

CEMETERY RULES

AND

REGULATIONS

**RULES AND REGULATIONS
OF THE
JOHNSTOWN MUNICIPAL CEMETERY**

1.0 PURPOSE

1.1 DECLARATION OF PURPOSE.

These rules and regulations shall be the minimum requirements enacted for the mutual benefit and protection of the owners of burial spaces at the Johnstown Cemetery and the Town of Johnstown (“Town”) and are enacted to ensure the Johnstown Cemetery maintains a uniform and permanent beauty.

2.0 DEFINITIONS

As used in these rules and regulations, the following terms shall have the meanings set forth below:

BURIAL MEMORIAL - The term “burial memorial” shall mean any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

BURIAL SPACE – The term “burial space” shall mean a grave space or a niche, as appropriate.

CEMETERY - The term “Cemetery” shall mean the Johnstown Cemetery, a burial park for earth and crypt interments.

COLUMBARIUM – The term “columbarium” shall mean a vault with niches for urns containing the ashes of cremated bodies.

DISINTERMENT - The term “disinterment” shall mean the removal of the remains or cremains of a deceased person, the casket, if any, the burial receptacle from the ground or urn from the columbarium.

GRAVE SPACE - The term “grave space” shall mean a single space within a platted lot designed for the interment of one body.

INTERMENT - The term “interment” shall mean the permanent disposition of the remains of a deceased person by earth or crypt burial.

INTERMENT AGREEMENT – The term “interment agreement” shall mean an agreement for the provisional right to interment for the sole use and purpose of receiving interment, entombment or inurnment within the Cemetery.

LOT - The term “lot” shall mean a platted lot within the Cemetery and may consist of more than one grave space.

NICHE - The term “niche” shall mean a location within the columbarium vault designed to hold an urn containing the ashes of up to two cremated bodies.

OWNER – The term “owner” shall mean, unless the context otherwise provides, the person with the right to interment in a burial space or the person who purchases a burial space.

RESIDENT – The term “resident” shall mean a person who resides in the Town of Johnstown, the Town of Milliken or within three miles of the municipal boundaries of the Town of Johnstown at the time of purchase of a burial space, the time of death or within six months prior to the time of death. In its sole discretion, the Town may consider other factors and circumstances in determining whether a person is a resident, including, for example, whether the person moved from the Town of Johnstown to reside in a nursing home shortly prior to the time of death.

TRANSFER – The term “transfer” shall mean any sale, assignment, grant, transfer, conveyance, pledge or encumbrance.

URN – The term “urn” shall mean a vase or other container used to hold the ashes of a cremated body.

3.0 APPLICATION OF REGULATIONS

3.1 COMPLIANCE WITH REGULATIONS.

All owners, visitors, employees, persons working directly or indirectly for owners and all burial spaces sold shall be subject to these rules and regulations, and subject further to such other rules and regulations, amendments or alterations as shall be adopted by the Town from time to time; and the reference to these rules and regulations in the interment agreement to burial spaces shall have the same force and effect as if set forth in full therein.

3.2 EXCEPTIONS AND MODIFICATIONS.

Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. In such an instance, the Town shall have the right, without notice, to make exceptions or modification to any of these rules and regulations.

3.3 AMENDMENTS.

The Town may, at any time, adopt new rules or regulations or amend, alter or repeal any rule or regulation contained herein. Such new or amended rules and regulations shall be binding on the owners of all burial spaces, regardless of when the burial the space was purchased.

3.4 FAILURE TO COMPLY.

Failure to comply with any rule or regulation promulgated herein may be deemed a violation subject to enforcement pursuant to the Johnstown Municipal Code.

4.0 ADMINISTRATION AND ENFORCEMENT

4.1 OWNED AND CONTROLLED BY THE TOWN OF JOHNSTOWN.

The Cemetery is owned by the Town. The Town Manager, or designee, has the right of general control of the Cemetery in all matters, regardless of whether such matters are specifically covered by these rules and regulations.

4.2 MANAGEMENT OF THE CEMETERY.

Except as otherwise provided herein, the Town Manager hereby delegates authority to the Public Works Director for the management and operation of the Cemetery grounds and to the Town Clerk for the day-to-day administration of the Cemetery. The Public Works Director or Town Clerk may designate qualified staff or contractors to undertake the obligations set forth herein.

4.3 BUSINESS OFFICE.

All applications for (i) purchase, transfer, assignment or repurchase of burial spaces, (ii) interment and disinterment orders, or (iii) annual care or special permits of any kind must be made through the Town Clerk at Town Hall, 450 S. Parish, Johnstown, between the hours of 8:00 a.m. and 5:00 p.m.

4.4 ADMISSION TO CEMETERY.

The Town reserves the right to refuse admission to the Cemetery and to refuse the use of any of the Cemetery facilities to any person or persons when, in the Town's discretion, such course of conduct is in the best interest of the Cemetery and the Town.

5.0 PURCHASE OF GRAVE SPACES AND COLUMBARIUM NICHES

5.1 LOCATION AND PRICE OF BURIAL SPACES.

The Town Clerk shall maintain documentation showing the size, location and description of grave spaces and columbarium niches and a schedule of the prices. The schedule of prices for grave spaces and columbarium niches are set by the Town Council by resolution and set forth in the Town Fee Schedule.

5.2 IMMEDIATE USE OF BURIAL SPACE.

In cases where a burial space has not been previously purchased, full payment prior to burial is required, unless the mortuary assumes full responsibility for payment.

5.3 INDIGENCY.

When a request is made by a mortuary to inter an individual with insufficient funds to cover expenses, the Town shall work within the expense allowance granted by the Department of Social Services if the deceased was a resident. The Town may require proof of residency. The Town shall not be prohibited from participating in any arrangement with other cemeteries or mortuaries to share expenses in cases not covered by Social Service allowances.

5.4 REMAINS IN BURIAL SPACE.

Burial spaces shall only be used for human remains.

5.5 APPLICATION FOR BURIAL SPACE TO BECOME CONTRACT WHEN EXECUTED.

Applications for the purchase of burial spaces shall contain a description of the burial space and the purchase price. When executed by the Town, the application shall become a binding contract of purchase and sale of a right of interment only.

5.6 INTERMENT AGREEMENT; NO TITLE TO REAL PROPERTY.

Upon payment of the full purchase price for the burial space to the Town, the Town shall issue an interment agreement, signed by the Town Manager or the Town Clerk, conveying the right of interment for the designated burial space, subject to the Johnstown Municipal Code and these rules and regulations. The interment agreement shall contain appropriate contact information. For burial spaces, the interment agreement shall contain the block and lot number and, for niches, the interment agreement shall contain the niche description and location.

Interment agreements issued prior to adoption of these rules and regulations, or other similar instruments issued by the Town for a burial space in the Cemetery, shall remain valid and binding obligations of the Town.

The interment agreement, or any instrument issued by the Town for a burial space in the Cemetery, of whatever form, grants interment rights only and does not convey title to real property.

6.0 TRANSFERS OR ASSIGNMENTS

6.1 CONSENT OF TOWN.

No transfer or assignment of any burial space, or interest therein, shall be valid without the written consent of the Town, which shall thereafter be recorded on the books of the Town. The Town shall have the right to refuse to consent to a transfer or an assignment if there is any indebtedness due the Town.

6.2 SELLING GRAVE SPACES FOR RESALE.

No burial space shall be sold to or purchased by a funeral director or other persons for the purpose of resale or speculation.

7.0 RIGHTS AND RESPONSIBILITIES OF TOWN

7.1 WORK TO BE DONE BY TOWN.

Except as otherwise provided herein, all grading, landscape work, care of the lots and improvements of any kind shall be done by the Town, all trees, shrubs and bushes of any kind shall be planted, trimmed, cut or removed by the Town, and all opening and closing of graves shall be done by the Town.

7.2 TOWN MUST DIRECT AND MAY REMOVE IMPROVEMENTS.

All improvements or alterations of lots or grave spaces in the Cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the Public Works Director. If, in the Public Works Director's determination, the improvements or alterations become unsightly, the Public Works Director shall have the right to order such improvements or alterations removed, altered or changed without consent of the owner.

7.3 WHEN TOWN IS NOT RESPONSIBLE.

The Town shall take reasonable precautions to protect the property of owners within the Cemetery from loss or damage, but the Town expressly disclaims responsibility for loss or damage to any such property, except as may be caused by the negligent acts of the Town. Included therein, the Town disclaims damage from causes beyond its reasonable control and 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 may be direct or collateral.

7.4 LIABILITY FOR DAMAGES

Any person damaging or causing to be damaged any Cemetery property, whether owned by the Town or by an individual, shall be, in the Town’s discretion, required to repair said damaged property or replace the property damaged to its former state, without delay, and in a manner satisfactory to the Public Works Director. The repair or replacement of the damaged property shall not preclude the Town from seeking other remedies. The Town shall not be liable for any act of owners, visitors, licensees or trespassers within the Cemetery, or for any damage to person or property while within the Cemetery.

8.0 PERPETUAL CARE

8.1 PERPETUAL CARE MANDATORY.

All burial spaces shall be sold with perpetual care.

8.2 PERPETUAL CARE FUNDS.

Fifteen percent (15%) of the monies and proceeds derived from the sale of burial spaces shall be deposited and carried in the Cemetery Perpetual Care Fund.

9.0 INTERMENTS

9.1 SUBJECT TO LAWS AND ORDERS.

In addition to these rules and regulations, all interments shall be subject to the orders and laws of the properly constituted authorities of the Town of Johnstown, County of Weld and the State of Colorado.

9.2 TIME OF INTERMENTS.

Unless otherwise approved by the Town for a legitimate purpose, as determined by the Town, an interment request must give 48 hours advance notice to the Town Clerk’s office. No interments will be allowed between 12:00 noon Saturday and 8:00 a.m. Monday. No interments shall be allowed on the following Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

9.3 DISASTER.

In the event of a disaster, which results in numerous burials in the Cemetery, the Town Manager may require the Cemetery crew to work additional hours. The Town Manager or the Public Works Director shall have the authority to make exceptions to any and all regulations necessary in order to handle the numerous burials as orderly and as quickly as possible.

9.4 CASKET NOT TO BE DISTURBED.

Once a casket containing a body is in the confines of the Cemetery, no person, including a funeral director or embalmer, shall be permitted to open a casket or to touch a body without the consent of the legal representatives of the deceased or a court order. The Town shall not be liable for the protection of the remains in the casket.

9.5 APPROVED GRAVE LINERS.

Every interment must be made in an approved outer liner of steel or concrete and shall be supplied by the funeral home.

9.6 NOT RESPONSIBLE FOR PERMITS, IDENTITY OR EMBALMING.

The Town shall not be responsible for: (i) obtaining permits required by a health department or another entity with jurisdiction over burials; (ii) the identity of any persons seeking to be interred; or (iii) the preparation of the body.

9.7 NUMBER OF INTERMENTS.

Not more than one body or the remains of more than one body may be interred in one burial space, except as provided below:

9.7.1 Each regular grave space may hold up to: (i) one body and three cremains or (ii) no bodies and four cremains. Only one burial memorial shall be allowed.

9.7.2 Each cremains grave space shall hold the remains of only one body.

9.7.3 Each niche may hold up to two urns.

9.8 BURIAL SET-UP.

Tents, artificial grass, lowering devices and other equipment used in making interments, disinterments and removals shall be the responsibility of the funeral home in charge of the burial or disinterment.

9.9 INTERMENT OF CREMAINS.

In order to intern cremains in the Cemetery, the applicable fee must be paid to the Town. The Town shall not be liable for the protection of any cremains. The person requesting interment of cremains may choose containers of hard plastic, wood, marble, metal or ceramic. Scattering of cremains is prohibited within the Cemetery.

9.10 LOCATION OF GRAVE SPACE.

When instructions regarding the location of a grave space on a lot cannot be obtained, or are indefinite, or when for any reason the grave space cannot be opened where specified, the Town may, in its discretion, open the space in such location on the lot as it deems best and proper, so as not to delay the funeral; and the Town shall not be liable for damages for any error or change made.

9.11 ORDERS GIVEN BY TELEPHONE.

The Town shall not be held responsible for any order given by telephone, or for any mistake occurring for want of precise and proper instructions as to the particular space, size or location in

a lot where an interment is desired.

9.12 ERRORS MAY BE CORRECTED.

The Town shall have the right to correct any errors that may be made by it either in making interments or disinterments, or in the description, transfer, or conveyance of any right of interment, either by cancelling such transfer and substituting and transferring in lieu thereof another burial space for interment of equal value and in similar location as far as possible or as may be selected by the Town; or, at the sole discretion of the Town, by refunding the amount of money paid on account for said purchases. In the event such error shall involve the interment of the remains of any person in a burial space, the Town reserves the right to remove or transfer such remains interred to another burial space of equal value and similar location.

9.13 DELAYS IN INTERMENT CAUSED BY PROTEST.

The Town shall not be liable for any delay in the interment of a body where a protest to the interment has been made or where there has not been compliance with these rules and regulations; and, further, the Town reserves the right under such circumstances to instruct a funeral home to place the body in a receiving vault until the full rights have been determined. The Town shall be under no duty to recognize any protests of interments unless they are made in writing and filed with the Town Clerk within two weeks of the interment.

10.0 DISINTERMENTS

10.1 SUBJECT TO LAWS AND ORDERS.

In addition to these rules and regulations, all disinterments shall be subject to the orders and laws of the properly constituted authorities of the Town, County of Weld, the State of Colorado, and the United States of America.

10.2 PERMISSION FOR DISINTERMENTS.

No disinterment of a body or cremains shall be made without a court order or a signed affidavit from the surviving spouse, next of kin or personal representative, on a form provided by the Town, stating that the disinterment is being requested for a valid reason, that the application is being made by a proper person, that there is no opposition to the disinterment by the surviving spouse, next of kin, or by the expressed wishes of the decedent, and that the affiant agrees to indemnify the Town and hold it harmless from any liability that might result from the disinterment and release it from any claims any person may have, then or in the future, by reason of the disinterment. The Town Clerk shall have the right to require a court order for disinterment at any time prior to the disinterment when circumstances exist or arise which indicate that there is a question as to the reason for the disinterment or as to whether there is opposition to the disinterment.

10.3 DISINTERMENT PROHIBITED UNDER CERTAIN CIRCUMSTANCES.

Disinterment of a body so that the burial space may be sold for profit to the heirs of the deceased or to any other persons or removal contrary to the expressed or implied wish of the original purchaser of the burial space is repugnant to the ordinary sense of decency and absolutely forbidden.

10.4 WRITTEN REQUEST FOR DISINTERMENT REQUIRED.

The Town reserves the right to require at least ten days' written notice prior to any disinterment. Disinterments must be conducted during the hours of 9:00 a.m. and 2:00 p.m. No disinterment will be made on a Saturday, Sunday or legal holiday or on the day upon which any holiday is legally observed.

10.5 PAYMENT OF FEES.

All fees assessed by the Town for disinterments shall be paid to the Town Clerk's office prior to the disinterment.

10.6 TOWN NOT RESPONSIBLE FOR DISINTERMENTS.

The Town will expose the vault or, in the case of burial without a vault, expose the casket, burial receptacle or urn. The Town shall not be required to provide either personnel or equipment to lift the vault, casket or burial receptacle from the ground. Disinterment of a body shall be the responsibility of the family or person with lawful right to the disinterment. Families, or persons with the lawful right, wishing to disinter a body shall procure the services of a competent funeral director or other authorized personnel who must first provide evidence of liability insurance satisfactory to the Town.

11.0 DECORATION OF GRAVE SPACES

11.1 PLANTS, TREES, SHRUBS, FLOWERS AND BORDERS.

11.1.1 The Public Works Director or designee has exclusive authority in the planting of all trees, shrubs, plants, flowers and grass for ornamentation of the Cemetery. Planting of trees, shrubs, plants, flowers, grass and any other similar item is prohibited.

11.1.2 Fences, railings, curbs, hedges and other bordering of spaces are not allowed. Nothing shall be placed upon lots and grave spaces other than flowers, vases containing flowers, wreaths, flags and other temporary decoration. Flowers, vases containing flowers, wreaths, flags or other temporary decoration may be placed on the ground in front of the columbarium niches but cannot be temporarily or permanently attached to the surface of the columbarium. All such items will be removed and disposed of by Cemetery crews, at their sole discretion, when they become dead, faded, broken or unsightly without prior notice to the owner.

11.1.3 Christmas blankets and wreaths shall be allowed from December 1st through March 1st. Sprays and wreaths made from fresh cut flowers will be allowed up to two weeks after burial, unless they become unsightly or detrimental based upon the Public Works Director's determination.

11.1.4 If trees, shrubs, bushes or flowers growing on any grave spaces, walkways or roads interferes with the general design of the Cemetery, such will be removed without notice.

11.2 OTHER ARTICLES.

The placing of boxes, shells, stones, boulders, toys, metal designs, ornaments, chairs, settees, unattached vases, glass, urns, fences, wood or metal cases and similar articles upon grave spaces shall not be permitted, except that the placement of small stones shall be permitted in a manner that is consistent with religious practice.

12.0 MEMORIAL WORK IN CEMETERY

12.1 PRODUCERS AND RETAIL DEALERS.

12.1.1 Producers of burial memorial materials, meaning thereby quarries, quarries who also manufacture memorials, and manufacturers of memorials who are not quarries must provide only first grade, clear stone for memorial purposes at the Cemetery, and must guarantee that such stone is free from sap or anything that will cause rust or other stains, and that it will not crack or split, and must agree that should such faults develop within five years from the date of setting, the memorial will be replaced without cost or delay to the Town or the owner.

12.1.2 Retail dealers must agree to use only first grade stone from producers approved as provided above and guarantee the burial memorial will be executed with first grade workmanship, and agree that, should faults develop within five years due to the setting, treatment or handling of the same by the dealer, such burial memorial will be replaced without cost or delay to the Town or the owner.

12.1.3 All persons or firms must secure permission from the Public Works Director or the Town Clerk before any work in the Cemetery is commenced. In order to procure such permission, such person or firm shall submit satisfactory evidence of ability to properly perform the work for which such person or firm has been engaged.

12.1.4 Retail dealers engaged in erecting or placing burial memorials or other structures are not agents or employees of the Town, but are independent contractors.

12.1.5 Persons engaged in erecting burial memorials or other structures are prohibited from attaching ropes or other devices to the memorials, trees or shrubs, and are prohibited from scattering their material or tools over adjoining lots, from blocking roadways or walks and from leaving their material or tools on the grounds longer than necessary. Such persons must do as little injury to the grounds, trees and shrubs as is possible and must remove all debris and restore the ground to its original condition.

12.1.6 While a funeral or an interment service is being conducted nearby, all work of any kind shall cease.

12.2 BURIAL MEMORIALS.

12.2.1 No burial memorials will be allowed on any burial space until the space has been fully paid for.

12.2.2 Only one burial memorial for each burial space shall be permitted.

12.2.3 While the Town will exercise due care to protect raised letters, carving or ornaments on any burial memorial in the Cemetery, the Town disclaims responsibility for damage thereto.

12.2.4 No copying, curbing, hedging, grave mounds, borders, enclosures of any kind, or walks of any kind shall be allowed to be built or placed on any grave space in the Cemetery. The Town reserves the right to remove the same without recourse and without prior notice.

12.2.5 The use of tiles, bricks, gravel, crushed rock, oyster shells, cinders or other material on any grave space in the Cemetery is strictly forbidden. Any of these used may be removed by the Town without prior notice.

12.2.6 Temporary markers, homemade markers, wooden markers or ornaments may be placed on or near a grave space for up to thirty (30) days after an interment. The Town may thereafter remove such items without prior notice.

12.2.7 Foot-stones and corner-stones are not allowed and may be removed by the Town without prior notice.

12.2.8 No person shall erect or place or cause to be erected or placed, on any lot or grave space in the Cemetery, any burial memorial of which the Public Works Director or Town Clerk disapproves and, if erected or placed, may be removed by the Town without prior notice to the lot owner.

12.3 FOUNDATIONS.

All foundations for burial memorials shall be the responsibility of the owner of the grave space or person responsible for the interment. A monument company shall prepare the foundation work for a burial memorial in the Cemetery and must, prior to undertaking the work, furnish evidence of liability insurance and a bond in an amount acceptable to the Town. Charges for such work will be paid directly by the purchaser of the burial memorial.

12.3.1 Burial memorials shall only be constructed of granite, standard bronze or marble will be allowed. Other materials are subject to deterioration and contribute to unsightliness.

12.3.2 Foundations must meet the following criteria:

SINGLE	DOUBLE
minimum of 4” deep	minimum of 4” deep
not to exceed 48” in width and 24” in length and a minimum 4” border must show after monument is placed	not to exceed 92” in width and 24” in length and a minimum 4” border must show after monument is placed

48" width	92" width
24" length	24" length
must be centered	must be centered

These foundation measurements assure a solid base for the memorial and will help to prevent settling and vandalism.

12.3.3 Cut-outs for flowers located on the foundation of the memorial are encouraged. These cut-outs shall not exceed 6" in diameter on the foundation.

12.3.4 Prior to placement of a foundation or burial memorial, an appointment must be made either with the Public Works Director or the Town Clerk to locate the grave space. Notice must be given at least one business day in advance prior to placement of a foundation or a burial memorial. The Town shall not assume responsibility for an incorrect placement of any foundation or burial memorial if placed prior to contacting the Public Works Director or Town Clerk or placed in an incorrect location.

12.4 MISCELLANEOUS.

12.4.1 Should any burial memorial become unsightly, dilapidated or a menace to the safety of visitors, the Town shall have the right to either correct the condition or remove the same, at the expense of the owner, or the family or estate of the owner, of the grave space.

12.4.2 No burial memorial shall be removed from the Cemetery, except by the Town, unless written notice, notarized, by a person with authority is presented to the Town and the Town, in its discretion, grants such request.

13.0 CONDUCT WITHIN THE CEMETERY.

13.1 CELEBRATIONS.

The Town allows for small gatherings of family and friends to celebrate their loved one's life, however, the gathering must be maintained within 20 feet of the subject grave and attendees should be considerate of others and respect the solitude and decorum of the environment. Lounging and refreshments will be allowed. All trash and debris must be gathered and thrown away after the celebration.

13.2 ENTRANCE TO THE CEMETERY.

Entrance into the Cemetery except through the main entrance is strictly forbidden.

13.3 VISITOR HOURS.

Visitors are welcome in the Cemetery during regular hours of 7:00 a.m. to sunset.

13.4 PROHIBITED CONDUCT.

No person in the Cemetery shall:

- (a) Loiter upon the grounds;
- (b) Be under the age of fifteen (15) unless accompanied by an adult or other proper caretaker;
- (c) Drive an automobile or other vehicle in excess of 10 miles per hour or in excess of such lesser speed as is prudent under the existing conditions and circumstances;
- (d) Except for authorized personnel with consent of the Public Works Director, drive or ride any automobile, motorcycle, all-terrain vehicle, machine or animal on lots, grass or walks within the Cemetery;
- (e) Except for authorized personnel with consent of the Public Works Director, drive any commercial truck or other commercial vehicle within the Cemetery grounds;
- (f) Discard trash, debris or other unsightly items, except in receptacles designated for such items;
- (g) Direct or cause Town employees to perform work without an order from the Town Manager or the Town Manager's designee;
- (h) Perform work on the grounds, except by permission of the Town Manager or the Town Manger Manager's designee;
- (i) Take any animal or permit any animal to be taken into the Cemetery except service animals;
- (j) Deface, damage, destroy or injure any burial memorials or property in the Cemetery;
- (k) Peddle flowers or plants or any other commodity; or
- (l) Except for authorized persons, make a change to the inscription on a burial memorial.

14.0 VIOLATION- PENALTY

Any person who violates or resists the enforcement of any of the provisions of Article VI of Chapter 11 of the Johnstown Municipal Code or these rules and regulations shall be guilty of a municipal violation and subject to the enforcement provisions of the Johnstown Municipal Code.