



TOWN OF WENHAM
CEMETERY DEPARTMENT
WENHAM, MASSACHUSETTS

RULES AND REGULATIONS OF

Main Street Cemetery
Main Street Wenham, MA
&
Iron Rail
Rubbly Road Wenham, MA

Table of Contents

1.0. Introduction	2
2.0. Cemetery Hours	2
3.0. Office Hours	2
4.0. Sale of Lots.....	2
5.0. Internment/ Disinterment	4
6.0. Grave markers / plantings/ decorations.....	5
7.0. General grounds rules	7
Addendum – Intestate Succession of Cemetery Lots.....	8

1.0. Introduction

The Wenham Cemetery Commission supervises the operation of and establishes the rules for the three Town cemeteries, Main Street, Iron Rail and Fairfield (Historic closed site). The Wenham Cemetery Commission's goal is to maintain traditional New England cemeteries which are peaceful burial grounds for the citizens of Wenham. It is to further these goals and maintain the cemeteries that these rules are designed and printed.

2.0. Cemetery Hours

The cemeteries are open daily for visitors and plot owners from 7:00 a.m. until dusk. Any unauthorized persons found on any cemetery grounds outside the prescribed opening hours may be deemed a trespasser and as such liable to prosecution.

3.0. Office Hours

All cemetery business may be done through the Cemetery Administrative Assistant at Wenham Town Hall, 138 Main Street, Wenham MA, 01984, 978-468-5520 Ext 6. during normal Town Hall operating hours.

4.0. Sale of Lots

Cemetery lots SHALL not be used for any purpose other than a place of burial for the human dead. Sale of cemetery plots SHALL be restricted to current Wenham residents, or former residents of Wenham of 25-year duration. Prospective buyers SHALL provide documentation satisfactory to the Wenham Cemetery Commission to demonstrate qualification.

Honorably discharged and retired veterans meeting above requirements may purchase plots for themselves at 50% of the listed price. Veterans who die while on active duty or as a direct result of a service-related incident SHALL be granted a plot at no cost. A spouse may be buried next to a veteran at the normal full cost.

The fee structure for plots SHALL be established by the Cemetery Commission, as approved by the Select Board, and is subject to change.

- \$1000 for a full burial plot at Iron Rail Cemetery
- \$500 for a cremation lot at Iron Rail Cemetery

Sale of lots in the fully sold-out Wenham Main Street Cemetery, due to their scarcity as they only come available through Wenham Cemetery Commission repurchase of lots or by cemetery grounds realignment, are subject to the following special process and fee structure.

The Wenham Cemetery Commission SHALL sell lot(s) that become available once per year (May) using the following process.

- The Commission SHALL list the available lots on the town website for a period of fifteen Town Hall business days and SHALL stop accepting purchase applications at the normal Town Hall close of business time.
- The Commission SHALL use a point system to determine priority list of applicants defined in Table 1.0.
- Any prospective buyer SHALL provide documentation to verify their claim to points. The Commission SHALL verify applicants' claims.
- Lot selection SHALL be distributed to applicants in descending order based on cumulative point totals.
- In case of a tie in points the oldest applicant SHALL be first.
- Each purchaser may purchase only one or two adjacent lots.
- Fees SHALL be \$1300 for a burial plot and \$650 for a cremation lot

CAT #	POINT CATAGORIES	POINTS
1	Parent, sibling, or child already interred in a Wenham Cemetery	3
2	Born to a Wenham resident	1
3	Years lived in Wenham	
	25-39 Years	1
	40-49 Years	2
	Greater than 50 Years	3
4	Resident Town Employee with greater than 15 years Service	1
5	Elected or appointed Town Official (consecutive or non-consecutive service)	
	10-19 Years	1
	20 years or greater	2
6	Veterans	
	Honorably discharged or retired veteran or;	1
	Honorably discharged or retired veteran enlisted or commissioned while a Wenham resident.	2

Table 1.0 Point System for Lot Sales

The Wenham Burial Agent SHALL conduct any showing of lots to prospective buyers. Descriptions and locations of plots SHALL be determined by reference to maps maintained with the Cemetery Administrative Assistant at Wenham Town Hall.

Each sale of lot SHALL be documented by deed, signed by the Cemetery Commissioners, with the original copy filed with the Wenham Town Clerk and a copy being given to the deed owner. It is the responsibility of the lot owner as listed on the Town Clerk's original deed, or their inheritor of the lot, to notify the Cemetery Commission of any change of address.

Mausoleums for one or two full burials SHALL only be placed at the Iron Rail Cemetery. An additional plot on both sides of the mausoleum; thus three plots must be purchased for a single mausoleum and four plots for a double mausoleum. The additional plots SHALL not be used for burials.

Plots SHALL not be resold for any price other than the original purchase price. The Cemetery Commission has first option to repurchase any plot. The Cemetery Commission must approve any sale or transfer between parties. The Cemetery Commission SHALL utilize funds from the "Sale of Lots Fund" for the repurchases of plots.

5.0. Internment/ Disinterment

The cemeteries SHALL be available for grave openings from 8:00 a.m. until 3:30 p.m. during Wenham Department of Public Works workdays. Openings may take place on weekends, holidays, and other times dependent on availability or Department of Public Works personnel and payment of a higher fee schedule.

The private funeral director SHALL be responsible for providing to the Wenham Burial Agent, a Burial Permit and a check made out to the Town of Wenham for the appropriate opening fee prior to a burial.

Each full burial plot SHALL contain either one full burial together with one family-related cremation burial or else four family-related cremations. Half-sized plots sold at Iron Rail Cemetery SHALL contain only two family-related cremation burials.

Green Burials, defined as a burial without embalming and not utilizing permanent vaults and/or caskets, SHALL be available only at Iron Rail Cemetery and SHALL be conducted only in accordance with any Massachusetts state regulations. Green burials SHALL use a shroud or biodegradable container. The burial SHALL be at a minimum depth of four feet. A flat marker of at least one foot square centered at the head of the burial SHALL be required if no permanent gravestone is being emplaced.

Sectional grave box/vault covers SHALL not be allowed, only full covers are acceptable.

Fence, curbing, ditch, hedge, or other enclosures erected around any lot SHALL not be allowed.

The grade of all lots SHALL be determined by the Cemetery Commission.

Only Wenham Department of Public Works employees under Wenham Cemetery Commission supervision or other Commission hired individuals SHALL be permitted to open graves with just two exceptions.

- Disinterment by order of a court of competent jurisdiction after a certified copy of such order has been filed with the town
- A coroner directs the disinterment for the purpose of holding an inquest and has filed with the Wenham Burial Agent a signed authorization to release the body to the coroner or the coroner's lawful agent.

Charges, like burial fees, SHALL be paid by check made out to the Town of Wenham prior to the actual disinterment.

The fees for services SHALL be set by the Wenham Cemetery Commission with approval of the Select Board and are subject to change.

The fees for grave openings are as follows:

- Full burial during listed normal hours: \$850.00
- Full burial during other than normal hours: \$1000.00
- Cremation burial during normal hours: \$425.00
- Cremation burial other than normal hours: \$750.00

In case of emergency, extreme weather, or other extenuating circumstances the Wenham Burial Agent may postpone a scheduled interment or disinterment.

For every interment/disinterment, the Wenham Burial Agent SHALL ensure that the Burial Certificate and other necessary information is provided to the Wenham Town Clerk and the Cemetery Administrative Assistant no later than the close of business the next day and SHALL ensure the Burial Agent’s Book is updated.

6.0. Grave markers / plantings/ decorations

The Commission SHALL reserve the right to prohibit or remove items that it deems as disruptive to the character of the cemetery, that may constitute a public nuisance, are an impediment to the maintenance and care of the cemetery, or which may pose a safety hazard.

All gravestones and markers SHALL be subject to approval by the Wenham Cemetery Commission and SHALL be of natural stone or bronze plaques.

Only one gravestone SHALL be allowed per plot and the footprint of the stone SHALL not exceed four square feet or 15% of the lot square footage nor exceed 36 inches in height for a single monument unless approved by the Cemetery Commission. A letter stating the dimensions and composition of a proposed gravestone or marker SHALL be submitted to the Wenham Cemetery Commission for approval prior to any installation other than veteran’s markers provided by the United States government. Veteran’s bronze markers may be installed in addition to a gravestone. Military markers SHALL be installed by the Town of Wenham free of any charge.

A backless bench, with or without engraving, may be installed instead of a gravestone with Wenham Cemetery Commission permission. A bench SHALL cover no more than five square feet or 20% of the plot’s footprint and SHALL be no higher-than-normal sitting height.

Any new grave markers in the historic portion of Colonial Hill or the Proprietor’s Ground section SHALL conform in design, material, and size with adjacent plot markers as judged by the Wenham Cemetery Commission.

The graves of military veterans SHALL be marked by a town-supplied holder and an American flag unless otherwise requested by deed owner or next of kin. Said request SHALL be annotated in the cemetery database by the Cemetery Administrative Assistant. The graves of fire department and police department personnel SHALL be marked by one town-supplied flag holder and fire or police flag at the written request of the deed owner or next of kin. Said

request SHALL be annotated in the cemetery database by the Cemetery Administrative Assistant. In the case of gravestones listing more than one veteran's grave, there will be only one flag holder and flag, but a suitable fixture may be attached to the flag holder to designate the list of veterans being recognized. The holder and flag SHALL be placed in alignment with the left side of the gravestone from the viewer's perspective and six inches forward from the gravestone.

To maintain a uniform appearance in the Iron Rail Veteran's Section, only United States Government supplied headstones or exact dimensional and composition copies in the case of spouse's grave marker SHALL be allowed.

To conduct efficient and safe grounds maintenance, gravestones SHALL be placed on a plot in alignment with adjacent plots as determined by the Burial Agent.

The Cemetery Commission SHALL reserve the right to install all marker foundations. The installation fee of \$25.00 per square foot or part thereof and must be paid in full prior to commencement of work. Requests for foundations SHALL be provided by the monument company and SHALL state plot number, deed owner, and required size of the foundation.

Only natural materials are allowed in the cemetery. Metal, glass, and plastic materials are specifically prohibited as they pose a hazard to maintenance workers. No lights, candles, batteries, non-town supplied flags, or items in motion are allowed. No food, drink, animal feed, or other consumables are allowed on cemetery grounds.

Permanent plantings are allowed but SHALL be within twelve inches of the gravestone or in the absence of a gravestone be in alignment with adjacent plot markers as determined by the Burial Agent. Greenery SHALL not extend into cemetery paths or over adjacent non-owned plots. Plantings SHALL not exceed the height of the gravestone on the plot. Plantings that are not maintained SHALL be pruned or removed at the discretion of the Wenham Cemetery Commission.

Grave decorations of live cut flowers SHALL be removed within one week of placement.

Temporary seasonal plantings are allowed from the 1st day of April until the last day of October but SHALL be in pots of natural material set into the ground.

The Wenham Cemetery Commission maintains individual named perpetual flower funds that provide for an annual planting of flowers just prior to Memorial Day. The required \$300.00 deposit is invested by the Wenham Town Treasurer.

The Wenham Cemetery Commission may accept the gift of memorial trees located in Commission designated locations in common areas. A bronze flat-laid marker of no more than 144 square inches may be placed with a memorial tree after a donation of \$100 is made to the perpetual care fund.

Maintenance cleaning of monuments and gravestones SHALL be done in a manner and with cleaning solutions approved by the Commission.

7.0. General grounds rules

Operators of motor vehicles both public and private SHALL drive with extraordinary care, proceed at no more than 5 mph speed, always stay on paved roads, and never block entrances or exits. Other than DPW vehicles engaged in cemetery work, no vehicles SHALL be on any grass portion of the cemetery.

No cutting or disturbance of flowers, shrubs, or trees on town-owned areas is allowed.

No pets or animals, except service dogs, are allowed on cemetery grounds.

No metal detectors are allowed in the cemetery.

All persons in the cemetery SHALL avoid conduct unbecoming a sacred place. No food or beverages SHALL be consumed on cemetery grounds. Loud talk or noise, sports activities, peddling, soliciting, and the placement of signs are prohibited.

Out of respect, all municipal work in the cemetery SHALL cease during an interment.

Municipal vehicles SHALL be in the cemetery only on cemetery business.

The Department of Public Works, in accordance with inter-department agreement SHALL maintain the trees and shrubs not on deeded plots, conduct mowing, do seasonal leaf cleanups, and maintain roadways.

The Water Commission, in accordance with inter-department agreement SHALL maintain the cemetery water system.

Addendum – Intestate Succession of Cemetery Lots

The Commission SHALL endorse Intestate Submission requests by heirs for Grave Lots not included in a Will by the owner using the following criteria.

Massachusetts General Law (MGL) affecting Cemetery Deeds

- MGL, Part 1, Title XVI, 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.

Process for determining Cemetery Deed Heirs

- Heir-at-law is anyone who's entitled to inherit from someone who dies without leaving a last will and testament or other estate plans relative to Cemetery Deeds.
- This status can be an important factor not only in settling deed ownership but in determining who might be entitled to challenge or contest a Cemetery deed when the deceased does not leave one.
- Heirs-at-law and their rights to inherit are typically decided in an order called "intestate succession", meaning the more closely related you are to a decedent, the more likely it becomes that you are an heir-at-law.
 - Surviving Spouses and Children - first in line to inherit
 - His/her grandchildren would be heirs-at-law only if their parents are deceased
 - Other Relatives—"Collateral Heirs" - The deceased's parents, siblings, grandparents and other next of kin would inherit only if he left no surviving spouse, children, or grandchildren.
 - They would only inherit if no more immediate relatives were living.