

## **Thorndike Cemetery Ordinance**

*(Enacted 3/19/16)*

### **Section I. Purpose**

The purpose of this Ordinance is to; (1) establish rules and standards for the use of Thorndike's public cemeteries and (2) authorize and clarify the roles of Town officials in managing its cemeteries.

### **Section II. Administration**

1. The ultimate responsibility for the care of public cemeteries and lots therein shall be under the supervision of the Board of Selectmen, which is authorized to engage personnel and provide, by purchase or contract, necessary equipment and supplies to accomplish this purpose. The Board of Selectmen, following consultation with the Cemetery Committee on what services might be volunteered, will clarify the scope of maintenance work to be carried out by hired personnel and lay those expectations out clearly in a contract for services. The Board of Selectmen, relying on information provided by the sexton, town clerk and Cemetery Committee, are ultimately responsible to keep cemetery maps and ownership records as complete and accurate as possible.
2. The position of sexton is hereby created. A sexton will be appointed annually by the Board of Selectmen to manage burials and interpret lot boundaries for current and prospective lot owners. The sexton will instruct all grave diggers, both professional and authorized lay persons of the deceased, on access routes, location and standards for digging and repairing grave sites. The sexton will be the official with whom funeral parlors, vault companies and authorized persons of the deceased make all burial arrangements. The sexton will also be familiar with rules related to private burial grounds and advise townspeople upon request of their options and the procedure involved. Any compensation for the sexton will be voted upon annually at town meeting. The sexton may also be a member of the Cemetery Committee; they are not to be considered incompatible positions.
3. A Cemetery Committee shall be elected or appointed as determined by town meeting vote. The Committee will tour each of the public cemeteries no less than three times/year to identify maintenance and improvement needs, remove outdated decorations and troubleshoot emerging issues. The Committee will prioritize needs and solicit the input of the sexton before presenting its findings to the Board of Selectmen no less than annually. Recommendations for the ensuing year will be made to the Board no later than December 1st of each year and shared in the Town Annual Report. The Committee shall be familiar with State and Federal requirements, including those pertaining to Veterans, and advise the Selectmen on compliance. The Committee will arrange for flags to be placed on Veterans graves as required by law.
4. It shall be the duty of the Town Clerk to keep a record of all lots selected and assigned and all transfer of lots in all cemeteries. Plans of all the cemeteries shall be accessible to any person desiring information relating thereto, and the Town Clerk shall enter upon said plans all lots selected and the names of the holders thereof. The Town Clerk will make every effort to maintain current contact information for the owners of cemetery lots, requesting updated information at any time a burial or other activity is conducted. Finally the Town Clerk will keep all records of burials, recording information on burial locations as provided by the sexton. When only part of a lot is utilized for inurnment, the location will be noted by description or drawing.

### **Section III. Ownership and Title of Lots**

1. The term "lot owner" or "ownership" shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town, for burial purposes under the rules and regulations as prescribed by the Town and the State of Maine.
2. Any individual wishing to purchase a cemetery lot shall apply to the Town and then select from those lots available, the lot he/she desires to purchase. Only after full payment for the lot, including perpetual care charges, will a deed be issued and recorded in Town records.
3. A receipt indicating full payment from the Town Treasurer will serve as the right of burial.
4. The Title to a cemetery lot entitles the owner the right to use such lot for burial purposes only, for themselves, their heirs or for any person they choose without compensation and in accordance with the Cemetery rules and regulations.

### **Section IV. Lot Embellishments and Decorations**

1. Hedges, fencing, walls, curbing, railings or similar structures or enclosures shall not be erected around gravesites following adoption of this ordinance. Existing structures or enclosures may be maintained but not expanded.
2. No trees may be planted in Thorndike cemeteries by other than Town personnel.
3. All head stones and monuments shall have a concrete or equivalent foundation. All markers shall be flush with the surface of the ground and do not require a foundation.
4. A lot owner desiring to construct a mausoleum, statue/memorial other than a headstone or install lighting of any kind must submit the design to the Board of Selectmen for approval prior to construction/installation. Approval will be granted if deemed to be compatible with the nature of the cemetery and not detract from the value of nearby lots.
5. Permission to plant shrubs (not to exceed 48 inches in breath or height) on lots shall in all cases be obtained from the sexton, who will record the name and contact information of the person responsible for maintenance. The applicant will be provided with a written copy of these rules, making it clear that they are responsible for maintenance, with the Town reserving the right to prune or remove any tree, shrub or vine, or any part thereof, which may become unsightly or dangerous.
6. Flower urns will be allowed. If there is one urn, it shall be placed in front of the monument. If there are two urns, one will be placed on each side of the monument. The same rules apply to evergreen shrubs (one on either side or one in front.) Shrubs shall be maintained by the family. If not maintained properly, the Town is authorized to remove the shrub.
7. Plants, flowers, shrubs or any memorial container will be placed at the owner's risk. The Town assumes no responsibility for any of the above.
8. The Cemetery Committee shall see that flags are placed on Veterans graves in accordance with the requirements of State law. The family may also place flags.
9. All summer decorations shall be removed prior to October 15th. All winter decorations shall be removed prior to May 1st. The Cemetery Committee will remove these items when making their rounds.
10. No glass containers or crushed stone shall be used at any time.

#### **Section V. Opening and Closing of Graves**

1. No interment or disinterment shall take place on any lot in Thorndike cemeteries until such intentions are made known to and approved by the sexton.
2. Upon receipt of a request for interment or disinterment, the authorized family member or funeral home representative will meet with the sexton on the gravesite and receive instructions on where and how the grave may be dug, including instructions for dealing with excess material, packing, grading and reseeding. The sexton will approve scheduled burials such that no more than one will be taking place at the same time to allow for privacy.
3. Following an interment or disinterment, excavators shall be responsible for restoring and leveling the gravesite. No sites shall be mounded. Excavators shall remove all excess material from the site and repair damage to any other plots. Excess material shall be used to level between lots as appropriate. Disturbed areas shall be re-sodded and/or seeded as needed. No mounds shall be raised upon any grave above the general level of the lot.
4. The Town reserves the right at any time to remove unsightly mounds and to re-sod the grave at the general level of the lot. Any grave digger leaving a gravesite improperly restored will be billed for the costs of restoration. Repeated problems will be grounds for grave digging privileges to be revoked. This decision will be made by the Board of Selectmen upon recommendation of the sexton and Cemetery Committee and communicated in writing to the grave digger.
5. Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk as required by law and make arrangements with the sexton. All removals will be made under the supervision of a licensed funeral director. All costs will be assumed by the requestor.
6. All caskets shall be enclosed in a permanent outside container to prevent the earth from caving in. The following are considered permanent outside containers; concrete liner, concrete, copper or steel burial vaults and sectional concrete.

#### **Section VI. Care of Cemetery and Cemetery Lots**

1. All cemetery lots in the Thorndike cemeteries will be provided with perpetual care, which guarantees mowing, removal of debris, road upkeep and righting of fallen headstones. Cleaning of gravestones and maintenance of lot embellishments are the responsibility of the lot owner.
2. As soon as flowers, wreaths, emblems, etc., become unsightly and faded, they will be removed by the Town or its designee.
3. If any tree, shrub, hedge or plant situated on any lot by means of its roots, branches or otherwise becomes unsightly or obnoxious to adjacent lot owners, or detrimental or inconvenient to avenues or paths, the Town will contact the person of record and request that they repair or remove the nuisance within a reasonable period of time. If the Town needs to repair or removes the nuisance, it may bill the responsible party to recover the costs.
4. As required by State law, excavations may not be made within 25 feet of the boundary of a cemetery or known burial space without a special excavation permit issued by the Board of Selectmen or a court order.

## **Section VII. Potential Liability of Town**

1. The Town is not liable in any action for:
  - a. a burial, entombment or inurnment in the wrong lot, grave, grave space, burial space, crypt, crypt space or niche;
  - b. a disinterment, disentombment or disurnment of the wrong deceased remains;
  - c. a repositioning of the remains of a deceased that encroach upon an adjacent lot, space, grave, grave space, or burial space;
  - d. setting or installing a marker, monument, or any type of memorial, or an outer burial container on the wrong lot, space, grave, grave space or burial space; or
  - e. installing any kind of foundation or other type of base for a marker, monument or any type of memorial on the wrong lot or burial space.
2. When a wrongful burial, entombment inurnment, disinterment, disentombment, or disinurnment occurs, the Town shall:
  - a. correct the wrongful burial, entombment, inurnment, disinterment, disentombment or disurnment as soon as practical after becoming aware of the error at its own cost; and
  - b. notify the affected lot owners or family members of the occurrence and corrective action taken with a sincere apology.

## **Section VIII. Finances**

1. The Board of Selectmen, with advice of the Sexton, Town Clerk and Cemetery Committee, shall annually establish and publish a schedule of fees for lots, which shall include perpetual care. The Board may also establish a fee for burials and disinterments.
2. Revenue from the sale of lots plus fees collected shall be deposited into a designated cemetery maintenance account, whose balance will carry forward each year. Monies in this account may only be used for cemetery purposes.
3. As required by State law, at least 30% of the proceeds from the sale of lots will be deposited into a Perpetual Care account and invested by the Town Treasurer and Board of Selectmen. Each year interest earned on this account may be transferred to the cemetery maintenance account and expended. Principal may not be spent.
4. In addition to revenue from the sale of lots, the Town shall appropriate funds each year for purposes of cemetery maintenance and improvements, and may elect to establish a capital improvement fund dedicated to cemetery improvements.

## **Section IX. Miscellaneous Provisions**

1. This ordinance shall become effective upon passage.
2. This ordinance may be amended at any properly noticed and legally called Town Meeting. The Town Clerk is authorized to renumber sections as needed following any amendment.
3. Should any portion of this ordinance be declared invalid by a Court of Law, the remainder of the ordinance remains legally in effect.