

TOWN of ESSEX, VERMONT

Mountain View Cemetery

RULES and REGULATIONS

September 12, 2022

In 1794, a Town Meeting was warned and held in Essex “to establish an area of common ground to bury the dead.” Following the selection of the burial ground on the Town Common, a group was formed to clear the ground. As years passed, nearly all families in Essex had purchased lots in this cemetery.

In 1868, a second cemetery ground was purchased to be used when all lots had been purchased in the first cemetery. Later, this additional cemetery ground was named Mountain View Cemetery. Today, in 2019, Mountain View Cemetery is still in use.

In 2008, a columbarium was built in the Mountain View Cemetery as a means of providing a cost effective burial alternative and creating a perpetual care fund.

The following Rules and Regulations have been established for the benefit and protection of all who have burial interests in Essex Town cemeteries. All former rules are hereby repealed.

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VISION STATEMENT of the ESSEX CEMETERY COMMISSION

The Essex Cemetery Commission will provide guidance for a well-maintained setting for the interment and commemoration of the deceased and for the comfort and inspiration of the bereaved and the public. The Commission will strive to accommodate the desires of families and individuals within the Town's and Cemetery's rules adopted for the operation of Mountain View Cemetery. The Commission wishes to provide compassionate and efficient service in a manner that respects human dignity.

SECTION I: DEFINITIONS

1. **ARTIFICIAL COLOR:** The coloring, painting, enameling, lacquering, bronzing or similar application to any part of a memorial.
2. **BASE:** The above ground structure that is erected or placed upon the foundation and upon which the upper part of the monument or the die stone is placed.
3. **CASKET-VAULT:** A one-piece unit with cover, usually made of concrete and sized to receive a single casket in a grave.
4. **CEMETERY:** A burial park for the disposition of human remains of the deceased.
5. **CERTIFICATE of BURIAL RIGHTS (formerly known as a "DEED"):** A contract between the Town of Essex and the holder of a Certificate of Burial Rights. The Certificate grants the right to interment in the Mountain View Cemetery and is contingent upon adherence to current Mountain View Cemetery rules and regulations. (Note: The term "deed" vs. Certificate of Burial Rights in no way implies ownership to land in the Mountain View Cemetery. Land in the Mountain View Cemetery is not sold.)

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6. **CORNER MARKER:** Granite or objects used by the Town to locate or mark the corners of a lot or group of lots.
7. **CREMATED REMAINS:** The remains of a deceased person after incineration in a crematory.
8. **DEEDS-CEMETERY:** Refer to Certificate of Burial Rights.
9. **ESSEX CEMETERY COMMISSION:** A group of appointed volunteers to oversee all aspects of the cemeteries in Essex. The Commission reserves the right, at any time, to adopt new rules and regulations or to amend, alter, or repeal, any current rule or regulation.
10. **FLAG HOLDER/MEMORIAL MARKER:** A stick-type device used to mark graves.
11. **FOUNDATION:** The underground concrete structure that supports the above ground monument.
12. **GRAVE:** A space to accommodate interment.
13. **INTERMENT:** The act of burying the remains of the deceased in the earth.
14. **LOT:** A numbered division within Mountain View Cemetery, measuring four feet by twelve feet. A lot may contain up to one full casket and/or four cremated remains.
15. **MARKER:** A memorial, which is flush with the ground.
16. **MEMORIAL:** A monument, headstone, tablet and/or other marker, including its below ground foundation.
17. **MONUMENT:** That portion of a memorial that extends above the surface of the ground including the base.
18. **SEXTON:** The person who coordinates and oversees the daily operation of a cemetery.
19. **URN-VAULT:** A container typically made of durable non-biodegradable material used for the storage of cremated remains.

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SECTION II: GENERALS RULES and REGULATIONS

PURPOSE & AUTHORIZATION of USE

1. The purpose of the Mountain View Cemetery shall be a burial place for the remains of the deceased and those that want to pay their respects. Other types of low impact secondary uses such as walking and jogging are permissible provided they do not interfere with the primary use. Any uses other than those stated must receive advance written permission from the Essex Cemetery Commission.

2. General Conduct: Public visiting the Mountain View Cemetery shall be mindful of proper decorum. The following must be observed:
 - a. Hours of operation will be from May 1st to December 1st from dawn to dusk. Open and close dates may vary depending on weather conditions.
 - b. Refrain from loud, boisterous or obscene talking or language. Interruptive conversations or noise is not permitted within hearing distance of funeral services or interments.
 - c. Drugs and alcoholic beverages are not permitted in the cemetery.
 - d. Peddling or soliciting of any commodities or services is not allowed in the cemetery.
 - e. Placement of signs, notices or advertisements of any kind are not permitted without the expressed written permission of the Town via the Essex Cemetery Commission.
 - f. Visitors to the Mountain View Cemetery are prohibited from gathering, picking, cutting or injuring in any manner the fauna or flora. The defacing, damaging or destroying of any plants, lawn, fence, structures, trees, bushes or memorials in the cemetery is prohibited.
 - g. Discharging firearms or weapons of any kind within the cemetery is prohibited. Exceptions for military burials must have written permission from the Essex Cemetery Commission and the Town.

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3. Vehicles:
 - a. Vehicles delivering vaults or other items will park out of sight or in an inconspicuous location during funerals.
 - b. No vehicle can be operated at a speed in excess of 10 miles per hour within the cemetery.
 - c. No vehicle or animal will be driven or parked across or upon any grave, lot, or lawn except by permission of the Sexton. Vault and monument dollies are permitted.
4. The Town recognizes the beauty of the cemetery, and the desire of individuals to walk through them. In order to respect others, all pets are to be leashed while in the cemetery and owners are required to properly dispose their pet's waste.
5. Littering of any type or the dumping of litter over the cemetery boundaries is prohibited.
6. The Commission sets the fees for the Mountain View Cemetery. Current fees are available from the Town Clerk's Office and on the Town's website.
7. The Town of Essex or its employees as well as the Commission members will not be responsible for any order or arrangement made over the telephone, nor will they be responsible for any mistakes occurring from the lack of precise and proper instructions as to the particular space, size or location of any grave, lot or memorial.
8. These Rules and Regulations and any amendments thereto, shall be the sole agreement between the Town of Essex and the holder of a Certificate of Burial Rights. The statement of any employee or agent, shall in no way bind the Town of Essex.

SECTION III: BURIAL RIGHTS

1. Burial rights refer to the right to interment in a specified lot within the Mountain View Cemetery.

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2. The purchase of burial rights in Mountain View Cemetery is limited to Essex residents, former residents, their spouses or legal partners and children, or their Executors or Trustees.

For the purposes of this section, a “resident” is defined as a person who currently is or has been in the past a property taxpayer in Essex or has declared the Town of Essex his/her legal residence on personal state and federal income tax forms.

3. A resident or former resident, as defined in number 2 above, may purchase up to two (2) burial lots, or in the case of a legally joined couple, four (4) in total. Additional lots may be purchased with the approval of the Essex Cemetery Commission.
4. Burial Rights conveyed by the Town of Essex shall be the sole and separate rights of the person or persons named in the Certificate of Burial Rights. Burial rights may be conveyed or assigned only to the owner’s spouse and/or the biological or adopted descendants of their union.
5. Spouses or legal partners shall have a vested right of interment of his or her body in any burial lot conveyed to the other. This right shall continue as long as he or she shall remain spouse or legal partner of the owner of the burial rights or shall be his or her spouse or legal partner at the time of the death of the owner of the burial rights.
6. On the death of the owner of burial rights to a lot, when the burial rights are not specifically mentioned in his/her will, or a Deed of Certificate of Burial Rights has been lost or is otherwise unavailable, an affidavit must be filed at the office of the Town Clerk signed by one of the heirs at law or, in the case of a minor, by their guardian. The affidavit must include a list of the names of all the known heirs and a person designated as a Power of Attorney who shall be authorized to sign orders for interments in the lot and to give all needful directions regarding the lot and burial rights (an Affidavit of Heirs form is available from the Town Clerk’s Office).

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7. The reversion (escheat) of a Certificate of Burial Rights to the Town of Essex shall be done in the manner provided in Vermont Statute, Title 18, Sections 5532 through 5537.
8. The owner of a Certificate of Burial Rights has the right to designate space in their lot for other persons.

SECTION IV: PROCEDURES and FORMS

1. Full payment to the Town of Essex is required before any contract is executed between a party and the Town.
2. The Town of Essex will issue, at the set fee, a Certificate of Burial Rights to those persons who qualify under Section III of these Rules and Regulations. Fees are determined by the Essex Cemetery Commission.
3. Burial lots are assigned in numerical sequence. They will not be assigned out of sequence unless, in the opinion of the Commission, it would be in the best interest of the cemetery to do so.
4. Certificates of Burial Rights that will not be used must be sold (or donated) back to the Town of Essex. They may not be transferred or sold in any other manner. In a sale back to the Town, the Town will purchase the burial right back at the fee charged at the date of issue. Where the original purchase price is not known, the sale back amount shall be determined by the prevailing price in the fee schedule.
5. A completed Interment Order form (available from the Town Clerk's Office, or on the Town website) must be filed with the Town Clerk before any grave can be opened.
6. A Cremation Certificate and/or Burial Permit must be filed with the Town Clerk within 72 hours of burial. This is typically done by the Sexton or grave digger.
7. All work to be performed in Mountain View Cemetery, including the inscription or placement of memorials, requires an approved Work Order Permit from the Town of Essex. Work Order Permit forms are available from the Essex Town Clerk's Office.

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8. Holders of Mountain View Cemetery Certificates of Burial Rights are responsible for notifying the Essex Town Clerk in writing of any change in the legal mailing address. Notices sent to the Certificate holder at the last address on file in the Town Clerk's Office will be considered sufficient legal notification.

SECTION V: CEMETERY LOTS

1. The Town of Essex will provide perpetual care as defined herein.
2. The perpetual care assumed by the Town of Essex shall in no case involve the maintenance, repair, or replacement of any memorial, foundation, corner marker or monument placed or erected upon any lot. By the purchase of a Certificate of Burial Rights, owners, their heirs, successors and assigns, agree that all monuments, gravestones, markers, plaques and memorial structures of any kind shall be set and maintained at the owner's expense and risk in accordance with the rules and regulations set forth in Sections VII, VIII and IX of this document.
3. The Town of Essex, and its employees, collectively and individually, as well as the Essex Cemetery Commission members, shall be held harmless from any liability due to damage, destruction or injury caused by the elements, an act of God, pollution, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, outside workers, invasions, insurrections, riots, or by the order of the military or civil authority, whether the damage be direct or collateral.
4. Cut flowers and funeral arrangements may be placed on graves but will be removed when they become unsightly, or at the discretion of the Sexton. It is recommended that all cut flowers be placed in invertible, in-ground vases to be provided by and at the expense of the owner. No other plantings are allowed on any cemetery lot unless placed there with approval of the Sexton. Town of Essex employees, under the direction of the Town, as well as Commission members, shall have the authority, with no liability, to remove all floral decorations, flags, shrubs, plants, or herbage of any kind and their receptacles

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which in the judgement of the Sexton have become unsightly, dangerous, diseased, detrimental or which do not conform to the regulations outlined herein.

5. Glass items, loose stones, toys, shells, metal designs, ornaments, and other similar items are not permitted on any lot and will be removed.
6. Any permissible items left in a memorial must be placed no more than 16" from the headstone and regularly maintained. Any fencing or edging materials or benches placed outside of the 16" area from the headstone will be removed at the owner's expense if any.
7. Small American flags in proper holders may be displayed at gravesites in the cemetery.
8. The Town of Essex and its employees, as well as the Commission members, shall not be liable for any floral arrangements, plants or receptacles that are lost, misplaced, stolen or broken.
9. Artificial flowers or simulation of flowers, floral displays, wreaths or similar devices may be displayed, but must be removed when deteriorating or unsightly.
10. The Town reserves to itself and to those lawfully entitled, a perpetual right of way over graves and lots for the purpose of passage to and from other graves and lots.
11. A Work Order Permit must be obtained from the Town before any work can begin by private contractors. Work by private contractors shall be done only when necessary. Alterations made on lots without special written permits from the Commission may be removed or changed at the expense of the holder of the Certificate of Burial Rights responsible for initiating the changes.
12. No easement or right of interment is or will be granted to any Certificate of Burial Rights holder in any road, drive, alley or walk within the Mountain View Cemetery.

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SECTION VI: COLUMBARIUM

An interment niche is to be used for interment purposes only and the Purchaser's rights are limited by the subject to the Columbarium's rules and regulations as now existing or as amended in the future.

1. Only Essex residents may purchase interment niches in the Mountain View Cemetery. See Section III, #2 for definition of "resident."
2. A maximum of two niches can be purchased (each niche can hold a maximum of two urns).
3. Once the Town Clerk's Office receives a Columbarium Niche Application and full payment, a Certificate of Interment Rights will be issued to the Purchaser.
4. A Certificate of Interment Rights in the Mountain View Cemetery conveys only a right to be interred in a niche and in no way is any real estate title conveyed to the Purchaser.
5. Services related to interment in a niche are not included in the rights conveyed and are subject to the service charges and availability of the Sexton.
6. The Town shall use the Purchaser's address for any official notices concerning the interment space. The purchaser shall notify the Town of any changes in address.
7. Certificates of Interment Rights that will not be used must be sold (or donated) back to the Town of Essex. They may not be transferred or sold in any other manner, and any attempt to do so shall be null and void. In a sale back to the Town, the Town will purchase the burial right back at the fee charged at the date of issue. Where the original purchase price is not known, the sale back amount shall be determined by the prevailing price in the fee schedule. The Town shall use the Purchaser's address for any official notices concerning the interment space. The purchaser shall notify the Town of any changes in address.

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SECTION VII: INTERMENT and DISINTERMENT

1. Interment, disinterment and removals are subject to the Rules and Regulations of the Essex Cemetery Commission in the Town of Essex, Chittenden County, and the state of Vermont.
2. Once a casket containing a body is within the confines of the Mountain View Cemetery, a funeral director, his employees or agents shall not be permitted to open the casket or to touch the body without the consent of the legal representatives of the deceased or duly executed court order.
3. Town of Essex employees or their designees will not perform any grave openings and/or closings in the Mountain View Cemetery and will monitor such under the conditions and fee structures established by the Town of Essex and its Cemetery Commission.
4. Interment Orders are required 48 hours in advance, in the absence of any religious strictures. Disinterment/removal orders are required five (5) business days in advance.
5. Every interment of a casket shall require a one-piece burial vault with cover, both made of concrete or 12-gauge metal or better. Any exceptions to this requirement must be approved in advance by the Cemetery Commission.
6. If inadequate instructions or circumstances will delay the opening of an interment space within a lot, the Sexton shall use his/her best judgement in locating a suitable opening. The Sexton as well as the Town and/or its employees, as well as the Cemetery Commission members, shall not be held liable for damages for any errors.
7. The Town shall correct any errors with interment, disinterment, removals, transfers or conveyances of burial rights or inscriptions and shall do so using its sole discretion.
8. The Sexton, as well as the Town and/or its employees, and the Cemetery Commission members, shall not be held liable for misinformation provided to

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them in interment orders or for funeral delays resulting from disputes over burial rights.

9. Up to one burial casket and/or four (4) cremated remains may be buried in one 4' by 12' lot by 5' deep, as per the annual fee schedule.
10. Urns or urn vaults must be at least 18 inches below the surface of the ground. Vaults must be a maximum size of 12" by 15" by 11". While urn vaults are not required in the Mountain View Cemetery, lot owners should be aware that without this containment, future disinterment may be difficult or impossible. Urns must be containers that are non-biodegradable, identifiable and recoverable.

SECTION VIII: MEMORIALS, MONUMENTS and MARKERS

1. All memorials, monuments, markers or plaques and their foundations will be set and maintained in a safe condition at the owner's or Certificate of Burial Rights holder's, or their heirs', successors' or assigns', expense.
2. The Sexton, in his/her judgement, may correct or remove unsightly or dangerous items at the expense of the owner or heirs of the Certificate of Burial Rights. Removed items will be stored by the Town for one year and then disposed of. Notice shall be provided to the owner or Certificate of Burial Rights holder at their last known address. Heirs should contact The Town Clerk's Office to arrange for picking up items.
3. A Cemetery Work Order Permit must be approved by the Town of Essex and scheduled with the Sexton before setting any items mentioned in this section.
4. Not more than one (1) aboveground memorial is permitted on any lot and must be located six (6) inches from the top border. Flush markers will be located six (6) inches from the bottom of the lot and/or, if used as a headstone, will be located six (6) inches from the top of the lot. **A flush marker must be placed above the urn for cremated remains.**

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5. All memorials will be constructed of granite, marble, fieldstone or bronze.
6. Non-flush footstones are allowed only in the case of matching stones previously set on the lot.
7. Monuments, markers and their foundations may be removed from Mountain View Cemetery only by direction from the Sexton and only after the receipt by the Town Clerk of a written order from the Certificate of Burial Rights holder, their heirs, successors or assigns, or someone designated by State Statutes. After removal, the lot shall be restored to its original condition at the expense of the party requesting removal and shall be done so under the direction of the Sexton.

SECTION IX: FOUNDATIONS

1. Town approved foundations are required for all aboveground monuments. All work must be done by qualified insured persons.
2. The Commission reserves the right to excavate, build or approve all foundations and to set all markers and posts.
3. A Town of Essex Work Order Permit must be approved by the Town of Essex before any work begins. All foundation work shall be scheduled at the direction of Sexton.
4. The Sexton reserves the right to designate how and when excavation and foundation work will be accomplished and who will accomplish it.
5. The top surface dimensions of any foundation will be no less than the dimensions of the base or stone to be set upon it.
6. The top surface of the foundation will be level with the ground.
7. Foundations will be constructed with the use of frames at the top of the foundation. Frames will be at least two inches in depth from ground level down.

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8. Foundations will be a minimum of four (4) feet deep.
9. Foundations must be in place and cured before their monuments will be permitted on the cemetery grounds.

SECTION X: MEMORIALS

1. All aboveground memorials except fieldstone must be set on a foundation.
2. All aboveground memorials will comply with the following:
 - a. The overall width of the monument shall not exceed 75% of lot or group of lots width.
 - b. The monument may not encroach on areas above the vault.
3. Flush markers.
 - a. Flush markers shall be a minimum of 4 inches in thickness.
 - b. Flush markers larger than 12x24 shall be at least 4" in thickness. The Sexton must approve irregular sizes.
 - c. When bronze is used in a flush marker, it will be affixed to a granite bed of 4" or 6" in thickness.
4. The bottom of every stone (i.e., monument, base or marker) will be dressed to an even level bottom bed so that it will stand plumb and rest firmly and level. To achieve this standard, field stone flush markers may be set in a crushed stone bed 12" in depth.
5. The name, initial or inscription on each monument or marker must correspond with the name and record in the Office of the Town Clerk and no changes shall be made without permission of the Cemetery Commission.

REQUIREMENTS for LARGE MONUMENTS

1. These requirements shall be applicable for monuments greater than six (6) feet in width or six (6) feet in height including mausoleums.
2. All designs must be submitted to the Cemetery Commission for approval prior to any work commencing.

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3. A site visit by the Sexton will be required to determine if a proposed monument is appropriate for the location.
4. Prior to the design of the monument foundation, a soils evaluation will be conducted to determine the bearing capacity of the soils.
5. All monuments meeting the above size criteria shall be installed on reinforced concrete foundations.
6. Plans for steel reinforced concrete foundations shall be prepared and sealed by a qualified professional engineer.
7. The foundation shall not encroach on the space reserved for burials.
8. Contractors shall take all necessary precautions to protect existing roadways, lawn areas and gravesites from damage. All disturbed areas shall be repaired as necessary to restore them to their previous condition.
9. The Sexton shall observe all construction.
10. The costs for the service of the Town of Essex employees will be borne by the applicant in accordance with the most current fee schedules.
11. Contractors will be responsible for the safety of their employees and shall comply with all applicable safety regulations including Vermont Office of Safety and Health Agency.

SECTION XI: WORK and LABOR in MOUNTAIN VIEW CEMETERY

1. All work done in the Mountain View Cemetery shall be scheduled through the Town of Essex. No work will be scheduled on weekends or holidays except by special permission of the Sexton.
2. Any jobs conducted in the Mountain View Cemetery by non-Essex employees must have the approval of the Town as evidenced by a signed Work Order/Permit. Such signed Work Order/Permit shall be presented to the Sexton for scheduling and a copy shall be kept with the workers while performing the job. Evidence of job competency may be required of such workers before the Town issues Work Order/Permits.

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3. Non-Essex employees performing work in the Mountain View Cemetery for a firm or as independent contractors to the Town of Essex or to a private holder of an Essex Certificate of Burial Rights shall have certificates of insurance on file with the Town of Essex. Such non-Essex employees shall be held financially responsible for any damage done during their work.
4. Non-Essex employees working in the Mountain View Cemetery shall refrain from attaching ropes or cables to monuments, trees or shrubs. They shall not block road or pathways, or scatter materials over adjoining lots. They shall promptly and properly remove any debris resulting from their work.
5. Vehicles and heavy equipment shall not be driven over the lawns of the Mountain View Cemetery except as may be directed by the Sexton.
6. Materials, machinery and other construction items needed to accomplish work will not be brought into the Mountain View Cemetery until required for immediate use.
7. Precautions shall be taken during excavation or construction work within the cemetery to protect the lawns. All open excavations shall be marked and covered with $\frac{3}{4}$ " thick plywood when left unattended.
8. The Town of Essex or Cemetery Commission may, in their sole discretion, order completed work removed if the quality of workmanship or the materials used is unsatisfactory.

SECTION XII: APPEALS

Decisions of the Cemetery Commission may be appealed to the Essex Select board within thirty (30) days of the date of the ruling. The Essex Select board shall hold a warned hearing at a regular or special meeting to hear the appeal and shall issue a written decision on the appeal within 30 days of closing the hearing.

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