

**Town of Petersham  
Cemetery Commission  
Overview and Rules & Regulations**

*Date of Acceptance:* \_\_\_\_\_

The Town of Petersham takes great pride in the existence and operation of its cemeteries. The respect and care shown past citizens of this community is a symbol of appreciation offered by the Town of Petersham for those who have lived here and have contributed to the vitality and health of this community.

The Cemeteries in Petersham come under the responsibility of the Petersham Cemetery Commission (PCC), comprised of seven members who have been appointed by the Selectboard. The Sexton and Veterans' Grave Officer can serve as voting members. The Commission's members along with the Town's contracted employees have dedicated their work and time towards operating cemeteries that are of the highest quality.

The Petersham Cemetery Commission recognizes that the choices and preferences around how to care for one's body or the body of a loved one after death are personal and individual. The Commission therefore commits to honoring individuals' and families' wishes when possible while acting within the laws of the Commonwealth of Massachusetts and the Town of Petersham.

Natural burials, burial of cremation remains and conventional casket burials are options available within the town's cemeteries although not all cemeteries can accommodate all options. Individuals or families may also choose a burial that combines various components of conventional casket burial and natural burial. Individuals, families or funeral directors can discuss specific needs with the Sexton.

Please contact the Petersham Cemetery Commission through the Petersham Town Office with any questions or concerns.

Phone at Town Office: 978-724-3353

Mailing address:                      Petersham Cemetery Commission  
3 South Main Street, P.O. Box 486  
Petersham, MA 01366

For time-sensitive inquiries when the Town Office is closed, contact the PCC via the group email address provided in the town directory on the town website.

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The Cemetery Rules and Regulations are adopted with an intention to be in compliance with Massachusetts General Laws (including, MGL Chapter 114) as well as the orders and laws of the properly constituted authorities of the Town of Petersham. **Should we put the disclaimer re: watershed suggested by Town Counsel here?**

The Cemetery Commission reserves the right to at any time adopt new rules and regulations or amend these rules and regulations. The Cemetery Rules and Regulations will be reviewed annually by the PCC and revised as needed. Any aggrieved person may petition the Cemetery Commission at a regularly scheduled public meeting, if he or she believes an exception to the rules is warranted.

While in our cemeteries:

- Please provide a respectful environment at all times.
- Please keep vehicles on designated roads. Please do not drive or park on the grass.
- Speed limit is 10 MPH.
- Please keep pets under your strict control at all times. Dogs must be leashed. Please curb your pets and pick up after them.

The Town of Petersham and the Cemetery Commission will take all reasonable precautions to protect grave and plot owners and their property as well as all cemetery visitors from loss, damage or injury but shall not be responsible for any such losses, damages or injuries from causes beyond reasonable control including damage caused by the elements, thieves, vandals and unavoidable accidents.

## Lot Representative

Background information:

At the time of grave purchase, the new owner receives a Deed to Right of Burial.

Before an owner dies, they can plan to pass their Deed to Right of Burial on to others in their will. When the owner dies, without accounting for their Deed of Right to Burial in their will; by law, the Deed passes on to their heirs and is owned equally amongst them.

In such cases, Massachusetts State Law states that the joint owners (e.g., the heirs) shall designate to the Cemetery Commission who will represent them in their communications to and from the Cemetery Commission. This person is entered into the PCC's records as the Lot Representative.

Duties of the Lot Representative:

- Communicate on behalf of the family to the PCC (i.e., to request a burial or placement of a permanent marker or other needs as may arise).
- Receive communication from the PCC on behalf of the family.
- Maintain a current address and phone number on record with the PCC.
- Be aware of Massachusetts law regarding descent of lots to heirs. (See *Attachment 2*)
- Be aware of who joint owners are.
- Show due diligence in locating and including joint owners.
- The PCC does not bear any burden as a consequence of misrepresentation.

What does this mean to my family:

- 1) If your family has two or more people who have inherited joint ownership of a family plot, you need to decide who will represent your group in communications with the Cemetery Commission.
- 2) Have the Lot Representative complete, sign and have notarized the Designation of Lot Representative form which is Attachment 1.
- 3) Return the form to the PCC through the Town Office.
- 4) The Designation of Lot Representative form will not need to be resubmitted unless the Lot Representative changes.

What if we don't do this:

If your family does not notify the Cemetery Commission of your Lot Representative, MA State Law dictates that the Cemetery Commission post notice and hold a hearing. Once all interested parties have been heard, the law further dictates that the PCC then enter into record a Lot Representative.

If your family needs help determining the original owner of a family plot, please contact the Cemetery Commission through the Town Office.

## **Burials**

### **Documents Necessary for Burial**

All burials must be authorized in advance by the Sexton.

The Sexton will not authorize burial before receiving or having on record the following documents:

1. Certification from crematorium for burial of ashes or Burial Permit for full burial. *Note: If a Funeral Home is assisting the family, they will provide these documents directly to the Cemetery Commission, and*
2. A signed and notarized "Designation of Lot Representative". (See Attachment 1.)  
*Note: Designation of Lot Representative is not needed when the burial request is made by the original owner of the Deed to Right of Burial or when the burial is for the original owner or their spouse.*

The Town and the PCC shall not be responsible for any delay to a burial nor arrangements needed to accommodate such delay that results from the failure to comply with these rules and regulations.

### **For full burials:**

- Embalming is acceptable, but not required.
- Traditional caskets are acceptable, but not required. Biodegradable caskets and shrouds are acceptable.
- Grave depth of six feet is acceptable, but not required. A minimum grave depth of three and one-half feet is required.
- Vaults are acceptable, but not required apart from East Street Cemetery where vaults are required due to the water level. *Note: Vaults may not later be placed in a grave already containing unvaulted burials. After burial, particularly when a vault is not used, graves may settle by several inches and will be refilled periodically by the Town's contractor.*
- Funeral Home assistance with burial is acceptable, but not required.

If Funeral Home assistance is not used:

1. All documents required by law, including a burial permit (also referred to as a Disposition, Removal or Transportation permit) per MGL Chapter 114, Section 45, must still be provided to the Cemetery Commission or Sexton before the burial can be authorized;
2. A plan for lowering the body into the grave must be approved by the PCC; and
3. A signed liability waiver will be required.

For burial of cremation remains:

- Vaults are acceptable, but not required.
- Urns are acceptable, but not required.
- Funeral Home assistance with the burial is acceptable, but not required.

If Funeral Home assistance is not used:

1. All documents required by law, including MGL Chapter 114, Sections 47, must still be provided before the grave can be opened. This will include a certificate from the crematorium that the burial permit and death certificate were duly presented prior to cremation. (Note: If cremation remains of more than one person will be buried together, all documents required by law will be needed for each individual's remains.)

Grave and burial fees must be paid in full prior to burial. Waiving of this fee may be considered by the PCC upon request.

The grave opening/digging for cremation and full burials must be done by the Town's contractor. Family and friends may assist with closing the grave with final closure completed by the Town's contractor.

A full body burial cannot occur in a grave that already contains cremation remains.

**Cost for Burial**

	<b>April 1 through November 30</b>		<b>December 1 through March 31</b>	
	Weekday	Weekend/Holiday *	Weekday	Weekend/Holiday *
<b>Full burial</b>	\$350.00	\$450	\$450	\$550
<b>Burial of cremation remains</b>	\$125	\$225	\$225	\$325

\*Holidays are those observed by the Town of Petersham and the Commonwealth of Massachusetts: New Year's Day, Martin Luther King, Jr. Day, Washington's Birthday, Patriots' Day, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day

**Please contact the Petersham Cemetery Commission through the Petersham Town Office to arrange a burial (978-724-3353). For time-sensitive burial needs (e.g., death has occurred) when the Town Office is closed, contact the PCC at the group email address provided in the town directory on the town website. *Note:* The Sexton can only authorize burials requested by the original lot owner, their spouse, designated lot representative or a funeral director acting on behalf of one of them.**

## **Grave Purchase**

New grave purchase is available as follows:

West Road Cemetery- Single graves or multiple abutting graves are available.

Flat Rock Cemetery- No availability for new grave purchase.

Center Cemetery- No availability for new grave purchase.

Goddard Cemetery- No availability for new grave purchase.

Nichewaug Cemetery- New grave purchases available for cremation burials only.

Mann Cemetery- No availability for new grave purchase.

Williams Cemetery- No availability for new grave purchase.

East Street Cemetery- Single graves or multiple abutting graves are available. A vault is required prior to burial.

Ledgeville Cemetery- New grave purchases available for cremation burials only.

One grave can accommodate:

- Burial of up to four cremation remains

OR

- Burial of one human body later followed by up to three burials of cremation remains. (Note: In graves that will accommodate the burial of one human body and cremation remains, burial of the cremation remains can only occur after burial of the human body.)

OR

- One natural burial

The fee for one grave is \$100. Perpetual Care for each grave is required and costs \$300 as a one-time payment for residents of the Town of Petersham. Since real estate tax revenues supplement this charge and present and past residents have provided these revenues, non-residents will be charged a one-time \$600 fee for Perpetual Care.

At the time of purchase, a person who does not have a resident street address within the 01366 zip code will be charged the non-resident total fee of \$700 (\$100 for the Deed to Right of Burial and \$600 for Perpetual Care). The buyer may subsequently request and obtain a refund of \$300 of the Perpetual Care charge, consistent with the charge of \$300 to residents, if the Cemetery Commission determines that the buyer has strong ties to the community. (For example, a prior town resident who has moved to another town for senior housing needs.)

	Grave Costs	
	Grave Fee	Perpetual Care one-time fee
<b>Resident</b>	\$100.00	\$300.00
<b>Non-resident</b>	\$100.00	\$600.00

To assure that PCC records remain accurate, the Deed to Right of Burial cannot be sold to a third party, but can be sold back to the Town of Petersham. The original purchase price of \$100 will be returned to the owner.

Payments related to Perpetual Care are not refundable.

If, prior to the time of burial, a grave becomes unusable due to growth of tree roots, discovery of ledge, or other unforeseen circumstances, the PCC will contact the owner or designated representative of lot to discuss other options which will include other grave sites at no additional cost or refund of the original purchase price including the fee for Perpetual Care.

Upon full payment for the purchase of a grave(s), the purchaser will receive a Deed to Right of Burial. This gives the purchaser the right to use the cemetery space for burial of human remains. The land where the grave is located remains the property of the Town of Petersham.

**Please contact the Petersham Cemetery Commission through the Petersham Town Office to purchase a grave (978-724-3353). For time-sensitive needs (e.g., death has occurred or imminent) when the Town Office is closed, contact the PCC via email at the group email address provided in the town directory on the town website.**

### **Monuments**

**Note: The Sexton can only authorize installation of a permanent marker if requested by the original lot owner, their spouse, designated lot representative or a monument company acting on behalf of one of them.**

Monuments made of granite, marble, or stone are acceptable. Any other materials must be approved by the PCC.

The size and shape of monuments should blend with others in the cemetery. Unusually sized or shaped monuments must be approved by the PCC. Monuments within the Center Cemetery may be subject to approval by the Town of Petersham Historical Commission.

Monument foundations below the frost line are required.

All monuments must be placed within the boundaries of the grave or plot with spot for placement marked ahead of time by the PCC. This can be arranged by having the monument company contact the PCC through the Town Office (978-724-3353).

Veterans' markers can be obtained by contacting -----. Installation of veterans' markers will be done by the town contractor for a fee of \$50.00.

Monument repairs, if needed, are the financial responsibility of the grave owner or their family. All needs and plans for monument repair must be reviewed by the PCC. Please contact the PCC through the town office to report monument damage needing repair. The PCC may vote to finance the repair of monuments when no known family members are available.

## **Flowers, Trees, Shrubs, and Decorations**

All permanent work to include plantings of trees, bushes and shrubs performed by owners must be reviewed and approved by the PCC. No planting of new trees will be allowed in Center Cemetery except as determined necessary by the PCC. (For example, to maintain the tree line along Main Street.)

Shrubs and potted or planted flowers must be contained within the boundaries of the grave or plot so as not to infringe on other graves. Decorations must be contained within the boundaries of the grave or plot and must not interfere with the proper upkeep of the cemetery grounds. Decorations must be kept in good repair. It is the responsibility of the owner or family to properly maintain any plantings or decorations within the boundaries of their lot (e.g., watering plants, trimming shrubs, keeping decorations in good repair, etc.)

If plantings have become overgrown or wilted or decorations interfere with cemetery upkeep or have fallen into disrepair (e.g., broken, discolored), the PCC will make a reasonable attempt to contact the owner or designated lot representative so the problem can be rectified. If action has not been taken after 30 days, plants and shrubs may be removed or trimmed and decorations in disrepair may be removed without further notice. The PCC will make reasonable attempts to hold decorations that may be of value to the owner for 12 months. Such decorations can be retrieved by the owner or designated lot representative by contacting the PCC.

The Town of Petersham and the PCC will not be liable for any flowers, trees, shrubs or decorations removed or lost by any cause.

## **Definitions as Used by Petersham Cemetery Commission**

PCC - Petersham Cemetery Commission

Grave - Space to accommodate the burial of one human body or up to four cremation remains, or one human body and up to three cremation remains, or one natural burial.

Plot - Abutting graves with the same owner(s)

Lot number - Number used by PCC to locate a grave(s) on cemetery map

Deed to Right of Burial - An instrument that gives the owner of grave(s) the right to interment of human remains. The land where the grave is located is the property of the Town of Petersham.

Vault - Receptacle made of concrete or equal material that is placed in the grave prior to burial

Perpetual Care - Mowing, grass trimming, seeding, raking, leaf removal, refilling of graves that have settled, and general repair and maintenance of cemetery grounds. This general care does not include the maintenance, repair, or replacement of any monument or performing any special or unusual work at a private gravesite.

**Owner(s) - Person(s) to whom the Cemetery Commission has conveyed a Deed to the Right of Burial or a person(s) who has acquired such rights through inheritance through a will or as per MGL Chapter 114, Sections 29 and 31. Note: If two or more persons have acquired such rights, designation of lot representative must be recorded with the PCC. (See page 3.)**



Conventional Casket Burial - Burial of a human body in which a funeral home assists with body preparation, transportation and burial of the body at graveside.

Natural Burial - Burial of a human body in a way that fosters natural decomposition of the body. This typically means no embalming of the body, no placement of a vault in the grave prior to burial and use of a biodegradable casket or shroud. Burial depth may be less than six feet.

Sexton- Person appointed by the Selectboard to be responsible for authorizing grave openings for burials, the sales of new graves and the marking for placement of monuments.

Veterans' Grave Officer- A veteran and town resident appointed by the Selectboard to oversee the proper upkeep of veterans' graves.

Lot Representative- Person entered into record by the PCC after receiving a signed and notarized "Designation of Lot Representative". This person may have been designated by the PCC in cases of default. (See page 3)

### **Helpful Websites**

Commonwealth of Massachusetts, General Laws, Chapter 114

Funeral Consumers Alliance

Funeral Consumers Alliance of Eastern Massachusetts

Green Burial Council

Green Burial Massachusetts

Town of Petersham – [www.townofpetersham.org](http://www.townofpetersham.org)

### **Location of Cemeteries within the Town of Petersham**

East Street Cemetery – East Street

Williams Cemetery ("The Indian Cemetery") – Old East Street

West Road Cemetery – West Road

Center Cemetery ("Village Cemetery") – South Main Street

North Cemetery ("Mann Cemetery") – North Main Street

Ledgeville Cemetery ("Second East" or "Gates Cemetery") – East Street

Goddard Cemetery ("Coolidge Cemetery") – Hardwick Road

Nichewaug Cemetery – Glen Valley Road

Flatrock Road Cemetery ("Northwest Cemetery") – Flatrock Road

Poor Farm Cemetery- Petersham Town Forest

Howe Family Plot- -----

Chamberlain Cemetery- 34 Leighton Road

Review date:

TOWN LETTERHEAD

**DESIGNATION OF LOT REPRESENTATIVE**

Per Massachusetts General Law, Chapter 114, Section 29: "...If two or more persons are entitled to the possession, care and control of [a lot] they shall designate in writing to [the Cemetery Commission] which of their number shall represent the lot..."

As such, the Cemetery Commission requires that a completed, signed, and notarized affidavit claiming this designation be on record with the Commission or submitted to the Sexton prior to opening any grave or placement of any permanent monument or marker when such request is made by anyone other than the original owner of the Deed to Right of Burial. (*Note:* This is not required for burial of the original owner of the deed or their spouse.)

People claiming to have such ownership rights must be aware of the laws regarding the descent of lots to heirs (Massachusetts General Law, Chapter 114, Sections 29 and 31) who other persons entitled to the possession, care and control might be and show due diligence in locating and including any others with ownership rights.

The Cemetery Commission shall have no duty to verify independently that an individual has represented accurately their legal authority for seeking designation of lot representative. The person claiming designation of lot representative agrees to indemnify and hold harmless the Town and all its representatives against any liability, damages or attorney's fees that arise from any error, misstatement or misrepresentation regarding stated legal authority.

I, \_\_\_\_\_ (Lot Representative), submit that I am the \_\_\_\_\_ (state relationship) of \_\_\_\_\_ (original owner) who died on \_\_\_\_\_. I agree to represent all those entitled to the possession, care and control of the lot in all communication with the Petersham Cemetery Commission. I attest that I am aware of the laws regarding the descent of lots to heirs per Massachusetts General Law, Chapter 114, Sections 29 and 31, who others that are entitled to the possession, care and control might be, and have shown due diligence in locating and including any others with ownership rights. I also understand that any burden for the consequences of misrepresentation of rights in cemetery lots will fall to me.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary Signature

\_\_\_\_\_  
Printed Name of Notary

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ in the County of \_\_\_\_\_, Commonwealth of Massachusetts

## **Section 29:** Indivisible character of cemetery lots; vesting; limitations and conditions; right of interment; designation of representation of lot; record

Section 29. Lots in cemeteries incorporated under section one, tombs in public cemeteries in cities and lots and tombs in public cemeteries in towns, shall be held indivisible, and upon the decease of a proprietor of such lot the title thereto shall vest in the heirs at law or devisees of the deceased subject to the following limitations and conditions: If the deceased leaves a spouse and children, they shall have the possession, care and control of said lot or tomb in common during the life of such surviving spouse. If the deceased leaves a spouse and no children, said spouse shall have possession, care and control of such lots or tombs during life. If the deceased leaves children and no spouse, they shall have in common the possession, care and control of such lots or tombs during their joint lives, and the survivor of them during his life. The persons in possession, care and control of such lots or tombs may erect a monument and make other permanent improvements thereon. The surviving spouse shall have a right of permanent interment for his own body in such lot or tomb, but it may be removed therefrom to some other family lot or tomb with the consent of the heirs. If two or more persons are entitled to the possession, care and control of such lot or tomb, they shall designate in writing to the clerk of the corporation, or if it is a tomb or lot in a public cemetery, to the board of cemetery commissioners, if any, or to the town clerk, which of their number shall represent the lot; and in default of such designation, the board of trustees or directors of the corporation, the board of cemetery commissioners, if any, or the board of health if such lots or tombs are in public cemeteries in towns, shall enter of record which of said persons shall represent the lot during such default. The surviving spouse may release his right in such lot, but no conveyance or devise by any other person shall deprive him of such right.

## **Section 30:** Hearing as to representation of cemetery lot or tomb

Section 30. Before entering of record the name of any person to represent such lot or tomb, the board of cemetery commissioners, if any, or the board of health of a town shall hear the parties entitled to the control thereof at such time and place as it shall have previously appointed by a notice published in a newspaper, if any, of the town; otherwise, by posting a copy in a public place therein.

## **Section 31:** Descent of family cemetery lot to heirs

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

## Questions for Town Counsel:

- 1) Are the additions to our rules and regs (in red) and the Lot Representative form (in red) legally sound?
- 2) Do the laws of lot inheritance apply indefinitely until the plot is full or do they stop at any point (e.g. third generation, fourth...)?
- 3) Does Chapter 114, Section 29 or 30 imply that heirs are only entitled to control, possession and care of lot once every member of the previous generation is deceased?

For example, the original owner and spouse are deceased (Generation A), having left four children with no provision in their wills. Of those four (Generation B), one has now died with no provision in will. Do the newly deceased's children (Generation C- original owner's grandchildren) immediately share entitlement to control, possession and care of lot, or, do the remaining three children of Generation B jointly share the entitlement with it only then passing onto the next generation (Generation C) upon the death of all 4 of Generation B?

- 4) Is there a reason for us to request an affidavit of heirs?

Request for clarification regarding review completed for Cemetery Commission by Town Counsel in November 2022:

In a cemetery established before 1908, can we perform burials in areas of that cemetery that are designated as yellow or red on the watershed map?

If yes, can burials be performed in areas that are designated as yellow or red on the watershed map in a cemetery established prior to 1908, but then had land deeded as an extension to that cemetery in the 1960's/70's?

If yes, does the extension area need to be treated differently than the original section of the cemetery with regards to watershed map?

If burials are precluded in the above scenarios, can the areas be used to scatter ashes?