burial rights is subject to the privilege of a surviving spouse and children as set forth in § 163 of the New York State General Municipal Law. An owner may not allow interment to be made in a grave for compensation.
- C. Care of graves.
- (1) Owners of cemetery graves shall be subject to an annual assessment charge for the purpose of keeping such graves in good and proper condition pursuant to § 15-1506 of the Village Law.
  - (2) The receipt of perpetual care funds shall not prevent the Village from levying an annual care assessment on all cemetery graves; and in the event that such an assessment is levied, such perpetual care funds will be used for special care of such graves over that given other graves for which no perpetual care has been received.
  - (3) The Trustees have the power, as provided in § 15-1506 of the Village Law, to enforce annual assessments which remain unpaid.
- D. Privileges and restrictions.
- (1) Each grave in the cemetery will, prior to its sale, be marked with a suitable marker, placed on each grave corner and set level with the adjacent ground.
  - (2) No mounds shall be raised upon any grave above the general level of the lot. The Village reserves the right at any time to remove unsightly mounds and to resod the grave at the general level of the lot.
  - (3) No hedges, fences or enclosures, curbing, decorative rocks or borders of any kind will be permitted on or around graves or lots. Standup decorations, wooden boxes, wreaths, glass jars, glass containers, glass ornaments or bottles, plastic containers, toys, cans and other unsightly objects will not be permitted and, when used, will be removed by the Village without notice and without responsibility for preservation. Flags and emblems not exceeding 12 inches by 18 inches may be used. No decorations of any type are permitted in trees or other plantings.
  - (4) All landscaping, care of graves or lots and other work in the cemetery will be done by the Village. Individual lots are not permitted to have trees, planting or shrubs.
  - (5) The Cemetery Commission reserves the right for its workers and those other persons necessary to the performance of normal cemetery operation to enter

upon or cross over any lot in the cemetery in the performance of such duties.

- (6) The Cemetery Commission or its employees assume no liability for damage as the result of physical or mental injury in the performance of its normal operation or loss by vandalism or other acts beyond its reasonable control.
- (7) The Village reserves the right to amend or change rules and regulations to conform to newly developed cemetery practice.
- (8) The Village retains to itself, for the benefit of all interment right owners, full and complete supervision, control and management of the land, buildings, improvements, roads, walks, utilities, development, books and records, and the full and complete authority, rights and privileges to make, change, administer and enforce all rules and regulations.

E. Rules for visitors.

- (1) The cemetery will be open to visitors at all times between the hours of 8:00 a.m. and sunset. Permission to enter the cemetery at any other time must be obtained from the Cemetery Sexton or Police Department.
- (2) Visitors are required to use the walks and drives and are forbidden to trespass on cemetery graves or lots, any garden or grassy area, or pick any flowers (either wild or cultivated) or injure any shrub, tree or plant or mar or deface any monument, stone or structure in the cemetery.
- (3) Vehicles traveling within the cemetery shall not exceed 15 miles per hour.
- (4) Visitors and contractors performing work within the cemetery shall be subject to these rules and regulations.

F. Interments.

- (1) All interments shall be made in a permanent-type outer container. The Village reserves the right to supply a minimum-quality outer case of sufficient strength to support earth covering, at cost plus a handling charge, if not otherwise supplied.
- (2) All graves shall be dug by the Village under the direction of the Cemetery Sexton. Depth of graves shall conform to ruling by the State Board of Health.
- (3) A charge for opening and closing a grave will be made at a current rate, as determined from time to time by the Board of Trustees by local law or resolution, which charge shall include opening of the grave, removal of excess material, refilling and sodding with grass.
- (4) No burial will be permitted until a legal burial permit has been presented to the Cemetery Sexton. The interment of the bodies of persons who have died of a contagious disease shall be in strict accordance with the rules of the State Board of Health.
- (5) The Village reserves the right to designate and set aside portions of the cemetery for the exclusive use of fraternal and religious groups; however, it shall not discriminate in the sale of lots.

- (6) The grave owner or funeral director shall designate the location of the interment in the lot or grave to the Cemetery Sexton, and any change of location made after the opening of the grave has begun shall be at the expense of the party requesting the change. When definite information for locating a grave is not available in ample time for grave preparation so as to meet the time requested for interment, the Cemetery Sexton will exercise its best judgment in making a location in order that the requested time for interment may be met. The Cemetery Sexton assumes no responsibility for any error in such location, and an additional charge will be made for any change requested.
  - (7) The Cemetery Sexton shall be given at least 24 hours' notice in summer and 36 hours' notice in winter, when the ground is frozen, for the opening and preparation of the grave prior to interment.
  - (8) The interment of two bodies in one grave will not be allowed, except in case of an adult and infant or twin children or two children buried at the same time; one adult and two urns of cremated remains; or four urns of cremated remains. No interment of any body other than that of a human being will be permitted.
  - (9) On a semiannual basis, the Village will conduct a cleanout of the cemetery. These will be done the first week of April and the first week of November. During these cleanouts, all flowers, wreaths, emblems, etc., used at funerals or placed on graves at other times will be removed, and no responsibility for their protection or maintenance is assumed.
  - (10) It shall be the obligation of the funeral director to supply such items as artificial grass, lowering device or devices, shelters, tents or similar items as may be necessary for interment to the satisfaction of the Cemetery Sexton.
- G. Removals. Removal of bodies from graves in the cemetery will only be made by the Village or at the direction of the Village Manager in accordance with the requirements of the statutes of the State of New York and the rules of the State Board of Health. Charges made by the Village for removal will be made in accordance with the difficulty of the work and are payable in advance. The minimum charge shall be equal to twice the current charge for opening a grave of similar size.
- H. Stone and monumental work.
- (1) All memorial foundations shall be placed on solid ground not included in the actual grave space, except where the grave liner is of permanent type and of sufficient strength to support the weight of the foundation and memorial and will not interfere with future grave openings.
  - (2) Each monument or grave marker shall rest on a foundation constructed by the Village and paid for by the grave owner or party requesting the same. Charges for foundation work will be in accordance with those established by the Board of Trustees, acting as the Cemetery Commission, from time to time except for very large monuments or those requiring special foundation design. Such foundations shall be specifically approved by the Cemetery Sexton before construction, and the charges for such work will be made in accordance with the costs of such work.

- (3) Foundation work will be done by the Village between the 15th day of April and the first day of November and other times at the discretion of the Cemetery Sexton.
  - (4) For large monuments, the Village reserves the right to require the construction of a foundation of such material, size and design as will provide ample insurance against possible settlement or injury to the stone work.
  - (5) The setting of monuments, stones and markers and the transportation of all tools, materials, etc., within the cemetery grounds shall be subject to the supervision and control of the Cemetery Sexton.
  - (6) All grave markers (sometimes called "headstones" or "footstones") shall be on bronze, granite or government-issued, except when duplicating a grave marker previously erected on that particular plot. All grave markers or monument bases shall be rock pitch. All nosers shall be at least two inches in height and rock pitch. Texas slant or similar markers shall have a minimum of two-inch rock pitch base. Pictures and similar items affixed to the grave markers are strictly forbidden. Grave markers or monuments of any kind shall have no artificial coloring except only as hereinbefore authorized. Individual grave markers which are in addition to family plot memorial monuments shall be restricted to grass markers only, unless they are to duplicate previously erected markers on that particular plot.
  - (7) Stone or monumental work will not be permitted on a grave until the grave is fully paid for, and the Village reserves the right to refuse permission to erect any monumental work not in keeping with the good appearance of the grounds.
  - (8) Unrestricted monument section. Certain designated portions of the older part of the cemetery have unrestricted monument privileges which permit the erection of monuments or grave markers of any selected size and design where grave area is sufficient to place monuments on solid ground and where they will not interfere with future grave openings.
  - (9) Restricted monument sections. In these newer sections of the cemetery, all grave markers for a single grave shall not exceed two feet in length, and double grave markers shall not exceed four feet in length; monuments larger than double headstones will be permitted only on designated lots containing a minimum of 200 square feet. The base area of memorials in such section when exceeding double graves shall not be larger than 6% of the grave area.
- I. Trees, shrubs and flowers.
- (1) All landscaping, including planting of trees, shrubs and flowers will be done by the Village. The Cemetery Sexton has sole and complete authority in regard to planting, maintenance and removal of all trees, shrubs, plants and grass ornamentation in the cemetery and matters pertaining to its beautification, including graves, lots, roadways and grounds. Individual grave or lot plantings may be removed by the Village, without responsibility for preservation.
  - (2) In the event that a grave owner desires to provide for a mausoleum, memorial or landscaping of such grave in a manner herein not specifically permitted, an

application shall be made to the Village Board of Trustees for its consideration and approval. In the event that any grave owner desires to create a special fund for the purpose of providing any care for a specific grave or plot over and above that contemplated herein, namely perpetual care or general care of the cemetery, an application shall be made to said Board of Trustees for its consideration and approval.

- (3) Fresh-cut flowers may be used any time and will remain until, in the judgment of the Cemetery Sexton or his or her staff, they become wilted or unsightly.
- (4) Potted plants in containers not in excess of 10 inches in diameter may be set on graves or lots without disturbing sod. Artificial pieces may be used between November 15 and March 15. No person will be permitted to trim, prune or remove branches from any tree or ornamental shrub in the cemetery whether on his or her lot or not. All work of pruning or trimming trees and shrubs will be done by the Cemetery Sexton or under his or her direction. Upon request, the Cemetery Sexton will do any pruning without charge.

J. Fees, charges and payments.

- (1) All fees and charges are payable at the office of the Village Clerk in the Village Hall, where receipts will be issued for all amounts paid.
- (2) A schedule of fees and charges as established by the Village shall be on file in the offices of the Cemetery Sexton and the Village Clerk. Such schedule may be changed from time to time without advance notice to conform to current economic conditions.
- (3) The price of graves does not include perpetual care. Perpetual care funds will be accepted in addition thereto as provided above.

K. Miscellaneous.

- (1) No person, other than employees of the Village, shall be allowed to perform any work within the cemetery without permission from the Cemetery Sexton.
- (2) Use of the cemetery land as a thoroughfare will not be permitted.
- (3) Any person found in the cemetery grounds after closing will be considered a trespasser.
- (4) Vehicles, bicycles, skates, ATVs, snowmobiles, motorcycles, horses, etc., will not be used or operated on cemetery lands in a manner which is disrespectful of the rights and interests of the grave owners, the interment, and/or the Village.
- (5) Dogs are not permitted on cemetery lands.
- (6) Bringing alcoholic beverages or illegal drugs onto cemetery lands is prohibited.
- (7) No signs, notices or advertisements of any kind shall be allowed in the cemetery unless placed by the Village.

- (8) Peddling or any kind or soliciting the sale of any commodity is prohibited within the cemetery lands, other than by the Village.

**§ 113-3. Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall be punishable by fine or imprisonment, or both, as prescribed by the Chapter 1, General Provisions, Article II, General Penalty, as amended. Each separate violation shall constitute a separate additional offense.

