

CEMETERY ORDINANCE OF THE CITY OF EASTPORT

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1.2 Location

1.2.1 The Eastport Cemetery System is composed of three main areas:

1.2.2 Hillside East

1.2.3 Hillside West

1.2.4 Bayside

1.3 Accessibility

1.3.1 Access to the public cemeteries shall be limited to such reasonable hours as may be set from time to time by rules and regulations. Generally, unless otherwise posted, access into the cemeteries can be made daily from sunrise to sunset.

1.3.2 The Hillside cemeteries can be reached by proceeding North on High Street from Washington Street or South on High Street from Clark Street.

1.3.3 The Bayside Cemetery can be reached from either Clark Street or Sunrise Drive.

1.3.4 The cemeteries are accessible by foot and on a limited basis by automobile.

1.3.5 The use of cemetery streets and roadways by vehicle shall be regulated and may be completely prohibited in all or part of any public cemetery where conditions of weather and ground may require

such action for a reasonable period of time. Such emergency action may be taken by the Superintendent with the approval of the City Manager.

SECTION 2 – ADMINISTRATION

2.1 City Council

2.1.1 The City Council is ultimately responsible for the administration, financing, and operation of the Eastport Cemeteries.

2.2 City Manager

2.2.1 The City Manager is charged with expending such sums of money as may, from time to time, be necessary for the care, management, and improvement of said cemeteries.

2.2.2 The City Manager shall have general supervision over all matters pertaining to the cemeteries management and shall be responsible for the hiring and potential termination of cemetery staff.

2.3 Eastport Cemetery Committee

2.3.1 The Eastport Cemetery Committee has been established to enhance and preserve the cemeteries of Eastport through the provision of a management support system to ensure the long-term vitality of the cemetery.

2.3.2 The Committee provides advice on expenditures of such sums of money as may be necessary from time for the care, management, and improvement of the cemeteries, and all other matters pertaining to the management of the same.

2.3.3 The makeup of the Cemetery Committee and its by-laws shall be as defined in Appendix "A" of this ordinance.

2.4 Cemetery Staff

2.4.1 Cemetery Superintendent shall be appointed by the City Manager after consultation with the Cemetery Committee.

2.4.1.2 Cemetery worker shall be appointed by the City Manager in consultation with the Cemetery Superintendent.

2.4.2 Cemetery staff are under the direct supervision of the City Manager.

2.4.3 Cemetery staff shall hold office until removal by the City Manager with legal cause.

2.4.4 Cemetery staff shall include a Superintendent who shall direct the activities of a cemetery worker under the Cemetery Department.

2.4.5 The Superintendent shall supervise the digging of all graves, the burial of all bodies, the removal of all bodies, and the movement of all bodies from place to place.

2.4.6 The Superintendent shall be responsible for the supervision and care of all work and workers, improvements, and repairs therein and shall see that such regulations pertaining to the same as shall from time to time be prescribed by the City Council are faithfully preserved and carried out.

2.4.7 The Superintendent shall have the care and custody of all machines, tools, and implements used in the burial of the dead in the cemetery which may belong to the City and shall keep the same in suitable places and in good order and repair.

2.4.8 The Superintendent shall be responsible for accurately recording all internments and shall further report all such data to the City Clerk.

2.5 City Clerk

2.5.1 The City Clerk shall maintain the permanent records relating to cemeteries and all internments therein in the Clerk's office.

2.5.2 The City Clerk shall maintain and preserve the Perpetual Care Agreement and all permanent records pertaining thereto.

2.6 City Treasurer

2.6.1 All fees, charges and perpetual care deposits shall be paid to the City Treasurer for appropriate disposition and the furnishing of official receipts to the persons making such payments.

SECTION 3 – CEMETERY LAYOUT

- 3.1 All extensions of said cemeteries shall be surveyed and laid out in lots, driveways, and paths, to conform as nearly as may be to the general plans of the said cemeteries as they now exist. No part of said cemetery or cemeteries shall be used for burial purposes until such part shall have been surveyed and an accurate plan of the same made.
- 3.1.2 The lots shall be numbered consecutively, and the subdivisions of the lots shall be marked by letters; each part into which a numbered lot is subdivided shall be known as a single lot.
- 3.1.3 The plan of said cemeteries shall be marked to designate the person or family to whom each is assigned, and the location of each grave in each lot shall be marked and the name of each person interred written thereon.
- 3.1.4 Said plans shall be kept on file in the City Clerk's office and copies of said plans shall be furnished to the Superintendent.
- 3.1.5 A complete index of said plans shall be made, showing the holder of each lot and the location of the graves of each person interred.
- 3.1.6 The Superintendent shall annually, at the close of the municipal year, mark on the plans in the City Clerk's office, the lots assigned during the year and the location of each interment made as recorded by the cemetery workers and enter in the index to said plans.
- 3.1.7 All records of said cemeteries now in existence shall be filed with the City Clerk for safekeeping.
- 3.1.8 Duplicate records, updated annually, shall be maintained at the cemetery office building and workshop.

SECTION 4 – SALE AND CARE OF LOTS

4.1 Sale

- 4.1.1 Lot fees to be charged shall be fixed by the City Council, on the advice of the City Manager and Cemetery Committee and may be changed from time to time as the Council may determine necessary.
- 4.1.2 Fees associated with this ordinance will be maintained in Appendix "B."
- 4.1.3 Persons who are residents of Eastport may purchase lots in any public cemetery in Eastport. The sale of lots shall be subject to such rules and regulations as may be recommended by the Cemetery Committee and adopted by the City Council.
- 4.1.4 Persons who are non-residents of Eastport may purchase lots in any public cemetery in Eastport upon approval of the City Council on the advice of the City Manager. The sale of lots shall be subject to availability, historical family roots, and to such rules and regulations as may be recommended by the Cemetery Committee and adopted by the City Council.

- 4.1.5 The payment of a fee for a cemetery lot shall not be construed as the sale and conveyance of a fee title on the lot but rather shall grant to the purchaser a right of use of the lot for burial purposes, subject to such ordinances, rules and regulations as the City may have previously adopted or may amend, adopt, approve, and promulgate now and in the future.
- 4.1.6 The holder of such cemetery lots are subject to all rules and regulations that may, from time to time, be adopted for the management and use of the cemetery.
- 4.1.7 Accurate records of all such sales shall be maintained by the Superintendent and filed in the office of the City Clerk.

4.2 PERPETUAL CARE

- 4.2.1 Persons desiring to enter into a perpetual care agreement for lots owned by them shall deposit with the City Treasurer a sum to be set by (Appendix "B") on the advice of the City Manager and Cemetery Committee, which sum shall be accepted in trust.
- 4.2.2 The income from said trust shall be expended from time to time for the care and improvement of said lot forever.
- 4.2.3 Said sum as previously paid or as received thereafter shall be kept separate from all other City funds and shall be known as the "Cemetery Perpetual Care Trust Fund".
- 4.2.4 These funds, as pooled together shall be invested in a reasonably prudent manner, subject to applicable Maine law, (Appendix "C") and the net income annually expended for the care and maintenance of perpetual care lots in accordance with the terms of this Ordinance and Perpetual Care Agreement.
- 4.2.7 "Care" either perpetual or annual, shall include mowing grass, weed trimming around stones and cleaning of the lot and such work as may be necessary to keep the grave in neat condition in season, filling depressions with loam as needed, and straightening and resetting of stones within the capability of the cemetery work force and equipment items available, but shall not include the planting of flowers or shrubs upon any lot. The City of Eastport has no responsibility for the damage as a result of vandalism or other unnatural causes.
- 4.2.8 Any holder of a lot shall not enclose the same with a fence or curbing shall not plant trees or shrubs and shall not in any manner encroach on the driveways and walks of the cemetery. Any of the above-listed items that were put in place prior to the year 2000 shall not be removed or damaged by cemetery staff.
- 4.2.9 The Superintendent shall, under the direction of the City Manager's approval, remove any trees, shrubs, plants, or erections of any kind that interfere or encroach upon any driveway or walkway or on any adjoining lot.
- 4.2.9.2 All graves shall be dug and properly backfilled by or under the supervision of the Superintendent. No other person is permitted to perform such tasks except under the supervision of the Superintendent or his/her authorized representative.

4.2.9.3 Cremated pet remains may be interred with the deceased at the time of the latter's interment. A pet is defined as domestic cats or dogs only. The cremated pet remains must be contained in their own urn or receptacle and not commingled with human remains and is to be placed beside the human remains in the same opening. No separate monument or marker for the pet may be placed at the site. This accommodation is intended for pets who have predeceased their owners. Under no circumstances will a grave be opened to bury a pet.

SECTION 5 – CEMETERY ACCESS

- 5.1 Access to the public cemeteries shall be limited to such reasonable hours as may be set from time to time by the rules and regulations.
- 5.2 The use of cemetery streets and roadways by vehicle shall be similarly regulated and may be completely prohibited in all or part of any public cemetery where conditions of weather and ground may require such action for a reasonable period of time. Such emergency action may be taken by the Superintendent with the approval of the City Manager.

SECTION 6 – PROHIBITED CONDUCT

- 6.1 The following specified behavior and conduct by any persons is prohibited at all times within any public cemetery of the City of Eastport.
- 6.1.2 No person shall consume any intoxicating liquor while on cemetery property.
- 6.1.3 Disorderly conduct, including but not limited to, the creation of disturbances, the making of loud noises, the use of obscene or profane language and the interference with or annoyance of other persons who are present in said cemetery for funeral, committal, or memorial services, or for the purpose of visiting grave sites, is forbidden.
- 6.1.4 No person shall hunt wild animals or birds within or from public cemeteries, and no person shall discharge firearms or air rifles or pistols or bows, or any such weaponry while within such cemeteries unless as permitted for memorial services and tributes.
- 6.1.5 During the hours of closing, persons having no lawful purpose to remain within the limits of any public cemetery shall not remain there and shall leave immediately upon request by a police officer or other duly authorized law enforcement officer.
- 6.1.6 No person shall willfully damage, injure, deface, or carry away any fence, gate, ornamental tree, shrub, marker, flag, flag holder, urn, vase, or other improvement, including also, improved and built-up gravesites, and the materials used or to be used for such improvements.
- 6.1.7 It is prohibited for any person to walk their dog(s) or allow their dog(s) to run loose or at large in any part of the Eastport Cemeteries. Walking dog(s) on any cemetery lane(s) or any cemetery lots(s) is prohibited. Walking Dogs on the paved ways known as High Street and Cemetery Road is allowed.
- 6.1.8 Any person violating this section of the Ordinance is subject to a fine of not more than One Hundred (100) dollars.

APPENDIX "A"

CEMETERY COMMITTEE

A-1 Board of Directors

Chairperson	Jana Sutherland	janasullivan@yahoo.com
Vice Chairperson	Jean Schild	jeaneastport@hotmail.com
Secretary	Diana Boone	xcommish@roadrunner.com
City Council Liaison	Billy Boone	xcommish@roadrunner.com
City Manager	Kate Devonshire	CityManager@eastport-me.gov
Member	Caroline Melidossian	cmelidossian@verizon.net
Member	Stephen Collins	stevewc62@gmail.com
Member	Hank (Frank) Young	hankpat6@roadrunner.com

APPENDIX "B"

CEMETERY FEES

B-1 BURIAL LOTS

Type of Lot	Fee	City	Trust Fund
Single Lot	\$300.00	\$150.00	\$150.00
Double Lot	\$550.00	\$275.00	\$275.00
Triple Lot	\$750.00	\$375.00	\$375.00
Quad Lot	\$950.00	\$475.00	\$475.00
Family Lot (5)	\$1,200.00	\$600.00	\$600.00
Larger Lots	\$225.00 per additional burial above 5	50%	50%
Cremation Lot	\$150.00	\$75.00	\$75.00

As of the effective date of this ordinance, burial lot fees include perpetual care. 50% of burial lot fees will be placed into the "Cemetery Perpetual Care Trust Fund" in a timely manner. The remainder will be used to offset operation costs and capital needs of the Cemetery Department.

Cremation Lots are sold as 9-square-foot lots throughout the cemeteries in Eastport and may only be marked with a small, City-approved flat marker.

4 to 6 cremated remains may be buried in 1 lot that has been purchased as a full burial lot and may be marked with a full-size gravestone or monument with the provision that they do not interfere with or impede access to neighboring plots or markers.

Given that caskets/vaults are buried 6 feet deep, and cremated remains are buried 2 feet deep, cremated remains may be buried above a previously buried casket/vault. If cremated remains are buried in a full burial lot and the family subsequently wishes to bury a casket/vault in the same full burial lot, the cremated remains shall be removed to allow for the casket/vault to be buried, and the cremated remains shall be laid on top of the larger casket/vault before closing the grave opening.

B-2 GRAVE OPENING RATES

Casket & Vault	April through November - Monday through Friday	\$400.00
	April through November – Saturday and Sunday	\$450.00
	December through March – (subject to conditions)	\$600.00
Cremation	April through November - Monday through Friday	\$150.00
	April through November – Saturday and Sunday	\$175.00
	December through March – (subject to conditions)	\$225.00

APPENDIX "C"

CEMETERY TRUST FUNDS

Two types of cemetery trust funds are recognized by Maine law. 13 MRSA § 1222 recognizes a fund accepted by a vote of the municipality to care for specific lots and/or the general ground and avenues of a *private or family burial ground* that has also been accepted, by a vote of the town. 13 MRSA § 1261 recognizes a fund created for the care of a lot and/or its appurtenances in a public cemetery. The latter is created by depositing money with the municipal treasurer. No vote of the town is required. In either case, the municipality is under a legal obligation to perform the specific duties or services outlined in the trust document. It does not have the authority to alter the performance specified by the terms of the trust. The income from a specific perpetual care fund or trust must be spent in the manner provided in the trust document or conveyance creating or establishing it. However, many of these bequests contain no specific terms or contain merely an agreement to provide the proper maintenance and upkeep of a particular plot. In such a case, the plot should be provided with whatever ordinary and usual maintenance can be paid for with the income earned from the trust fund. Any money raised and appropriated by the town for the general care of the cemetery should be used for the maintenance of the common ground and structures such as roads, fences, and boundaries, rather than being used on individual plots. One exception to this rule is for the burial plots of veterans. The municipality has a legal obligation to keep these plots in good condition. It must also repair all graves, headstones, monuments, or markers that designate the burial place of a veteran. 13 MRSA § 1101.

In the absence of any specific direction in the instrument or bequest creating the trust, all trust funds should be handled pursuant to 30-A MRSA § 5653. That section allows a municipality to treat any two or more trust funds as a single fund solely for the purpose of investment. Section 5653 requires that any interest earned, or capital gains realized be prorated among the various trust funds. Therefore, although all the funds may be combined into one account for investment purposes, there still must be a breakdown showing the interest earned for each separate fund. If, as a consequence of this pro-ration, an individual trust generates a higher income than other trusts, the plot that is served by that trust is entitled to receive services beyond the normal maintenance and upkeep provided for other lots, even if the trust document itself does not specify that extra services should be provided. The extra money generated by a larger fund should not be used for the general cemetery maintenance unless the municipality receives the permission of a court to do so or unless the trust document specifies that such a use is permissible.

As with other trust funds, the treasurer's accounting records should reflect the annual income to be prorated to each perpetual care trust. Such an accounting method makes it easier to determine which trusts may be entitled to further services, and which obligations are adequately covered by normal maintenance.

APPENDIX "D"

PERPETUAL CARE

"Care" either perpetual or annual, shall include mowing grass, weed trimming around stones and cleaning of the lot and such work as may be necessary to keep the grave in neat condition in season, filling depressions with loam as needed, and straightening and resetting of stones within the capability of the cemetery work force and equipment items available, but shall not include the planting of flowers or shrubs upon any lot. The City of Eastport has no responsibility for the damage as a result of vandalism or other unnatural causes.

Contract w/ Lot Owner

Eastport City Council
22 Washington Street
Eastport, Maine 04631

Council Memmbers,

The undersigned hereby requests the City of Eastport to accept the sum of \$ _____ dollars in trust, the income therefrom to be used only for the Perpetual Care and preservation of the _____ burial plot in the Eastport Cemetery being Lot # _____ Section _____.

Perpetual Care includes mowing grass in season, filling depressions with loam as needed, and straightening of stones within the capability of the cemetery work force and equipment items available.

It being understood, however, that said burial lot must be in satisfactory condition for acceptance by the City Council and that the City of Eastport has no responsibility for damage as a result of vandalism or other unnatural causes. It is further understood that Perpetual Care does not begin until one year from the date of fund acceptance by the City Council. If any interment is made between the time of acceptance by the City Council and the beginning of Perpetual Care the lot owner shall be liable for all costs that may occur if it becomes necessary to return said burial lot to its original acceptance condition.

I certify that I have read, understand and accept the terms of the agreement as stated above.

Dated: _____

Signature _____
Requested By:
Mailing Address:

Telephone Contact #: () _____

ORDER OF ACCEPTANCE

ORDERED: That the foregoing request be granted and that the sum of \$ _____ dollars be accepted in trust, the income therefrom to be expended only for the Perpetual Care of the burial plot described above.

Dated: _____

(Council President) William Boone

(Councilor) Jeanne Peacock

(Councilor) Ross Lawrence

(Councilor) David Oja

(Councilor) Floyd Andrews, Jr.

Date Amendment(s) Approved: May 10th, 2023 (by Eastport City Council)

I, Ella C. Kowal, City Clerk for the City of Eastport, hereby attests that the City Council held a Public Hearing on proposed amendment(s) to the Cemetery Ordinance for consideration and rendered the following motion and vote at their Council meeting of May 10th, 2023.

MOTION ANDREWS **SECOND** PEACOCK **(PASSED 3-1)**
Councilor Dana-Cummings "ABSTAINED"

To accept and approve the proposed amendment(s) to the Cemetery Ordinance as submitted and presented.

ATTEST: Ella C. Kowal
Ella C. Kowal, City Clerk
Dated: 5-10-2023

