

Chapter 4.5
CEMETERIES*

* **Editors Note:** An ordinance adopted on June 3, 1998 did not specifically amend this Code; hence its inclusion as Chapter 4.5 §§ 4.5-1--4.5-80 was at the discretion of the editor. See the Code Comparative Table.

Art. I. In General, §§ 4.5-1--4.5-25

Art. II. Regulation and Use, §§ 4.5-26--4.5-69

ARTICLE I.

IN GENERAL

Secs. 4.5-1--4.5-25. Reserved.

ARTICLE II.

REGULATION AND USE

Sec. 4.5-26. Definitions.

For the purpose of this chapter, the following terms shall have the meanings respectively ascribed to them:

Highlands Memorial Park Cemetery. (Sometimes hereinafter referred to as "cemetery.") All of that area conveyed to the Town of Highlands by the Highlands Cemetery Company by deed recorded in Book I-22, Page 1717 of the Macon County Public Registry, along with all other property that might in the future be acquired for cemetery purposes by the town. The term "cemetery" shall include, unless specifically provided otherwise, said property regardless of its use for interment, access, fencing, landscaping, or any other use in connection with the cemetery.

Board. The Board of Commissioners of the Town of Highlands.

Owner. The person owning either a cemetery plot or a certificate of interment rights.

Superintendent of cemeteries. (Sometimes hereinafter referred to as "superintendent.") That person responsible for the enforcement of this chapter. The superintendent shall be appointed by the board of commissioners.

Town. The Town of Highlands, North Carolina, a political subdivision of the State of North Carolina. (Ord. of 6-3-98, § 1)

Sec. 4.5-27. Superintendent in charge of funerals.

All funeral processions, on reaching the cemetery, shall at the option of the town be under the control of the superintendent or the superintendent's assistants.

(Ord. of 6-3-98, § 2)

Sec. 4.5-28. Superintendent to direct and may remove improvements.

All improvements or alterations of individual property in the cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the superintendent; and, should they be made without the superintendent's written consent, the superintendent shall have the right to remove, alter or change such improvements or alterations at the expense of the plot owner and, in any event, when at any time in the superintendent's judgement they become unsightly.

(Ord. of 6-3-98, § 3)

Sec. 4.5-29. Mistakes in orders.

The town shall not be held responsible for any order given by telephone or any mistake occurring from the want of written, precise and proper instructions as to the particular space, size and location in plot where interment is desired.

(Ord. of 6-3-98, § 4)

Sec. 4.5-30. Correction of errors.

The town reserves and shall have the right to correct any errors that may be made by it, either in making interments, disinterments or removals or in the description, transfer, or conveyance of any interment property or right, either by cancelling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible or as may be selected by the town or in the sole discretion of the town by refunding the amount of money paid on account of the purchase. In the event such error shall involve the interment of the remains of any person in the property, the town reserves and shall have the right to remove and transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof. The town shall also have the right and opportunity to correct any errors for which it may be legally responsible and when so corrected, no claim shall lie against it on account thereof.

(Ord. of 6-3-98, § 5)

Sec. 4.5-31. Right to re-plat, regrade and use property.

The right to enlarge, reduce, replan, or change the boundaries or grading of the cemetery or of the sections from time to time, including the right to modify and change the locations of or remove or regrade roads, drives and walks or any part thereof, is hereby expressly reserved. The right to lay, maintain and operate, alter or change pipelines and gutters for sprinkling systems, drainage, lakes, etc., is also expressly reserved, as well as is the right to use cemetery property not sold to individual plot owners for cemetery purposes or for anything necessary, incidental, or convenient thereto. The town reserves to itself and those lawfully using the privileges and facilities of the cemetery a perpetual right of ingress and egress over plots for the purpose of passage to and from other plots or roadways.

(Ord. of 6-3-98, § 6)

Sec. 4.5-32. Work to be done by town.

(a) The town or its agents shall do all grading, landscape work, improvements of any kind and all care on plots; all trees and shrubs and herbage of any kind shall be planted, trimmed, cut, or removed.

(b) Permanent planting of grasses, shrubs, flowers, etc., are made by the town and further planting may be permitted only at the discretion of the superintendent. The ownership of plots or interment rights by entities other than the town does not confer any right to do planting, etc., without the express written approval of the proper officials of the town.

(c) The town retains control and supervision of all plots which are sold and for which interment rights may have been granted; and the town retains the right to enter on any lot and prohibit, modify or remove any structure, object, improvement or adornment on such lot, which may have been placed thereon in violation of the rules, or which may be considered objectionable or injurious to the lot, adjoining lots, or to the cemetery in general.

(d) No work may be done on lots other than be the regular employees of the town or its agents, except by permission of the superintendent.

(Ord. of 6-3-98, § 7)

Sec. 4.5-33. No right granted in alleyways, etc.

No easement or right of interment is granted to any plot owner in any road, drive, alley, or walk within the cemetery, but such road, drive, alley or walk may be used as a means of access to the cemetery or buildings as long as the town devotes it to that purpose.

(Ord. of 6-3-98, § 8)

Sec. 4.5-34. Removal of bodies prohibited in certain cases.

Removal, by the heirs of a body so that the plot may be sold for profit to themselves or removal contrary to the expressed or implied wish of the original plot owner is repugnant to the ordinary sense of decency and is absolutely forbidden.

(Ord. of 6-3-98, § 9)

Sec. 4.5-35. Removal of bodies to larger plot.

A body, or cremated remains, may be removed from its original plot to another plot in the cemetery when there has been an exchange or purchase for that purpose, and with express written approval of the town.

(Ord. of 6-3-98, § 10)

Sec. 4.5-36. Liability in case of interment or removal.

The undertaker remains in control of interment or disinterment, and the town shall have no liability in connection therewith.

(Ord. of 6-3-98, § 11)

Sec. 4.5-37. Consent of town in case of transfer or assignment of plot.

No transfer or assignment of any plot, or interest therein, or any certificate of interment rights, shall be valid without the consent in writing of the town, first to be had and endorsed on such transfer or assignment and thereafter to be recorded in the books of the town.

(Ord. of 6-3-98, § 12)

Sec. 4.5-38. Subdivision of plots.

Except as provided in section 4.5-57, the subdivision of plots is not allowed. No one shall be buried in any plot not having any interest therein as allowed in this article.

(Ord. of 6-3-98, § 13)

Sec. 4.5-39. Non-liability of town for damage.

The town shall be under no obligation to protect property rights of plot owners, within the cemetery, from loss or damage; and it shall not be liable and distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, 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 damage be direct or collateral.

(Ord. of 6-3-98, § 14)

Sec. 4.5-40. Plot owners bound by rules and regulations.

Regardless of whether the right of interment in the cemetery is evidenced by deed of conveyance or by instrument conveying only right of interment, the owner of any plot conveyed or owner of right of interment and their heirs, shall be bound by all of the town rules and regulations now or hereafter in force.

(Ord. of 6-3-98, § 15)

Sec. 4.5-41. General rules.

(a) All visitors are expected to respect the solemnity of the cemetery and strictly observe the rules established for the purpose of securing quiet and good order at all times within the cemetery.

(b) The town will use reasonable care in engaging competent and experienced workers and in seeing that they do their work with customary carefulness; but the town shall not have any responsibility or liability for accident or damage to headstones, vases, monuments or mausoleums resulting from the ordinary hazards of cemetery work. The town shall not have any liability for accident or damage to person or property due to defects of machinery, implements, tools, or equipment used in its work or due to the falling in of graves.

(c) The town shall establish the grade of all lots, lawns and avenues and shall direct generally all improvements within the cemetery on all lots before as well as after interments have been made therein. They will have charge of all planting, sodding, surveying and improvements generally at the cemetery.

- (d) No fences or walls of concrete, brick, stone, or any other material will be allowed within the cemetery.
- (e) Hedges, wooden or iron trellises, posts and chains for the purpose of enclosure, railing, steps, boxing, or borders are prohibited.
- (f) All persons are prohibited from plucking any plants, whether wild or cultivated; disturbing water fowl or other birds; breaking or injuring any trees or shrub; marring any monument or landmarks or in any way defacing the grounds; or injuring any property of whatsoever nature in the cemetery.
- (g) All persons are forbidden to sit on monuments, headstones or mausoleums.
- (h) Casual visitors to the cemetery who are not members of a funeral procession or funeral party are forbidden to intrude on a funeral party or to loiter about an open grave.
- (i) Trespassing on the grounds of the cemetery is forbidden, and no person should disturb its sanctity by noisy, boisterous or other improper conduct, or shall violate any of these rules.
- (j) All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that the provisions and penalties of the law will be strictly enforced.
(Ord. of 6-3-98, § 16)

Sec. 4.5-42. Traffic rules.

- (a) The use by vehicles of roads and paths in the cemetery as thoroughfares or public highways is prohibited.
- (b) There shall be no driving over the lots or on the lawns except in connection with maintenance or opening graves.
- (c) Admission of vehicles on the roads will be permitted as a privilege and not as a right inherent in the ownership of a lot or otherwise. As a privilege, it is restricted to those who observe the traffic rules.
- (d) The speed limit for vehicles is limited to fifteen (15) miles per hour.
- (e) Visitors on foot have the primary right to the use of the roads, and all vehicle drivers are required to observe their right by careful driving and a strict adherence to the rules.
- (f) Funeral processions shall obey the traffic rules the same as individual drivers.
- (g) Heavy trucking in the cemetery is permitted only in connection with work therein.
- (h) Drivers will carefully observe and obey the traffic signals displayed throughout the cemetery.
- (i) Any driver who runs any vehicle on the lawns, across gutters or anywhere else where damage results therefrom shall be required to make good such damage.

(j) The sounding of horns, sirens, or other signals within the cemetery, except in case of emergency, is prohibited.

(k) Promiscuous walking on the lawns is not permitted. Persons within the cemetery grounds shall, as nearly as practicable, use only the avenues, walks, alleys and roads and shall not walk on or across the grass or any portion of the cemetery other than the avenues, walks, alleys or roads.
(Ord. of 6-3-98, § 17)

Sec. 4.5-43. Trespassers on plots.

The town shall owe no duty to a trespasser to keep the cemetery or any memorial therein in a reasonably safe condition.
(Ord. of 6-3-98, § 18)

Sec. 4.5-44. Lounging on grounds.

Persons shall not be permitted to sit or to lounge on any of the grounds, graves or monuments in the cemetery or in any of the buildings.
(Ord. of 6-3-98, § 19)

Sec. 4.5-45. Children.

Children will be excluded at any time, unless accompanied by an adult who will be responsible for their conduct. Children shall not be permitted to play on the lots or lawns, nor climb on headstones or monuments.
(Ord. of 6-3-98, § 20)

Sec. 4.5-46. Gathering flowers, injuring trees, etc.

All persons are prohibited from gathering flowers, either wild or cultivated, or breaking trees, shrubbery, or plants.
(Ord. of 6-3-98, § 21)

Sec. 4.5-47. Loud talking.

No loud talking shall be permitted in the cemetery grounds within hearing distance of funeral services.
(Ord. of 6-3-98, § 22)

Sec. 4.5-48. Trash.

The throwing of trash on the drives and paths or any part of the cemetery is prohibited.
(Ord. of 6-3-98, § 23)

Sec. 4.5-49. Peddling or soliciting.

Peddling of flowers or plants, or soliciting the sale of any commodity is positively prohibited within the

confines of the cemetery.
(Ord. of 6-3-98, § 24)

Sec. 4.5-50. Notices and advertisements.

No signs, notices, or advertisements of any kind shall be allowed in the cemetery.
(Ord. of 6-3-98, § 25)

Sec. 4.5-51. Qualification for interment.

The town shall convey only a right of interment in its lots or subdivisions. Only the following persons qualify to be interred in the Highlands Memorial Park Cemetery except as indicated in subsection (4):

- (1) Natural persons, who were residents of Highlands Township, Macon County, North Carolina, or of that portion of the Town of Highlands lying in Jackson County, North Carolina ("Highlands," for purposes of this section only). "Resident," for the purposes of this section, shall mean a person who lived in Highlands at the time of their death and had lived in Highlands for at least three (3) years; or a person who lived in Highlands for at least half of his or her life, although was not living in Highlands at the time of death.
- (2) Natural persons who owned, at their death, real property (excluding leaseholds) in Highlands.
- (3) Children or parents of persons previously buried in the cemetery or owning lots in the cemetery.
- (4) The foregoing qualifications shall not apply to cremated remains placed in a columbarium.

(Ord. of 6-3-98, § 26; Ord. of 4-10-02)

Sec. 4.5-52. Right of interment.

(a) A person purchasing a right of interment in Highlands Memorial Park Cemetery shall be required to designate at the time of purchase the individual(s) to be interred on the lot. Such individual(s) shall be limited to those persons qualifying for interment pursuant to section 4.5-51.

(b) The right of interment may be transferred at any time, but only to another person qualifying for interment pursuant to section 4.5-51.

(c) The transfer of a certificate of interment rights shall be bound by the transferor's designation as provided for in section 4.5-52(a) unless the certificate shall have been modified by the transferee, who shall be free to modify the designation at will, subject to section 4.5-51.

(Ord. of 6-3-98, § 27)

Sec. 4.5-53. Plot inalienable.

Whenever an interment is made in a plot as to which the right of interment therein has been transferred by deed or certificate of ownership to an individual qualifying for interment pursuant to section 4.5-51 and is held as a separate plot, it shall be indivisible, and the whole of such burial plot thereby becomes inalienable and

shall be held as the family burial plot of the owner, provided that only those qualifying for interment pursuant to section 4.5-51 may be interred in the plot.
(Ord. of 6-3-98, § 28)

Sec. 4.5-54. Application for interment.

The town reserves the right to refuse to allow interment in any plot and to refuse to allow the opening of any burial space for any purpose except on written application by the plot owners of record or the owner of a certificate of interment rights or the legal representative of such owners.
(Ord. of 6-3-98, § 29)

Sec. 4.5-55. Location of interment space.

When instructions regarding the location of an interment space in a plot cannot be obtained or are indefinite or when for any reason the interment space cannot be opened where specified or when, in the opinion of the superintendent, the same has been improperly designated, the superintendent may, in such official's discretion, open it in such location in the plot as such official deems best and proper; and the town shall not be liable in damages for any errors so made or for opening such space in a location other than that specified by the plot owner.
(Ord. of 6-3-98, § 30)

Sec. 4.5-56. Delays.

The town shall be in no way liable for any delay in the interment of a body where a protest to the interment has been made or where the rules and regulations have not been complied with; further, the town reserves the right, under such circumstances, to refuse to accept the body for interment, or it may, but shall not be compelled to, place the body in its receiving vault if it has such a vault until all rights of the parties have been determined. The town shall be under no duty to recognize any protests of interments unless they be in writing and filed in the office of the town clerk.
(Ord. of 6-3-98, § 31)

Sec. 4.5-57. Number of interments in grave or vault.

Not more than one (1) body shall be interred in one (1) grave or vault; provided that cremated remains of more than one (1) body may be interred in one (1) grave or vault, the total number of such cremated remains to be interred in one (1) grave or vault to be determined only by the physical limitations of the grave or vault to accommodate the interment of the cremated remains of an additional body; and provided further, that proper identification is made of the interments on one (1) regulation memorial or marker. Grave liners shall be required for all interments.
(Ord. of 6-3-98, § 32)

Sec. 4.5-58. Casket not to be disturbed.

Once a casket containing a body is within the confines of the cemetery, no funeral director or embalmer, assistant, employee or agent shall be permitted to open the casket or to touch the body without the consent of the legal representatives of the deceased, a relative in charge of the funeral, as required by a court order.

(Ord. of 6-3-98, § 33)

Sec. 4.5-59. Time and manner fixed by town.

All interments, disinterments, and removals shall be made at the time and in the manner and on such charges as fixed by the town.

(Ord. of 6-3-98, § 34)

Sec. 4.5-60. Notice required.

The right is reserved by the town to insist on at least twenty-four (24) hours' notice prior to any interment and at least one (1) week's notice prior to any disinterment or removal.

(Ord. of 6-3-98, § 35)

Sec. 4.5-61. County and state laws also applicable.

Besides being subject to these rules and regulations, all interments, disinterments and removals are made subject to the orders and laws of the properly constituted authorities of the county and state.

(Ord. of 6-3-98, § 36)

Sec. 4.5-62. Memorials.

(a) No memorial may be set to embrace two (2) or more grave spaces except a companion or a family memorial; nor shall more than one (1) family name be permitted on any memorial, unless approved in writing by the town at the time of the sale of the certificate of interment right.

(b) All owners, or anyone duly authorized to act for or in behalf of an owner, before ordering any memorial shall secure from the town written approval of design, size and lettering style. In order to allow room for corner markers, the base for a monument placed on a single grave site may not exceed forty-six (46) inches in length. Installer of the monument is responsible for any damages caused to grounds or other markers during installation.

(Ord. of 6-3-98, § 37)

Sec. 4.5-63. Certain headstones, fencing, walks, etc., prohibited.

Headstones and footstones standing on end are prohibited; and no coping, curbing, fencing, hedging, grave mounds, borders or enclosures of any kind shall be allowed around any lot. No walks of brick, cinders, tile, stone, marble, terra cotta, sand, cement, gravel or wood shall be allowed on any lot. The town reserves the right to remove the same if so erected, planted or placed. No new walls are to be constructed, nor may any existing walls be altered in any way, including coping and other type borders, without prior approval from the Town of Highlands. Installation of benches and similar structures is also prohibited. No additional shrubbery or plants are to be planted in the cemetery. The town reserves the right to remove any plants or shrubbery that are dead, that encroach on other grave sites, or that impede maintenance.

(Ord. of 6-3-98, § 38)

Sec. 4.5-64. Corner markers.

Corner markers must be set on the inside corners of each lot or group of lots.
(Ord. of 6-3-98, § 39)

Sec. 4.5-65. Certain ornaments prohibited.

(a) The town reserves the right to remove ornaments or articles that are inappropriate or unsightly.

(b) Flowers, baskets, designs, and frames may be removed from graves or plots at any time in the discretion of the superintendent. On written request by the owner or legal representative of the owner of the grave or plot, which request shall be made at the time of or within forty-eight (48) hours after interment, any particular baskets, designs, or frames may be held for the owner or legal representative, but not exceeding one (1) week; and if not called for and carried away during the period, the flowers, baskets, designs, or frames shall become the property of the town and may be sold, destroyed, or otherwise disposed of without incurring any liability whatever to the plot or certificate owner or the owner's legal representative.

(c) No design of any kind shall be placed on any plot except at the time of or immediately following a burial therein, and shall be supported by wire frames which will keep the design from resting on the grass.

(d) The care of grass, including the seeding, weeding, watering and mowing, also care of shrubbery, will be provided by the town or its agents. The care of shrubbery includes planting, pruning, fertilizing, and replanting; provided, that the town shall have no responsibility for shrubbery planted by or at request of plot owners.

(e) Metal emblems or markers and flags are prohibited on plots or graves except at Memorial Day. They may be placed by authorized representative of lodges, posts, camps, etc. not to exceed two (2) days before Memorial Day and removed not later than three (3) days thereafter. Thereafter such emblems will be removed from the plot by the employees and stored until called for, but at no risk to the town. It is preferable that such emblems be removed by the organization or individual placing them.
(Ord. of 6-3-98, § 40)

Sec. 4.5-66. Perpetual care.

All lots in Highlands Memorial Park Cemetery shall receive perpetual care, and all of the proceeds from the sale of each lot shall be deposited in a fund for such purpose.
(Ord. of 6-3-98, § 41)

Sec. 4.5-67. Payment of charges; charges and fees posted at town office.

The charges for certificates of interment rights, perpetual care, corner markers, locating graves, and other materials and services shall be established from time to time by the board of commissioners, and shall be paid at the time of the issuance of the certificate, or the interment, disinterment, or removal, as may be applicable. Charges and fees shall be posted in the fee schedule maintained in the office of the town clerk in the town office, Highlands, North Carolina.
(Ord. of 6-3-98, § 42)

Sec. 4.5-68. Refund of lot prices on reconveyance of lots to town.

(a) Upon application of any individual, the town will refund the net consideration originally paid to the town for cemetery plots owned by applicant at time of application. "Net consideration" shall not include charge for corner markers and perpetual care.

(b) The superintendent will approve such applications for refund only upon a reconveyance of the cemetery plots or interment rights in same to the town in fee and free from encumbrance.
(Ord. of 6-3-98, § 43)

Sec. 4.5-69. Effective date.

This article, and all subsequent amendments hereto, shall take effect and be in force from and after July 1, 1998.
(Ord. of 6-3-98, § 44)