

Chapter 18 CEMETERIES*

*Cross references: Streets, sidewalks and other public places, ch. 46.

State law references: Authority to regulate cemeteries, G.S. 160A-341--160A-348, An act authorizing the county of Haywood and the town of Waynesville to jointly establish, improve, and maintain a memorial cemetery for the burial of United States war veterans, S.L. 1949-140; as well as conduct outlined in G.S. 14.288, Civil Disorders.

It is the desire of the Town of Waynesville and the Cemetery Committee to operate and maintain cemeteries that are beautiful, dignified and an appropriate resting place for departed loved ones.

In amending this ordinance, it has become the Town's and Cemetery Committee's desire to offer as much freedom of choice as possible while preserving those regulations necessary to maintain a high standard of beauty and efficiency of maintenance.

Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Cemetery means a burial park for earth interments and columbarium inurnments.

Columbarium means a freestanding structure containing niches for the inurnment of cremains.

Commercial means activities for which money is charged.

Cremains means cremated human remains.

Cremation Burial Space means a land area designated for the burial of cremated human remains.

Deed means the document conveying an easement for a specifically identified area in a cemetery.

Interment means the disposition of human remains by burial in the earth.

Inurnment means the permanent placement of cremains which are contained in an urn in a columbarium or by burial in the earth.

Lot means a tract of land in a cemetery consisting of 10 numbered adjoining spaces and shown on a plat of a cemetery recorded by the Town of Waynesville.

Niche means a recessed compartment in a columbarium designed to hold urns.

Owner means the owner of record of an easement for burial or inurnment within a cemetery.

Section means the numbered divisions as shown on a recorded plat, consisting of multiple lots.

Space means a land area four (4) feet wide and ten (10) feet in length designated for the burial of human remains.

Tour means any group that enters the cemetery with a guide.

Town means the Town of Waynesville, North Carolina.

Urn Garden means a land area two (2) feet wide and two (2) feet in length designed for the burial of cremated human remains contained in an urn.

Sec. 18-2. Burial permitted only in cemetery; notification of superintendent

No person shall bury or cause to be buried any dead body in any place within the town except in a cemetery. The town shall have the right to disinter any such body which may have been illegally buried and have the body removed to a cemetery. Prior to any burial in town cemeteries, the cemetery superintendent shall be notified. No remains except those of human beings shall be interred in any town cemetery.

Sec. 18-3. Scheduling of interments and inurnments.

Committal services requiring staff support may be held any day except New Year's Day, Easter Sunday, Thanksgiving Day and Christmas Day. On days when inclement weather is such that a burial or placement of an urn would not be feasible, the town cemetery superintendent, in consultation with the funeral director, shall have the right to delay burials and the placement of urns. It will be the responsibility of the Town of Waynesville to supply current contact information for staff to a local funeral director in order to effectively communicate related to scheduling.

Sec. 18-4. Sale of cemetery spaces and columbarium niches.

(a) The town shall sell easements for cemetery spaces and for columbarium niches to those persons desiring spaces and niches at such price as may be determined by the Board of Aldermen; however, one person may not purchase more than ten (10) individual spaces and ten (10) niches in a columbarium, except upon special permission from the Board of Aldermen. Columbarium niches and burial spaces cannot be purchased for commercial resale, and will not be sold to funeral homes, churches, or corporations.

(b) Upon purchase of a burial space, the owner will be conveyed an easement deed that shall identify the purchaser and contain a description of the easement purchased. Cemetery easement deeds shall be recorded at the Haywood County Register of Deeds Office by the Town. The Town will pay for the initial recording of the deed.

(c) Upon purchase of a columbarium niche, the purchaser will be issued a certificate granting them the right to use the niche for the inurnment of human remains.

Sec. 18-5. Owner's name to appear on records of Town.

No person will be recognized by the Town as owner or part owner of any lot unless his name appears on the records of the Town as owner or part owner thereof. Notice of any conveyance of any lot, portion of lot, single space, or columbarium niche must be made in writing to the Town Clerk or cemetery superintendent. Conveyances of lots or burial spaces must also be recorded at the Haywood County Register of Deeds Office. If an owner of a lot, portion of lot, single space, or columbarium niche dies and the decedent's interest in cemetery lot(s) is devised to a beneficiary under a will, a copy of the will shall be provided to the Town. If the owner of a lot, portion of lot, single space, or columbarium niche dies intestate, the rights of the owner are to pass to the heirs in the same manner that an interest in an easement typically passes in the absence of a will and proper documentation may be requested to show proof of ownership.

Sec. 18-6. Right of town to repurchase columbarium niche.

The Town may repurchase any unused columbarium niches from the owner at the original purchase price minus a \$250.00 fee for replacement of the niche door and administrative fee, upon written request of said owner.

Sec. 18-7. Restrictions on rights of owners.

Owners of burial spaces and purchasers of columbarium niches in any cemetery owned by the Town are subject to the ordinances, rules, and regulations of the Town now or hereafter adopted. The Town reserves the right to amend at any time its ordinances, rules, and regulations, following a period for public comment.

Sec. 18-8. Identification of remains.

All caskets and all cremation urns shall contain some means of identifying the remains of the deceased contained within the casket or urn in compliance with the laws of North Carolina. This identification shall be either within or on the casket or urn and in conformance with generally accepted practices of the funeral home industry.

Sec. 18-9. Veterans Memorial Section Regulations.

Upon recommendation from the Veterans of Foreign Wars of the United States, the cemetery superintendent may authorize the burial of a veteran in the Veterans Memorial Section of Green Hill cemetery in accordance with Town regulations. The Veterans Memorial Section is reserved for the interment of veterans discharged from active military service under conditions other than dishonorable, and does not include space for spouses, children, or other family members. Spaces for traditional burial and inurnment are assigned in sequential order by the cemetery superintendent. A full copy of the approved regulations are available in the Public Services Department.

Sec. 18-10. County Section.

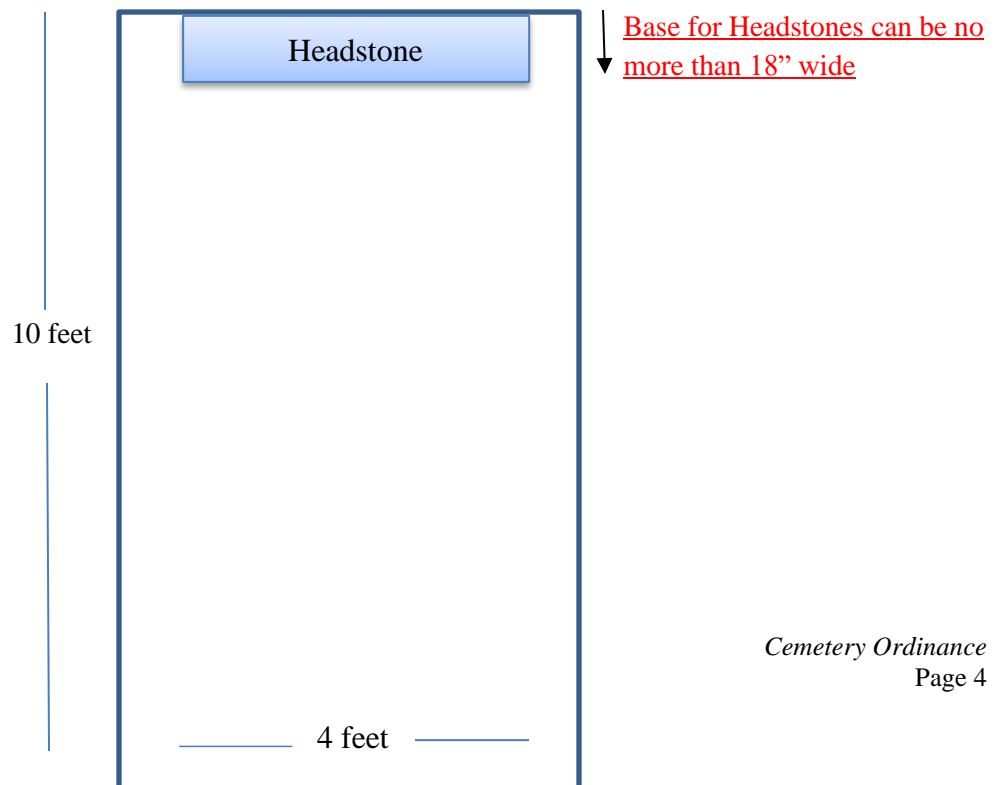
Only those individuals for whom the Haywood County Health and Human Services Agency serves as a Guardian or for whom funeral pre-arrangements have been made through the Health and Human Services Agency on their behalf, or who qualify under the North Carolina General Statutes §§ 130A-415-420 for unclaimed bodies, may be interred or inurned in the County Section of Green Hill Cemetery. Only markers flush with the ground are allowed in the County Section of Green Hill Cemetery.

Sec. 18-11. Space and niche specifications.

Caskets or urns in burial spaces

- (1) All graves for the burial of a casket shall be in accordance with all applicable North Carolina General Statutes contained in Chapter 65 – Cemeteries, and all laws, regulations and requirements therein.
- (2) Headstones must be at the head of the burial space; which is the area that is in line with other headstones and is aesthetically consistent with the rest of the section where the burial space is located and facing a specific geographic direction.
- (3) Concrete or steel vaults are required for the burial of all caskets.
- (4) No more than one body shall be interred in one space except in the case of a mother and newborn baby, unless such space was purchased with the written agreement by the Town that more than one body or the remains of more than one body may be interred, and provided proper identification is made of such interment by the marker.

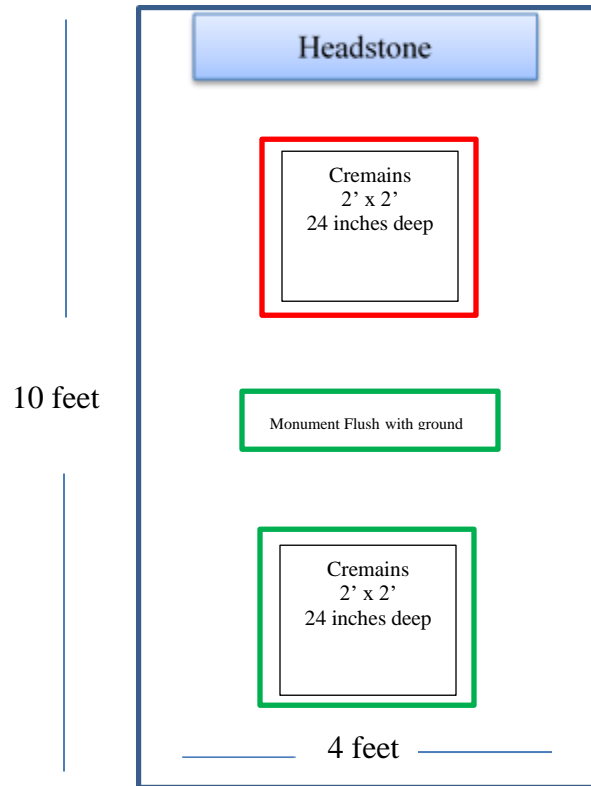
a. Specifications for burial spaces are 4' x 10' and are outlined as noted:



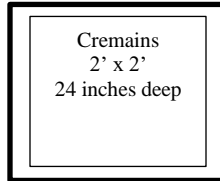
Not more than two urns may be buried in one traditional burial space, and urns may not contain more than two sets of cremains. Cremains may be inurned on top of existing graves provided that the space dug for burial of the urn is a minimum of 24 inches in depth.

b. Specifications for full depth burial and cremains:

- i. If one set of cremains, will be placed at top of the space (diagram in red)
- ii. If two sets of cremains with monument; the monument must be flush with the ground with no vase or attachments and second set of cremains at the bottom of the space (diagram in green). Any vase or attachment may be mounted on the base of the headstone.



Cremation burial space or urn garden. Means a land area designated for the burial of cremated human remains (cremains) and is 2' x 2' in size and is a minimum of 24 inches in depth.



Columbarium Inurnment. Up to two sets of cremains are permitted in a single columbarium niche. Owners must give notice of the number of cremains to be placed in a niche at time of purchase. Additional costs will be incurred by the owner if the number of cremains to be placed changes after the door engraving has been completed.

Urn specifications for both in-ground and columbarium inurnment

(1) No cremation urn shall contain the cremains of more than two individuals. Funeral directors shall assist family members in selecting an urn that is appropriately sized to fit within the 2' x 2' burial space.

(2) The addition of cremains to an urn shall be done by the funeral director, not by town personnel. If any memorabilia are to be placed with the cremains, it shall be done before the container is sealed by the undertaker. Town employees are not permitted to open any urn under any circumstances.

(3) Cremains to be placed in a columbarium niche are recommended to be enclosed in a rigid, permanent, rustproof, waterproof, sealed container; in addition, cardboard or plastic urns are permitted for in-ground inurnment. The Town will not sell urns for cremains.

Sec. 18-12. Opening and closing of spaces and columbarium niches.

(a) Interments or inurnments will only be made after the cemetery superintendent has received the authorization of the owner of the space or columbarium niche, and the opening and closing fees due to the Town have been paid in full.

(b) For traditional burials in spaces, the funeral homes will be responsible for the openings and closings of spaces, and to see that the vault is properly set and sealed.

(c) For burials in columbarium units or for the in-ground placement of cremation urns, the Town will be responsible for the openings and closings. In opening and closing spaces for the burial of cremation urns or in opening columbarium niches for the placement of urns, care shall be taken to avoid damages to monuments, stones, markers and other structures on other lots in the cemetery.

Sec. 18-13. Funeral home opening/closing responsibilities.

All funeral directors and their work crews employed in opening and filling spaces shall be subject to rules and regulations covered in this chapter. It is the responsibility of the funeral director to obtain permission for burial from the cemetery superintendent. Any person failing to conform with such rules and regulations will not afterwards be permitted to work in the cemetery. Extreme or continuous violation of rules and regulations may be cause to bar that funeral home from further burials in the town cemetery.

(a) If other spaces sink due to the weight of the equipment used to open and close a space, or there are damages to drives, trees, sod, monuments, stones, markers and other structures in the cemetery, the funeral home shall be responsible to see that corrections are made, either through repair or replacement.

(b) When work performed pursuant to this chapter is completed, the lots/spaces and surroundings must be left in a clean and acceptable condition. All materials, tools, ground covers, lowering devices, dirt, litter, trash, etc., must be immediately removed by the party in charge of the work.

(c) Ropes or other guides are not to be tied to any tree or other object. No post or anchors will be sunk into any occupied space.

(d) No material, tools, ground covers, lowering devices, etc., shall be left in the cemetery. Such items must be removed immediately after funeral service is completed.

Sec. 18-14. Liability insurance.

Any firm that performs a service of any type in any town owned cemetery such as installing vaults, installing monuments, mausoleums, or grave markers, setting up or taking down tents; directing funerals, or other work and services shall furnish the cemetery supervisor a current certificate of insurance for the following types of insurance coverage:

(a) Workers compensation as required by law;

(b) Comprehensive automobile liability insurance coverage with a combined single limit of not less than five hundred thousand dollars (\$500,000.00) per accident for bodily injury and property damage;

(c) Standard comprehensive general liability insurance providing coverage for operations, products and completed operations coverage with a combined single limit of not less than one million dollars (\$1,000,000.00) at any town owned cemetery.

Firms shall name the Town of Waynesville as an additional insured on their insurance policies.

Sec. 18-15. Markers.

No person shall place any marker within a cemetery without first gaining approval of the cemetery supervisor.

(a) *Burial markers.* For traditional spaces, only one upright family marker shall be permitted for each respective space, and all other markers that may be placed on the space shall be flush with the surface of the ground. Family markers must be placed at either the head or foot of the space.

1. Spaces located in the County Section, on the south side of Golden Drive and in Sections 9, 10, and 11 of the Shook B, and Shook Sections C, D, E and subsequent other surveys shall only feature markers flush with the surface of the ground; no upright family markers are permitted in these sections.

2. For cremains in any location other than a columbarium unit, markers shall be flush with the surface of the ground. All flat grave markers shall be placed in such a manner in a row of graves that they shall be in complete alignment.

(b) *Columbarium markers.* The exterior of every columbarium niche is covered by a door made of a thin granite material, provided by the Town. Information on the granite doors will be limited to the full name of the deceased whose remains are within the niche, and the year of birth and the year of death, such information to be engraved in the same font and of appropriate size by the Town. The Town will make arrangements for this work to be done at the time of purchase. If an owner sells an unused niche, or there is an addition or removal of a name from the door of a niche, the owner shall be responsible for payment for a replacement door.

Sec. 18-16. Repair of monuments.

If any monument or marker becomes unsafe or in need of repair or resetting, the Town, after attempting to give notice to the owner of record of such condition and upon the failure of the owner to correct the condition within ninety (90) days after receiving the notice, reserves the right to repair or remove the same at the expense of the owner.

Sec. 18-17. Improvements and other work.

(a) All construction work, inurnments and internments and improvements to the Cemetery grounds shall be done under the control of the Public Services Department. All permanent planting and removal of trees or shrubs within the cemetery grounds shall be the sole right and duty of the Town.

(b) Any person entering the cemetery for the purpose of working in any space belonging to another shall first present to the Public Services Department a written work order from the owner or his agent. Work on any lot must not interfere in any manner with the walk, decorations or general arrangement of the cemetery.

(c) Neither the respective owners of cemetery lots or spaces nor any other person shall change the contour of any cemetery lot or plot, construct any curb on or around the lots or spaces, or plant or transplant any tree or shrubbery of any kind of the lots or spaces.

(Code 1987, § 93.05)

Sec. 18-18. Permission required for excavations.

No person shall excavate any earth or stone in the cemetery or remove earth or stones except by the consent and under the direction of the Public Services Department. No person shall exhume any remains without first notifying the cemetery superintendent. In no case shall any remains be disinterred without following the requirements of the State of North Carolina for exhumations.

Sec. 18-19. Removal of trees, plants, shrubs.

When any tree, plant or shrub standing in the cemetery shall injure any monument or decoration in any adjoining lot or the lot on which it stands by the drip of its leaves or otherwise, complaint may be made to the Public Services Department. If the Public Services Department shall decide that the tree, plant or shrub should be removed for any cause, the Town shall attempt to have notice served upon the owner to remove the tree, plant or shrub without injury to any tombstone or other trees; and if the owner shall fail or refuse to remove the tree, plant or shrub within thirty (30) days from such notice, the Public Services Department shall have the right to remove the tree, plant or shrub.

(Code 1987, § 93.07)

Cross references: Vegetation, ch. 62.

Sec. 18-20. Placing articles on lots generally.

It shall be unlawful for any person to place any personal property on any lot, space, or columbarium niche with the exception of a marker placed in accordance with this Ordinance.

1. In ground burial spaces

(a) Cut flowers or artificial flowers in permanently affixed containers and approved flags on spaces of soldiers, sailors or marines are permitted.

(b) Items placed on the headstone are permitted, as long as they are permanently affixed and do not interfere with routine cemetery maintenance.

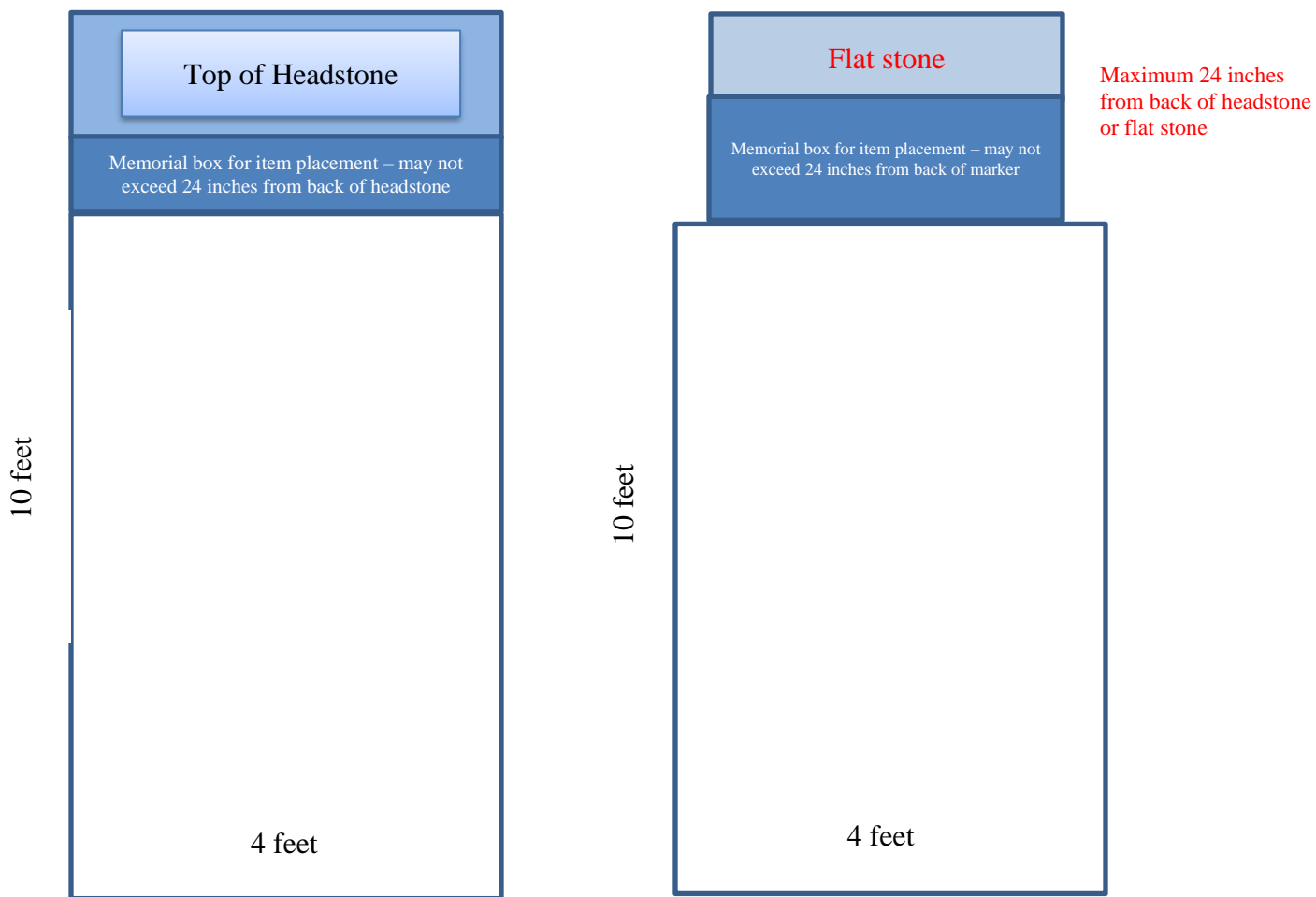
i. Any trinkets, toys, shells, sand, artificial material or anything not permanently affixed to the headstone which may prevent proper mowing and/or interfere with routine cemetery maintenance or cause a safety hazard (such as

becoming a projectile) to town employees or visitors may be allowed if they are contained within an approved memorial box.

- ii. The area of a memorial box may not exceed the width of the headstone and may not exceed 24” from the back of the headstone base in order to allow for a proper maintenance area in each row. The memorial box must be made of formed stone or concrete and must be at least 1” above the ground in front of the headstone and should abut the headstone to prevent staff from having to perform additional maintenance. See graphic below.

*Burial spaces as indicated in Sec 18.11.4(b) will only be allowed a memorial box at the headstone, not at any marker mid-burial site.

View is looking down on an in-ground burial space



- iii. Individuals wishing to utilize a memorial box must first allow staff to approve the materials utilized for the memorial box prior to placement.

Items that are not permanently affixed or in a memorial box shall be tagged for removal and will be removed after fourteen (14) days. Those items will be stored as noted in section 5 below.

**Spaces located in the County Section, on the south side of Golden Drive and in Sections 9, 10, and 11 of the Shook B, and Shook Sections C, D, E and subsequent other surveys shall only feature markers flush with the surface of the ground; no upright family markers are permitted in these sections.

- (c) Glass jars, tin cans or glass vases are not permitted on any burial space.
- (d) One (1) solar powered or other artificial light source is allowed per burial space and should be centered and placed as close to or affixed to the marker. No light source shall exceed the dimensions of 8" x 10". This applies to lights that are included in flower arrangements.
- (e) Benches and settees are not permitted on any burial space, except those already in place prior to January 1, 2017.
- (f) No border, fence, railing, trellis, shepherds crook or yard flag stand/holders, bird houses, coping, hedge, shrubs, trees or any other bounding or enclosing object or material shall be constructed, staked or planted in or around any burial space.

2. Columbarium spaces

- (a) No floral arrangement or any type decoration or other sort of ornamentation or picture may be attached to a columbarium unit. All floral ground pieces, wreaths, or funeral sprays may only be placed at the end of the columbarium unit or in another area designated for this purpose by the cemetery superintendent. No more than one piece per niche space is permitted.
- (b) Solar powered or artificial lights are not allowed on columbarium units.

3. Urn Garden spaces

- (a) No floral arrangement or any type decoration or other sort of ornamentation or picture are allowed in urn garden spaces. All floral ground pieces, wreaths, or funeral sprays may only be placed in an area designated for this purpose by the cemetery superintendent. No more than one piece per urn garden space is permitted.
- (b) Solar powered or artificial lights are not allowed in the urn garden.

4. When any items interfere with routine cemetery maintenance they shall be tagged for removal and will be immediately removed after fourteen (14) days without further notice by to prevent hazards to town employees and visitors. Those items will be stored as noted in section 5 below.
5. Items that are removed from lots or columbarium will be stored onsite for sixty (60) days. Following the end of the sixty (60) days, items will be disposed of if not retrieved.
6. The Town, at its discretion, will conduct bi-annual clean-ups of the Green Hill cemetery and will advertise such clean -ups in the local newspaper, on its website and post signage in the cemetery at least one month prior to the date of each clean-up.

Sec. 18-21. Prohibited acts.

(a) No person shall disturb the peace and good order of the cemetery, except for such construction and maintenance activity permitted by the Town.

(b) No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in the town cemetery or any plank or fence or part of a fence, railing or other structure within the cemetery or from the fence surrounding the cemetery, which is placed for the protection or ornament of the cemetery or any tomb, monument, gravestone or space. Any person who shall destroy, cut down, break, remove or injure any space, tree, shrub, plant or flower that may have been planted or that may be growing in the cemetery or commit any other trespass in the cemetery shall be guilty of a Class 1 misdemeanor.

(c) It shall be unlawful for any person to use the cemetery as a playground.

(d) It shall be unlawful for any person to sell or offer for sale any article of merchandise, any fruit, drink or beverage, or anything of value within the limits of any Town cemetery.

(e) It shall be unlawful for any person to bring a dog or other animal into the cemetery except for service animals. Per the Haywood County Animal Services Ordinance definition, a service animal is any guide dog, signal dog, or other animal individually trained to work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

(f) The scattering of cremains anywhere within the bounds of any town cemetery is expressly prohibited.

(Code 1987, § 93.08)

Sec. 18-22. Hunting in cemetery restricted.

No person shall hunt, kill or trap any bird or animal in the cemetery.

(Code 1987, § 93.09)

Cross references: Animals, ch. 6.

Sec. 18-23. Speed limit in cemetery.

No person shall drive or ride any vehicle in the cemetery in the town at a speed greater than 10 miles per hour.

(Code 1987, § 93.10)

Cross references: Traffic and vehicles, ch. 54.

(Code 1987, § 93.04)

Sec. 18-24. Use of cemetery as thoroughfare prohibited.

No person shall use the cemetery as a common thoroughfare or public walk or as a bicycle path; and all traveling through or across the cemetery, except in connection with cemetery purposes or for the purposes of visiting a burial lot, is forbidden.

(Code 1987, § 93.11)

Sec. 18-25. Perpetual care.

The Town shall provide perpetual care in and for all cemeteries owned and maintained by the town. The term “perpetual care” shall be deemed to include the maintenance and care of all grounds, roadways, entrances, gates, fences, and columbarium constructed by the Town, but shall not include the maintenance, care, refurbishing, repair or replacement of any monument, vault, headstone, marker or any other structure of a like nature used in the interment or inurnment of human remains.

Sec. 18-26. Group Activities/Tours

- (a) The Town permits activities such as history tours, and other events designed to promote the appreciation of our culture or history. No commercial tours are permitted within a Town cemetery.

- (b) Permission for any group activity to take place in the cemetery, other than burials or inurnments, must be obtained from the Town at least thirty (30) days in advance of an event.

- (c) No after dark tours will be permitted.

*Ordinance revised in its entirety 03/2020