

**Prospect  
Hill  
Cemetery  
Association, Inc.**

**Nantucket, Massachusetts**

**Rules and Regulations  
of  
Prospect Hill Cemetery Association, Inc.**

**2004  
amended & adopted  
June 11, 2004**

**[www.prospecthillcemetery.com](http://www.prospecthillcemetery.com)**

“Show me the manner in which a nation or community cares for its dead and I will measure with mathematical exactness the tender sympathies of its people, their respect for the laws of the land and their loyalty to high ideals”

**William D. Gladstone**

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## INTRODUCTION

To the families and friends of all those buried at Prospect Hill Cemetery, to all who visit the cemetery and to all those who work or provide a service at the cemetery: Prospect Hill Cemetery is a special place and a place to heal. All of us who volunteer our time for or work at the cemetery do so because of our desire to create a beautiful place for people to remember their loved ones.

Prospect Hill Cemetery lot owners can take comfort in knowing the State of Massachusetts cemetery laws govern how cemeteries operate in the state. The Prospect Hill Cemetery has rules and regulations in conformance with state laws that assure the long-term care and financial stability of the cemetery.

The rules and regulations of the cemetery guide our individual conduct in what we do for the cemetery both in our work and our visitation for the mutual benefit and appreciation of all lot owners.

It is important that all lot owners understand the rules and regulations mandated by the state of Massachusetts and the rules and regulations mandated by the cemetery. Copies of the rules and regulations are available to all lot owners and families. Lot owners may request copies by writing to the cemetery office.

Answers to questions regarding the rules and regulations may be obtained by calling the cemetery office.

In developing this document, it is the intention of Prospect Hill Cemetery to inform lot owners of some pertinent laws of the state and the rules and regulations of the cemetery.

We sincerely hope you are comforted with your visits to the cemetery and want you to know that we would value your comments for improvement in all that we do.

Very truly yours

Theresa McGrady  
President

**GENERAL LAWS OF MASSACHUSETTS CHAPTER 114**

**PART I.  
ADMINISTRATION OF THE GOVERNMENT**

**TITLE XVI.  
PUBLIC HEALTH**

**CHAPTER 114. CEMETERIES AND BURIALS**

**CEMETERY CORPORATIONS**

**Chapter 114: Section 1A Liability of directors, officers or trustees**

Section 1A. No person who serves as director, officer or trustee of a nonprofit cemetery qualified as a tax exempt organization under Section 501(c) of the Internal Revenue Code and who is not compensated for such services shall be liable for any act or omission resulting in damages or injury to another if such person was acting in good faith and within the scope of his official functions or duties unless said damage was caused by an act or omission intentionally designed to harm or by any gross negligent act or omission which results in harm to the person.

Nothing in this section shall be construed as affecting or modifying the liability of any person subject to this section for any cause of action arising out of such person's operation of a motor vehicle.

**Chapter 114: Section 2 Powers and duties of cemetery corporations**

Section 2. (a) Such corporation: (1) shall be subject to chapter 155 and sections 1 to 13, inclusive, of chapter 179; (2) may take and hold only so much real and personal property as may be necessary for the objects of its organization; (3) may lay out such real property into lots; and (4) may grant and convey the exclusive right of burial in, and of erecting tombs or cenotaphs upon, any lot and of ornamenting the same, upon such terms and conditions and subject to such regulations as it shall prescribe.

(b) Upon the conveyance of a burial lot, such corporation: (1) shall assign a number to such lot; (2) shall cause a marker to be installed thereon which indicates such number; (3) shall give a written notification to the purchaser of such lot, or his agent, which notification specifies the location and number of

such lot; and (4) may charge the purchaser of such lot a reasonable fee for the cost of such marker and its installation.

(c) Such corporation shall maintain records concerning the location and numbering of such lots, which records shall be open to the public. Section 34 of chapter 158 shall apply to such corporation.

#### **Chapter 114: Section 3 Records of conveyances of burial lots**

Section 3. Every cemetery corporation created by special charter or organized under general laws shall regularly keep books in which it shall enter all conveyances of burial lots within said cemetery and all instruments of contract relating to conveyances of such lots. Such records, and similar records made by such corporation prior to June second, eighteen hundred and eighty-nine, shall have the same effect as if made in the registry of deeds for the county or district where such cemetery is situated, and no other record shall be necessary.

#### **Chapter 114: Section 3A Cemetery ownership of unclaimed graves; reuse of occupied graves**

Section 3A. No cemetery corporation created by special charter or organized under the provisions of section one shall take over ownership of an unoccupied grave unless a minimum of seventy-five years has elapsed after issuance of a license for the grave by the cemetery corporation or its predecessor in interest; and the cemetery corporation cannot locate the license holder or the holder's successor in interest after making a diligent search. If ownership of the license is ascertained after such a taking occurs, then the cemetery corporation shall pay the fair value of the license at the time of its taking to the owner.

No cemetery corporation created by special charter or organized under the provisions of section one shall reuse an occupied grave except: upon the request and with the consent of a relative or descendant of the decedent occupying the grave, providing no other descendant objects; to provide for the burial of a relative or descendant of the decedent occupying the grave; and if the remains of the decedent occupying the grave will remain in the grave. The municipality where the cemetery is located shall determine, by by-law or ordinance, the method to be used in reusing such occupied graves and may reasonably limit the circumstances under which such reuse can occur.

**Chapter 114: Section 4 Certified copies of recorded deeds and instruments; evidence**

Section 4. The secretary or clerk of such corporation may give certified copies of all deeds and instruments so recorded, which may be used in evidence in the same manner as copies certified by the register of deeds.

**Chapter 114: Section 5 Trust funds**

Section 5. Such corporation may hold funds in trust and apply the income thereof to the improvement or embellishment of the cemetery or to the care, preservation or embellishment of any lot or its appurtenances.

**Chapter 114: Section 5A Burials; designated funeral director**

Section 5A. No such cemetery corporation shall deny the right to perform burials and the functions incidental thereto to the funeral director designated by the representative of the deceased, provided the deceased is otherwise entitled to interment in said cemetery.

**Chapter 114: Section 5B Notification of certain options for burial services; penalty**

Section 5B. Each such cemetery corporation shall notify, or cause the funeral director designated by the representatives of the deceased to notify, the family of the deceased or the person making funeral arrangements for the deceased of the choice of three options for burial services; services at the gravesite without observation of the lowering of the casket into said gravesite, services at the gravesite with observation of the lowering of the casket into said gravesite, or where available, services within a chapel at the cemetery.

A cemetery corporation which violates any provision of this section shall be punished by a fine of not less than one hundred nor more than five hundred dollars.

**Chapter 114: Section 28 Conveyance of lots or interest in lots in trust for preservation as memorial; rights of heirs of owner; control over lot or interest in lot**

Section 28. The owner of any right, title or interest in or to a lot, tomb or monument in any cemetery owned or controlled by any company or association or by any town, may convey or devise the same to such company, association or municipality in trust for the purpose of its preservation as a memorial or as a burial place for the bodies of the owner and his descendants or relatives, or of such other persons as may be specified in the instrument creating the trust, or upon such other trust as may be created by the instrument and accepted by the grantee or devisee; but no such instrument shall be construed to take away the right of the heirs of the owner of a lot or tomb to be buried therein, unless the instrument contains an express provision to that effect. Any such grantee or devisee may accept any such grant, gift or devise, and if it accepts the same shall forever carry out and observe the terms of the instrument by which the grant, gift or devise was made. After the making of a conveyance or the taking effect of a devise and its acceptance by the cemetery authorities, the grantor of the lot, tomb or monument or of any interest therein, or the heirs and assigns of the grantor or deviser thereof, shall have no control over it except such as may be reserved in the instrument.

**Chapter 114: Section 29 Indivisible character of 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 there from 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.

**Chapter 114: Section 31 Descent of family 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.

**Chapter 114: Section 32 Right of wife to interment; release**

Section 32. A wife shall be entitled to a right of interment for her own body in any burial lot or tomb of which her husband was seized at any time during coverture, which shall be exempt from the operation of the laws regulating conveyance, descent and devise, but may be released by her in the same manner as dower.

**Chapter 114: Section 33 Right of husband to interment**

Section 33. A husband shall have the same rights in the tomb or burial lot of his wife as a wife has in that of her husband.

**MISCELLANEOUS PROVISIONS**

**Chapter 114: Section 43A Ownership, maintenance and operation of cemeteries; private profit**

Section 43A. No cemetery established on or after July first, nineteen hundred and thirty-six, shall be owned, maintained or operated except by a municipality or other political subdivision of the commonwealth, a church, a religious or charitable society, or by a cemetery association incorporated as provided in section one, nor shall such a cemetery be maintained or operated for the purpose of private profit or gain, directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining and operating the same. A cemetery lawfully established prior to said date may

continue to be owned, maintained and operated under the form of organization adopted therefore.

**Chapter 114: Section 43B Sale of cemetery lots and plots for speculative purposes**

Section 43B. The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium, for speculative purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is hereby prohibited, and every such conveyance shall be void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to the provisions of this section shall be subject to the penalty provided by section forty-three N.

**Chapter 114: Section 43C Disposition of proceeds of sales; liquidation of indebtedness**

Section 43C. The proceeds of the sales of lots and plots in a cemetery shall, except as hereinafter provided, be applied solely to the improvement and maintenance of the cemetery and the avenues, paths and structures situated therein, for the purchase of additional cemetery land, and for the accumulation of a permanent care and improvement fund. If any indebtedness of a fixed amount is incurred in the purchase of lands for such cemetery, or in making any improvement therein, a sum not exceeding fifty per cent of the gross receipts from the sale of burial lots and plots may be applied to the liquidation of such indebtedness. All moneys received from the sale of personal property and surplus real estate of a cemetery shall be applied first to the liquidation of any fixed indebtedness incurred by it on account of the purchase or improvement of the lands dedicated to cemetery purposes, and any residue remaining after the liquidation of such indebtedness shall be deposited in the permanent care and improvement fund of the cemetery. The provisions of this section shall not apply to any cemetery established prior to July first, nineteen hundred and thirty-six, or to any cemetery owned, maintained and operated by a church or religious society.

**Chapter 114: Section 43K Custodian of fund; administration and investment**

Section 43K. The treasurer of the cemetery in which such community mausoleum is situated shall be the custodian of the permanent care and improvement fund established therefore as aforesaid and every such fund shall be held, administered and invested in the manner provided by law for funds in savings banks of the commonwealth.

#### **Chapter 114: Section 43L Abating or enjoining nuisance**

Section 43L. Any cemetery, community mausoleum or columbarium established, maintained or operated in violation of or contrary to any provision of this chapter shall be a nuisance and may be abated or enjoined as such at the suit of any taxpayer of the commonwealth.

#### **Chapter 114: Section 43O Sale of monuments for cemetery lots by cemetery corporations**

Section 43O. The following corporations owning or operating cemeteries shall not sell or engage in the business of selling monuments for cemetery lots:-- Municipal corporations, cemetery corporations organized under general laws, and cemetery corporations organized by acts of incorporation passed since March eleventh, eighteen hundred and thirty-one. This act shall be deemed an amendment of any charters heretofore granted except charters in which the right to sell monuments is expressly conferred. This act shall not prohibit the sale by any of said corporations of monuments in their possession prior to the effective date of this act.

#### **Chapter 114: Section 45 Burial permits; permits for removal of bodies; certificates of death; deceased veterans**

Section 45. Except as provided in sections forty-four and forty-six, no undertaker or other person shall bury or otherwise dispose of a human body in a town, or remove there from a human body which has not been buried, until he has received a permit from the board of health or its agent appointed to issue such permits, or if there is no such board, from the clerk of the town where the person died; and no undertaker or other person shall exhume a human body and remove it from a town, from one cemetery to another, or from one grave or tomb other than the receiving tomb to another in the same cemetery, until he has received a permit from the board of health or its agent aforesaid or from the clerk of the town where the body is buried. No such permit shall be issued until there shall have been delivered to such board, agent or clerk, as the case may be, a satisfactory written statement containing the facts required by law to be returned and recorded, which shall be accompanied, in case of an original interment, by a satisfactory certificate of the attending physician, if any, as required by law, or in lieu thereof a certificate as hereinafter provided. If there is no attending physician, or if, for sufficient reasons, his certificate cannot be obtained early enough for the purpose, or is insufficient, a physician who is a member of the board of health, or employed by it or by the selectmen for the purpose, shall upon

application make the certificate required of the attending physician. If death is caused by violence, the medical examiner shall make such certificate. If such permit for removal of a human body, not previously interred, from one town to another within the commonwealth cannot be obtained early enough for the purpose, the certificate of death made as above provided or the determination or pronouncement of death made by a licensed registered nurse or a registered physician assistant according to section nine of chapter forty-six and in the possession of the undertaker desiring to make such removal shall constitute a permit for such removal; provided, that such body shall be returned to the town from which it was removed within thirty-six hours after such removal, unless a permit in the usual form for the removal of such body has been sooner obtained hereunder. If the death certificate contains a recital, as required by section ten of chapter forty-six, that the deceased was a veteran, such recital shall appear upon the permit. The board of health or its agent, upon receipt of such statement and certificate, shall forthwith countersign it and transmit it to the clerk of the town for registration. The person to whom the permit is so given and the physician certifying the cause of death shall thereafter furnish for registration any other necessary information which can be obtained as to the deceased, or as to the manner or cause of the death, which the clerk or registrar may require.

**Chapter 114: Section 45A Funeral director's name used in connection with death certificate or burial permit**

Section 45A. No funeral director, whether doing business as an individual, partnership or corporation, shall permit his name to be used in connection with any death certificate or burial permit unless he was specifically engaged to perform the burial to which such permit or certificate relates.

Any violation of this section shall be punished by a fine of fifty dollars.

**Chapter 114: Section 46 Permit for burial of bodies brought into commonwealth; certificate; recording**

Section 46. Whenever a dead body is brought into the commonwealth for burial, accompanied by a removal permit issued under the laws of the state from which such body is brought, such permit shall be received as sufficient authority for burial, and the superintendent or person or persons in charge of the cemetery where the burial is to take place shall make proper endorsements on said removal permit and send it forthwith to the local board of health in the city or town where said cemetery is located. The board of health shall make and retain a copy of said removal permit and return the original to the city or town issuing the same; but if not accompanied by such permit no funeral director or other person shall bury such body or the ashes thereof until he has received a permit so to do from the board of health or its agent appointed to issue such permits, or if there is

no such board, from the clerk of the town where the body is to be buried, or from a person appointed to have the care of the cemetery or burial ground in which the interment is made, if a record is kept of the names of all persons buried therein, or from a duly appointed superintendent of burials in such town who keeps a record of interments. Such permit shall not be issued until the funeral director or other person has delivered a certificate to said board, agent, clerk, superintendent or person having such care, giving the name of the deceased, his age as nearly as can be ascertained, the cause of death, the name of the town where he last resided or from which the body was brought, or, if the death occurred at sea, the name of the vessel upon which it occurred, and any other facts required for record which could be obtained with reasonable diligence, including, in case the deceased was a veteran, a recital as required by section ten of chapter forty-six.

The board of health or its agent, or the superintendent or person having such care, shall, upon receipt of such certificate, forthwith countersign it and file it in his office.

**Chapter 114: Section 46A Veterans; burial; affidavit; veteran graves officer**

Section 46A. No permit for the burial or other disposition of the body of a deceased veteran, known to be such, as the term veteran is defined in section twenty-one of chapter thirty-one, shall be issued unless and until an affidavit, as hereinafter set forth, shall have been filed with the board of health, or body or person having similar powers and duties, issuing such permit, by the undertaker or other person authorized to make such burial or disposition. Such affidavit shall set forth, as far as is known to the person executing it, the name and last known address of the deceased, the date and place of his or her birth, the date, place and cause of his or her death, a summary of his or her service record, and a detailed statement of the location of the burial or other disposition of his or her body.

A certified copy of the affidavit shall forthwith be transmitted by such board, body or person to the veteran graves officer, appointed under section nine of chapter one hundred and fifteen, of the city or town of burial or other disposition of the body. Upon receipt of such certified copy, said veteran graves officer shall, if said deceased veteran did not have his settlement in such city or town, thereupon transmit a copy of such affidavit to the veteran graves officer of the city or town in which said deceased veteran had his settlement, and in the event that said deceased veteran had no settlement in the commonwealth and was not a resident of the city or town of burial or other disposition, a copy of such affidavit shall be transmitted to the veteran graves officer of the city or town where said deceased veteran last resided.

**Chapter 114: Section 47 Certificates for burial, removal or cremation; indorsement of coupon accompanying permit; record**

Section 47. No person having the care of a cemetery, burial ground or crematory shall permit the burial, removal or cremation of a human body until the permit for such burial, removal or cremation has been delivered to him, nor permit the ashes of a human body to be buried therein until there has been delivered to him a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

Upon the burial, removal, or cremation of a body, the superintendent or other officer in charge of the cemetery or crematory shall indorse upon the coupon accompanying the permit the fact of such burial, removal or cremation, with the date thereof, shall make and preserve in the files of the cemetery or crematory a record of such burial, removal or cremation, including any recital in the burial permit relative to service of the deceased as a veteran as defined in section ten of chapter forty-six, and also the location of the grave or other receptacle of the body or ashes of the deceased, and shall forthwith return the coupon to the office issuing the same; provided, that if there is no officer in charge of the cemetery or crematory, such duties shall be performed by the undertaker.

**Chapter 114: Section 48 Cremation; certificates for burial**

Section 48. An undertaker shall not bury the ashes of a human body until he has received from the person having the charge of the crematory a certificate that the burial permit and the certificate of the medical examiner prerequisite to the cremating of said body have been duly presented.

**Chapter 114: Section 49 Licensing of funeral directors; revocation or suspension; hearing; fees; permits**

Section 49. The board of health of each town shall annually, on or before May first, license persons to act as funeral directors therein upon such terms and conditions as the board of registration in embalming and funeral directing, established by section twenty-nine of chapter thirteen, shall prescribe. All such licenses shall expire April thirtieth each year, unless sooner suspended or revoked. Such licenses shall be issued only to persons certified to the boards of health by said board of registration, before May first each year, as qualified to be licensed as funeral directors. Any license hereunder may, after a hearing, be revoked by the board of health which issued it for any violation of law, local ordinances or the rules and regulations of said board of health, said board of registration or the state department of public health. The fee for such licenses

shall be established by said board of health, but in no event shall any such fee be greater than one hundred dollars per year.

Boards of health shall send to said board of registration, immediately upon the issuance of licenses hereunder, the names and addresses of the persons to whom such licenses were issued.

A person registered and licensed as a funeral director may act as a funeral director in any town; provided, that, unless licensed as a funeral director by the board of health of a town, no person shall establish or maintain in such town a place of business or office or agency, or display in such town any sign indicating that he is licensed therein as an undertaker, funeral director or mortician, or hold himself out in such town as a funeral director without clearly indicating the town wherein he is so licensed.

The board of health of a town shall issue a permit for the continuance therein, under the active supervision of a person licensed as a funeral director in any town, of the business of a funeral director licensed by such board who has died, for the benefit of the estate or persons interested in the estate of the decedent, during such period of time and in such a manner and under such conditions as such board may determine.

## PROSPECT HILL CEMETERY GLOSSARY

**Annual, endowed or special care:** care or maintenance of an individual interment space provided for by agreement between the cemetery and the owner of the space.

**Adornments:** flowers, potted flowers and plants, plantings, religious statues, pictures, personal items, and other such dedication placed on a grave as a tribute for remembrance. **An adornment is not a memorial, marker or an embellishment.**

**Avenue:** a public way, street or thoroughfare.

**Burial:** disposition of human remains by placing them in a grave or niche.

**Burial right:** a right for the burial of human remains in a particular grave or niche created by contract between a person and a cemetery.

**Cemetery:** Cemetery, its authorized representatives and employees, as well as its real and personal property. It shall also mean any land or place used or dedicated for use for burial of human remains or disposition of cremated human remains, and also includes a crematory located on dedicated cemetery property.

**Certificate:** See Deed

**Cremated human remains:** the recoverable bone fragments and container residue resulting from the process of cremation.

**Cremation:** the process of reducing human remains to bone fragments through flame, heat and vaporization. Cremation of a deceased person to incinerated remains shall constitute the final disposition.

**Crypt adornment:** flowers, potted flowers and plants, plantings, religious statues, pictures, personal items, and other such dedication placed on a grave as a tribute for remembrance. **An adornment is not a memorial or marker.**

**Deed:** the document of conveyance issued by the cemetery to the grave purchaser that grants the right of interment in the grave space.

**Dis-interment, dis-inurnment:** The authorized removal of human remains and cremated remains from a grave space or niche.

**Embellishment:** an item contributing to beauty, comfort or enhancement of a cemetery, but does not include a memorial, marker or a disposable, perishable or

seasonal item. **An embellishment is not an adornment.** An example of an embellishment would be a bench, tree or a statue.

**Footings:** The supporting base or groundwork of a structure, as for a monument or a wall.

**Foundation:** either a floating or concrete structure or system upon which a memorial or marker is placed.

**General maintenance charge:** a fee assessed against each interment space for the general upkeep of the cemetery.

**Grave:** a place for underground disposition of human remains or cremated human remains. A grave may include spaces for the disposition of human remains of more than one person, arranged by depth. A grave means a space of ground not exceeding 50 square feet in a cemetery used or intended to be used for interment of human remains.

**Grave adornment:** flowers, potted flowers and plants, plantings, religious statues, pictures, personal items, and other such dedication placed on a grave as a tribute for remembrance. **An adornment is not a memorial or marker.**

**Human remains:** a body, or part of a body, of a deceased human being.

**Immediate Need Section:** A selection of grave spaces set aside at the discretion of the Cemetery that are not available for purchase in advance of immediate need.

**Interment:** the disposition of human remains by burial in a grave but does not mean the temporary storage of remains.

**Interment space:** a grave or crypt intended for the interment of human remains.

**Lot owner:** the person(s) whose name appears as the owner of the burial right on the cemetery records of the cemetery office.

**Maintenance:** all activities of a cemetery company which further the care and upkeep of a cemetery, including cutting lawns, and preservation and repair of drains, water lines, roads, buildings, fences and other structures.

**Endowment Funds:** the care of the entire cemetery to the extent of the income of the Endowment Funds; it does not include providing specific care to individual graves or plots.

**Marker:** See Memorial

**Memorial:** a marker or monument located at a grave containing the name of a deceased person or the family name of a deceased person, or an effigy or other representation of a deceased person buried in the grave. **It does not include an embellishment or adornment.**

**Memorial Park or Lawn Sections:** sections which are designated on the maps of the cemetery where only flat bronze memorials may be installed according to the specifications approved by the board of directors and incorporated in the rules and regulations of the cemetery.

**Monument:** See Memorial

**Monument Sections:** sections which are designated on the maps of the cemetery where granite monuments, flat granite markers, and bronze memorials may be installed according to the specifications approved by the board of directors and appear in the rules and regulations of the cemetery.

**Multiple depth grave:** more than one interment space in a grave.

**Niche:** a space in a columbarium for placement of cremated human remains.

**Officer:** directors, trustee, or officer of the Cemetery Corporation or association.

**Path:** a walk or a way for the use of people on foot. A minimum width of 30 inches and primarily, provides pedestrian access to interment spaces already sold.

**Plot or lot:** an area of cemetery ground containing two or more adjoining graves.

**Roadway:** any open way for the passage of vehicles and persons.

**Special Fees for annual care and continuous care of embellishments on individual cemetery lots:** The cemetery has standard charges for placement of approved memorialization on individual grave spaces. The charges are approved by the cemetery directors and are available in the Cemetery office. There are additional cemetery regulations and charges for individual lot owner embellishments that must have cemetery approval. The charge for initial and continuous care is determined at the time a family makes a request for approval.

**Trustee:** are elected by the lot owners to govern the Cemetery Corporation or association.

**Vault:** a prefabricated outer burial case [opening at the top or bottom] of any material designed to be installed in the ground to receive one or more burials.

## PROSPECT HILL CEMETERY RULES AND REGULATIONS

### 1.0 INTERMENT REGULATIONS

- 1.1 Roadside service is at the discretion of the Cemetery.
- 1.2 No interment shall be made unless the interment space owner provides the Cemetery with written consent for the interment.
- 1.3 Forty-Eight (48) hours notice is required on all interments.
- 1.4 To avoid a cancellation or postponement charge, notify the Cemetery four hours in advance of scheduled arrival time.
- 1.5 The Cemetery will not recognize deed or certificate transfers unless properly recorded in the cemetery books and records and any appropriate fees and trust fund deposits are collected.
- 1.6 Any and all fees must be paid in full, before any burial, unless special arrangements are made in advance with the Cemetery.
- 1.7 **Outer burial containers are required for all interments with the exception:** that no outer container is required in certain religious sections as is predetermined by the Cemetery. The Cemetery may designate certain graves or sections, where vaults will not be required solely at the Cemetery's discretion.
- 1.8 All burial vaults must be placed by the vault company at least one hour before the scheduled interment. No vault company will be permitted to drive its vehicles into the cemetery sections, all vehicles must remain on the roadways. No vault company will be permitted in the cemetery, unless it is authorized to perform work in the cemetery. To receive authorization, the vault company shall provide the appropriate current certifications and a current certificate of insurance coverage to the Cemetery office.
- 1.9 Payment for services is due and payable prior to the service being rendered.
- 1.10 The Cemetery will determine the location of the burial service.

- 1.11 A tent will be provided for a service upon request made to the Cemetery office.
- 1.12 Only cemetery representatives (individuals) who have been authorized by and are under the direct supervision of the Cemetery management shall perform interments. The Cemetery reserves the exclusive right to open/close all graves and niches.
- 1.13 Interments shall be made at a sufficient depth in a grave so as to conform to the applicable laws of the state and in accordance with the depth restrictions of the section in which the grave is located. An interment shall be made within a single interment space unless otherwise allowed by the Cemetery. Closing of an interment space shall be performed at the discretion of the Cemetery under normal operating procedures. If prior arrangements have been made with the Cemetery and the required additional fee is paid in full, the Cemetery shall close the interment space with the family present as soon as it is reasonably possible following the funeral service.
- 1.14 If the Cemetery shall move any memorialization necessary to perform an interment under normal operating procedures, it shall reinstall the memorial within a reasonable time and at its sole discretion may charge the interment space owner of the interment space on which the memorial is located the costs of moving and reinstalling the memorialization.
- 1.15 If the lot owner questions the accuracy of the location of an interment, after a burial took place, the Cemetery shall agree to open the interment space for the purposes of verifying the accuracy of the interment location. The lot owner shall first pay the Cemetery's fees for the opening and sign an affidavit prepared by the Cemetery concerning the manner in which identification shall occur and containing release, hold harmless and indemnification provisions. All required third party authorizations must be obtained where applicable prior to the opening of the interment. Identification of the location shall be made by observation of the casket by the funeral director who provided the service.
- 1.16 No person shall photograph or videotape an interment, funeral service, memorial installation or any portion of the Cemetery grounds. The Cemetery may photograph or videotape an interment, funeral service, memorial installation or any portion of the Cemetery without the consent of the interment space owner.
- 1.17 The Cemetery does not make and hereby disclaims any warranty regarding the materials, equipment, supplies or personal property supplied

or used by any person in the performance of a vault installation or a memorial installation.

- 1.18 The Cemetery is not liable for any property damage, including damage to a casket and its contents, shrubs, plantings, grass, effigies, memorials, etc., or bodily injury sustained during the funeral service or interment. The Cemetery is not liable for the acts or omissions of any third party for any reason, including but not limited to outside contractors.
- 1.19 When instructions regarding the location of an interment in a plot or lot cannot be obtained without undue delay or cannot be obtained at all, or where the instructions given with regard thereto are, in the opinion of the ambiguous, or when for any reason the interment space cannot be opened where specified, the Cemetery may in its discretion open it in such location in the plot or lot as it deems best and proper, so as not to delay the funeral, and the Cemetery, its agents, and employees shall not be liable for damages.
- 1.20 The Cemetery shall not be responsible for any interment or inurnment instructions provided over the telephone or for any error occurring from the lack of precise and proper instructions as to the particular space, size of casket, and location of plot when interment or inurnment is desired. The Cemetery requires that burial authorizations be verified and signed by the lot owner or a person authorized to do so.
- 1.21 All cremated remains interred in adult and children's graves must use a concrete or steel outer burial vault or another approved cremation vault.
- 1.22 The Cemetery permits only two interments or two inurnments in each grave space or one interment and one inurnment in each grave space.

## **2.0 DISINTERMENT (dis-inurnment) REGULATIONS:**

- 2.1 Notarized authorization from lot or grave owner is required. The Cemetery would need this for a removal of an interment and/or a disinurnment.
- 2.2 A disinterment permit from Municipal Board of Health, a certified check for payment of disinterment, an affidavit signed by the lot owner, the spouse, if applicable, and all children over the age of eighteen (18) authorizing disinterment which releases Cemetery from all liability arising out of said authorization, disinterment, removal and reinterment, must be received prior to disinterment.

- 2.3 A Funeral Director is required to be present at disinterment and comply with all local and state ordinances and to provide the cemetery with copies of all such documents.
- 2.4 Only, the individuals who have been authorized by the Cemetery and are under the direct supervision of the Cemetery shall perform disinterment. If the interment space owner shall transfer ownership of the interment space after the disinterment to the Cemetery, the interment space owner shall be required to remove any memorials, shrubs, trees and the like at his own expense prior to the disinterment. The Cemetery reserves the right to perform all disinterment and disinterment.
- 2.5 The Cemetery at its discretion may refuse to perform the disinterment at any point if it will endanger the health and/or welfare of the Cemetery, its employees, representatives or the public.
- 2.6 Disinterment shall be performed at a date and time determined at the sole discretion of the Cemetery and as filed with the Municipality.
- 2.7 If a disinterment is requested and the human remains are not in a metal container or concrete vault, at the Cemetery's discretion, an outside shipping container may be supplied to the Cemetery by the owner or surviving next of kin. The owner or the surviving next of kin shall be responsible for the disposal of any outer vault or burial container. The transfer of human remains from its original container shall be the responsibility of the funeral director except for cremated remains.
- 2.8 If a disinterment requires the removal of a concrete or metal vault, the interment space owner shall arrange at their own expense to have a vault company assist the Cemetery in the disinterment. The vault company will be responsible for the disposal of the discarded vault.
- 2.9 The Funeral Director shall be the sole family representative to witness the disinterment. No family members are permitted to be present or observe.
- 2.10 No photos of a disinterment shall be permitted by anyone but an authorized Cemetery representative, at the sole discretion of the Cemetery.
- 2.11 The Cemetery is not liable for any property damage, including damage to a casket, vault, memorial, shrubs, plantings, grass, effigies, etc., or for bodily injury sustained during the disinterment. The Cemetery is not liable for the acts or omissions of any third party for any reasons, including outside contractors. The Cemetery is not liable for damage to the contents of any casket or to adjacent lots.

- 2.12 The Cemetery does not make and/or disclaim any warranty regarding the materials, equipment, supplies or personal property supplied or used by any person in the performance of a disinterment, or memorial reinstallation, including embellishments.
- 2.13 The Cemetery is not liable for mental anguish, shock, or intentional neglect infliction of emotional distress arising out of the disinterment.
- 2.14 The Cemetery may be required to reposition other caskets during the disinterment, and if it does so, it is not liable for damage to the repositioned casket or its contents.

### **3.0 ITEMS PERMITTED ON GRAVES:**

- 3.1 Fresh cut flowers will be permitted through out the cemetery.
- 3.2 Artificial flowers will be permitted on graves from November 1 each year through April 1. Artificial flowers and plants will be removed from April 2<sup>nd</sup>, through the end of October. This permits the cemetery employees to mow and trim the lawns of the cemetery during the growing season. It also protects employees, families, and visitors from objects that might be picked up and thrown while cutting the grass. Additionally, it greatly assists the cemetery workers in the performance of their work to keep the cemetery beautiful.
- 3.3 Flags are permitted at certain times during the year. Flags are in most instances, supplied and placed by Veterans organizations. The flags are not the property of the lot owners or the cemetery. When the flags begin to show signs of wear from the weather, they are removed and ceremoniously burned with appropriate supervision. The Cemetery will not replace missing flags.
- 3.4 Following a burial, temporary grave markers are permitted for a period of four (4) months. At the end of the four (4) month period, the temporary markers will be removed by cemetery workers. All temporary markers must be set flush with the ground.
- 3.5 No other objects, adornments, or embellishments are permitted in the memorial park sections of the cemetery. In the memorial park sections, vigil lights and plantings are not permitted.

#### 4.0 COLUMBARIUM AREAS:

- | 4.1 Adornments or embellishments are not allowed on the exterior of any niche except where specifically provided.
- | 4.2 All containers, receptacles and urns must be engraved with at least the name of the deceased.
- | 4.3 Niche fronts shall only be removed by Cemetery personnel during normal working hours. No person shall open a niche without the consent of the Cemetery.
- | 4.4 The Cemetery has the right to open the niche space to perform work at any time without consent of the owner.

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#### 5.0 OWNERS RIGHTS

- 5.1 The Cemetery shall issue a Deed to the owner for the right of interment in an interment space only after full payment of the purchase, all other charges have been satisfied and a selection has been made. The Cemetery may permit reasonable restrictions to be placed on the Deed by the owner, provided however, the restrictions must be typed on the Deed or attached to the Deed by the Cemetery and the owner's written request for the restrictions is made a permanent record. Deeds shall not be recorded at the registrar's office in any county.
- 5.2 The ownership of an interment space, upon death of the owner, shall pass pursuant to applicable law. An owner who succeeds to ownership by virtue of death of the former owner shall deliver the Deed to the Cemetery and the Cemetery shall issue a new Deed to the new owner. The Cemetery shall not be obligated to issue the new Deed until the prospective owner delivers the certified copy of the probated Last Will and Testament of the former owner, if one exists, Letters Testamentary or Administration issued by the applicable court having jurisdiction, and a completed heirship form made available by the Cemetery.
- 5.3 No work shall be performed or permitted by the Cemetery on any interment space until all Cemetery charges, assessments and liens have been paid in full. Any work to be performed by outside contractors on or at an interment space must be authorized by the owner and the Cemetery office must be notified in writing prior to the work being performed.

- 5.4 The conveyance of interment space in the Cemetery confers only the right of interment therein.
- 5.5 All lots shall be used only for the interment of human or cremated remains.
- 5.6 The Cemetery disclaims all responsibility for loss or damage from causes beyond its reasonable control and especially, from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.
- 5.7 The deed or certificate of conveyance is made subject to the Cemetery's Rules and Regulations. Any verbal representation made by any employee or representative of the Cemetery which is inconsistent with these Rules and Regulations is not binding on the Cemetery.
- 5.8 It is the obligation of the lot owner or any person making payments to the Cemetery to notify the Cemetery of a change of address.

## **6.0 MAINTENANCE OF INTERMENT SPACES**

- 6.1 The owner of an interment space or his designated representative or contractor may perform his own maintenance of his interment space or spaces at his own expense, provided however, he must first obtain written consent from the Cemetery. If an independent contractor is retained to perform the work, the contractor must first present a Certificate of Insurance for liability which is acceptable to the Cemetery. An owner who is given written permission to perform his own maintenance must remove and discard all debris resulting from the work at his own expense. Lot owners are subject to fees based on the cemetery supervision of the hired contractor on cemetery property. See the price list posted by the Cemetery office.
- 6.2 Plantings and adornments which do not exceed the height of the monument or marker, within eighteen inches, (18") of the base or face of the monument or marker shall be permitted in non-memorial park sections of the cemetery. The Cemetery shall not be responsible for damage done by any person to the plantings and adornments. The Cemetery shall not be responsible to maintain or preserve the planting. If the plantings are not maintained or are unsightly, the Cemetery shall remove the plantings at the expense of the lot owner.

- 6.3 Fences or enclosures are not permitted in any section of the Cemetery. Some small borders are permitted to define the eighteen inches, (18") in front of a marker or monument in the non-memorial park sections of the cemetery.
- 6.4 Flowers may be placed on the interment space in conjunction with the funeral service and will be removed within one week of their placement.
- 6.5 No glass containers are permitted in the Cemetery. Flags are permitted only at the grave marker, and can be no higher than 24".
- 6.6 Exceptions to adornment regulations are as follows:
- Palm Sunday:** Palm adornments are permitted. **Easter:** Plants are permitted. **Christmas:** Holiday blankets and holiday wreaths are permitted. **Mother's Day:** flowers are permitted, **Memorial Day:** flowers are permitted, **Father's Day:** flowers are permitted.
- 6.7 For the purpose of performing work in any part of the Cemetery or lot, or part thereof, or on any grave or crypt including, but not limited to, making excavations for any purpose, the Cemetery reserves the right to enter upon and temporarily use any adjoining plot, lot, grave, or crypt, including but not limited to the right to place thereon such tools, derricks and/or materials as may be necessary to perform said work.
- 6.8 If, in order to perform any work, the Cemetery deems it necessary to remove existing tables, chairs, hedges, shrubs, posts, bars, corner markers, entrance sills, enclosures or parts of enclosures, or any ornamentation or embellishment, it may remove, and dispose of the same without any liability and without responsibility for the replacement or cost of replacement thereof. Once the items have been removed, the same may not be reinstalled and will be held for a period of thirty (30) days for the lot owner to claim. If they are not claimed within the thirty (30) days, the Cemetery has the right to dispose of them.
- 6.9 No work shall be performed or permitted by the Cemetery on any interment space until all Cemetery charges, assessments and liens have been paid in full.
- 6.10 Any work to be performed by outside contractors on or at an interment space must be authorized by the owner and the Cemetery office must be notified in writing prior to the work being performed.

## 7.0 GENERAL PROVISIONS

- 7.1 Only persons having Cemetery business or visitors shall be permitted in the Cemetery. All other persons shall be considered trespassers. Trespassers shall be prosecuted by the Cemetery. Hours of cemetery operations may be obtained by calling the cemetery office.
- 7.2 The Cemetery, in its sole discretion, shall have the right to prohibit the possession or consumption of any food or beverage in the cemetery whenever such possession or consumption shall constitute a health hazard, a nuisance, or a detriment to the operation of the cemetery.
- 7.3 **CONDUCT ADVERSE TO THE PURPOSE OF THE CEMETERY:** The Cemetery has the right to prohibit any conduct that in the discretion of the Cemetery is adverse to or inconsistent with the operation and purpose of the cemetery. Such conduct that is prohibited includes, but is not limited to, the following: open fires, barbecuing, burning of materials, the possession and use of weapons, consumption of any alcoholic beverage and engaging in any sports activities, such as ball games, bicycle riding, etc.
- 7.4 **TRAFFIC:** The speed limit for all vehicles using the cemetery shall be 5 miles per hour. Only vehicles registered in accordance with applicable laws shall be permitted in the cemetery. All vehicles shall be operated in accordance with the laws of the commonwealth of Massachusetts. Parking of vehicles shall occur only in designated parking areas or in such manner that shall not impede the free flow of traffic.
- 7.5 **PETS:** No pets are permitted in the cemetery. Pets working under the guidelines of the ADA are exempt.
- 7.6 **SOLICITATION:** Business solicitation of families and visitors in the cemetery is strictly prohibited.
- 7.7 **NO LIABILITY:** The Cemetery is not liable for stolen or damaged personal property while in the cemetery. At all times, families and visitors are encouraged to keep their belongings safe and in a **LOCKED CAR**.
- 7.8 **FUNERAL DIRECTOR:** The Funeral Director shall, maintain order in the Cemetery during funeral services. The funeral director shall provide all information requested by the Cemetery relating to interment, disinterment, heirship, and authorization. The Funeral Director shall act as a liaison between the lot owner, person in charge of the interment or disinterment, and the Cemetery, and as such, shall be considered as the representative of the lot owner or authorized person at all times.

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7.9 RIGHT OF AMENDMENT: The Trustees reserve the right to change or amend these Rules and Regulations at any time and such changes shall be binding upon all lot owners without formal notice of such change or amendment. The Trustees reserve the right to amend and change the rules that would affect past practices within the cemetery if it determines it in the best interest of the cemetery. Such amendments and changes will be binding upon interment right owners.

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7.10 The placement of temporary markers is solely the responsibility of the family. The Cemetery is not responsible if temporary markers are stolen, damaged or misplaced. All temporary markers must have the location of the interment space indicated on them. Temporary markers are not permitted for more than two weeks.

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7.11 The Cemetery has the right to impose additional charges upon the lot owner for the care and maintenance of specific interment spaces

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7.12 The Cemetery makes no guarantee that it will provide any services during times that require overtime of its employees.

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7.13 Driving into cemetery sections is strictly prohibited. Only cemetery employees are permitted to drive equipment into cemetery sections. Monument dealers, vault companies and funeral firms are also prohibited from driving equipment into cemetery sections.

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## 8.0 MEMORIALIZATION REGULATIONS

8.1 In this section, memorialization means a memorial, marker, monument, sarcophagus or any other approved structure set in the cemetery to memorialize the deceased.

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8.2 CHARACTERISTICS: The Cemetery has the right to determine the material, color, size and the degree of uniformity for all memorialization. The characteristics of memorialization within the Cemetery varies. Specific memorialization requirements may be determined by inquiring within the cemetery office.

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8.3 AUTHORIZATION: The installation or the alteration of a memorial will not be permitted until the appropriate Memorial permit, accompanying fees and trust fund fees have been submitted to the Cemetery and approved by the Cemetery. The permit must be signed and countersigned by the family and the Cemetery, before the work may commence. All outstanding cemetery charges, purchase price, care charges or annual care charges,

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liens and assessments must be paid in full before the Cemetery will review the application for permit.

8.4 FOOTING and FOUNDATIONS: The Cemetery shall determine the size, type, method of construction and materials used. A Monument dealer, while installing foundations, footings or performing the erection or setting of a marker or monument shall be responsible for any damage to surrounding plantings, markers, monuments, and embellishments. Monument dealers shall submit appropriate certificates of insurance coverage and execute a hold harmless agreement before they have approval to perform work in the cemetery.

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8.5 LIABILITY: Monument dealers have the responsibility of determining, at the cemetery office, the characteristics of memorialization before entering into an agreement with a lot owner. All dealers, while installing foundations, footings or performing the erection or setting of a marker or monument, will be responsible for any damage to surrounding plantings, markers, monuments, and embellishments.

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8.6 In no event shall the Cemetery be liable for the location or position of the memorial, or damage done to it.

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8.7 The memorial is the personal property of the lot owner and insurance should be obtained for its protection.

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8.8 Installation of footing and foundation shall be scheduled with the Cemetery superintendent.

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8.9 Bronze and granite ledgers will be permitted in designated areas of the cemetery.

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8.10 The cemetery reserves the right to install all flush markers and memorials.

8.11 INSTALLATION REGULATIONS:

A. All monument dealers and installers are to report to the cemetery office before proceeding to install or place any monumentation.

B. The company submitting a request for a Memorial permit will be held responsible for the actions of its employee's, or independent workers it hires to perform the work. Independent workers must have submitted hold harmless agreements as well.

C. Vehicles are not permitted off the paved road into any section.

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- D. No work related to memorials shall take place in the vicinity of an interment service.
- E. The company setting the memorial is responsible for the area to its original condition. All debris must be removed from the cemetery.
- F. Memorials that do not conform to the approved Memorial permit will be removed by the Cemetery. Fees may be charged for the removal of non-conforming or non-authorized monumentation.
- G. Memorials shall not be removed from the Cemetery by any individual or company without prior written authorization by the lot owner or a court order filed with the Cemetery.
- H. In the event that rigging equipment is necessary to set a memorial, a pre-installation conference with the Cemetery is required. This conference will review equipment, routing, setting procedure and storage, if necessary.
- I. Any work requiring an application that is done without obtaining a setting permit will result in an additional fee charged by the Cemetery.
- J. Monuments may be set Monday thru Friday 9:00 A.M. to 3:00 P.M. The Cemetery is open on the weekends for families.

**9.0 EMBELLISHMENTS:**

- | 9.1 Application for memorials, foundations, granite or marble benches, other embellishments, plantings, and sidewalks shall be submitted at the time the plans for the mausoleum plans are submitted. Before construction may commence, the family shall pay all fees and statutory funding.
- | 9.2 All benches must be totally constructed of granite or marble and can be no higher than 18 inches. Bench foundations will be installed only by the Cemetery equal to the seat area of the bench. Officers of the Cemetery must approve benches and their locations.
- | 9.3 Benches are not memorials.
- | 9.4 Each support leg of a bench shall be drilled, doweled and cemented to the seat, but not to the foundation.

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- | 9.5 The lot owner must submit a drawing for approval by the Cemetery showing dimensions and locations of the bench and indicating who will perform the installation.

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