

## Ordinance Amendment S2020-06

## Chapter 26

**CEMETERIES\***

**\*State law reference**--Cemeteries, G.S. 65-1 et seq.; municipal cemeteries, G.S. 160A-341 et seq.

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**Sec. 26-1. Scope of regulations.**

a) The Town operates three cemeteries, including Adcock Cemetery a, Hope Mills Cemetery and McRae Cemetery, which is an inactive cemetery. All plots within cemeteries operated by the Town, whether acquired from the Town, or otherwise, shall be subject to and regulated and controlled by the provisions of this chapter. Owners of interment rights, visitors (including persons, firms or corporation providing funeral services within the cemetery) and contractors performing work within the cemeteries, shall be subject to said rules and regulations, together with all amendments or alterations as shall be adopted by the Town. These rules and regulations are designed for the protection of owners of interment rights as a group.

b) All permits issued by the Town to any person for any plot shall contain a provision thereon and shall be subject to and regulated and controlled by this chapter. The permit shall show upon the face thereof that the permit is made and issued subject to all ordinances, rules, and regulations of the town and that a violation of any ordinance, rule, or regulation shall subject the permit to revocation.

c) No person will be recognized by the town as owner or part owner of any lots/spaces unless his/her name appears on the records of the town as owner or part owner thereof. An heir may be required to show proof.

d) No items may be left on a plot or single grave that the Town deems unsightly or

offensive.

e) Children under 12 years of age must be attended by an adult person responsible for their conduct.

f) Delivery trucks, wagons and vehicles, or any conveyance generally used for hauling goods or chattels, except Town vehicles delivering to the cemetery, flower trucks bringing flowers for an interment or to be placed on a grave, and trucks of a memorialist or vault company installing monument or vault, are not permitted in cemeteries without permission.

g) Persons passing through the cemetery, except for the bona fide purpose of visiting a grave or plot or to attend to cemetery business matters with an authorized representative of the Town, are not permitted.

h) Persons carrying firearms, except officers of the law or members of a military detail in attendance upon an interment, are not allowed, except as otherwise provided by state law.

i) Bicycles and motorcycles are not allowed without permission.

j) No intoxicating substances are permitted.

k) Pets are not allowed, with the exception of properly controlled service animals.

(Code 1985, § 94.01; Code 1999, § 26-1; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-2. Penalty.**

The violation of any provision of this chapter shall constitute a misdemeanor punishable upon conviction in accordance with section 1-7.

(Code 1985, § 94.99; Code 1999, § 26-2; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-3. Cemetery interment required; grave specifications.**

a) It shall be unlawful for any person to bury any human being on any plot or on any premises within the corporate limits of the Town, except within a cemetery operated by the Town, or a cemetery licensed by the North Carolina Cemetery Commission, or in a church cemetery.

b) In compliance with G.S. 65-77, the top of the uppermost part of the burial vault or other encasement shall be a minimum of eighteen inches below the ground surface. All graves to be at least three feet in depth to the pit. This subsection does not apply to burials where no part of the burial vault or other encasement containing the body is touching the ground.

c) For the purpose of this chapter, an infant grave opening will not exceed four feet by two feet, six inches. An "adult grave" will not exceed eight feet by three feet, two inches.

d) Burial of urns containing ashes shall be a minimum of eighteen inches below the ground surface. Multiple urns may be buried in a single plot; however, multiple urns must stay within the footprint of that specific plot and will be buried in a single layer and not stacked.

(Code 1985, § 94.02; Code 1999, § 26-3; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-4. Superintendent.**

The Public Works Director shall be responsible for the upkeep, maintenance, protection, preservation, and improvement of all Town-operated cemeteries; the Public Works Director shall promulgate all rules and regulations with respect to the use of Town-operated cemeteries, and upon approval of such rules and regulations by the Board of Commissioners those rules and regulations shall have full force and effect of law.

(Code 1985, § 94.03; Code 1999, § 26-4; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-5. Acquisition of plots.**

a) Any person wishing to purchase a plot shall apply to the Public Works Director. Upon receipt of the applicable fee, a deed of interment will be issued to the purchaser. Fees can be found in the fee schedule of the Town of Hope Mills budget and are available for public inspection. The Public Works Director will determine the suitability of plots for burial and determine when the cemeteries are at maximum capacity and plots will no longer be available for purchase.

b) The receipt shall stand as a valid permit for interment and the process of preparing a deed of interment. No person shall be interred in a Town-operated cemetery without a valid permit and deed of interment. The plot owner shall be responsible for recording the deed of interment with the Cumberland County Registrar of Deeds.

(Code 1985, § 94.04; Code 1999, § 26-5; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-6. Transfer of plots is prohibited.**

a) No person who shall acquire a permit for interment in a Town-operated cemetery from the Town shall thereafter sell and convey that plot to any other person.

b) Upon surrender of the receipt evidencing the permit for the plot to the Public Works Director, the Public Works Director shall remit to that person the cost of the permit for the plot.

(Code 1985, § 94.05; Code 1999, § 26-6; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-7. Landscaping regulations.**

a) No person shall plant or set any tree, shrub, flower, grass or any other plant of any kind or description in a Town-operated cemetery without the prior written approval of the Public Works Director and under the supervision of such persons as are designated by the Public Works Director.

b) No person shall erect any fencing, hedging, borders, curbs, or coping of any kind without the prior written approval of the Public Works Director, and under the supervision of the person designated by the Public Works Director; however, such fencing, hedging, borders, or curbs which shall be in existence prior to the February 1, 1982 adoption of this chapter by the Board of Commissioners shall be permitted to remain undisturbed and in place, unless such fencing, hedging, borders, or curbs have collapsed, corroded, or decay and have become unsightly and could be a health or safety hazard.

c) No person shall cut or trim any tree, shrubbery, bush, or planting of any type or description without the prior written approval of the Public Works Director and under the supervision of the Public Works Director. The Public Works Director or designee shall have the right to remove or destroy, in whole or in part, all trees, shrubs, plants and other things which, in its opinion are diseased, unsightly,

dangerous, detrimental, undesirable or objectionable or renders access to any plot inconvenient.

d) No person shall cut or grade, landscape or scrape, or otherwise alter the terrain of a Town-operated cemetery without the prior written approval of the Public Works Director.

e) Floral offerings, offered at time of interment shall be removed ten days after date of interment. After the tenth day only one floral arrangement per grave will be allowed with the following exceptions: Christmas, Easter, Mother's Day and Father's Day. Christmas arrangements must be removed by February 1. Following Christmas, Easter arrangements must be removed by May 15. Extra arrangement for Mother's Day and Father's Day must be removed by the 15th day following Mother's Day or Father's Day.

f) Approved flags may be placed on graves of members of the armed services.

(Code 1985, § 94.06; Code 1999, § 26-7; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-8. Structures.**

a) No mausoleum, tomb, building, or other structure of any kind shall be erected on any plot within a Town-operated cemetery unless it shall be erected in a space designated on a plat or plan of that cemetery by the board of commissioners.

b) If any mausoleum or tomb shall become a health or safety hazard or be in a state of disrepair or in need of repair or resetting, the Public Works Director shall notify the owner of the plot or any person having an interest in the plot and shall request that persons having an interest in that plot to make immediate repairs under the supervision of the Public Works Director.

c) If that person shall fail to make the repairs within 30 days after receiving notice, the Public Works Director may thereafter, order such repairs as shall be necessary, or remove the unsafe or dangerous condition from the plot.

(Code 1985, § 94.07; Code 1999, § 26-8; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-9. Proper decorum to be observed.**

a) No person shall disturb the quiet, repose, peace, and good order of a cemetery, nor shall any person deface, remove, disturb, injure, to destroy any plant, tree, shrub, or bush therein; no person shall be allowed in a Town-operated cemetery before sunrise and after sunset, or otherwise trespass upon a Town-operated cemetery.

b) No person shall commit any immoral act in a Town-operated cemetery under penalty of law hereinafter prescribe.

(Code 1985, § 94.08; Code 1999, § 26-9; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-10. Funeral Home Opening/Closing Responsibilities.**

a) Funeral homes will open and close all graves in all Town owned cemeteries. No other person will open or close a grave in Town owned cemeteries.

b) All Funeral Directors and their work crews employed in opening and filling graves shall

be subject to rules and regulations covered in this chapter. Any person failing to conform with such rules and regulations will not afterwards be permitted to work in the cemeteries. Extreme or continuous violation of rules and regulations may be cause to bar that funeral home from further burials in Town cemeteries.

c) When work performed pursuant to this chapter is completed, the plots/spaces and surroundings must be left in a clean and acceptable condition. All waste, dirt, litter, trash, etc., must be immediately removed by the party in charge of the work.

d) Damage to plots, spaces, drives, trees, sod or other cemetery property by a funeral Director or his employees, if not repaired by the funeral Director within two working days, will be repaired by the Town and cost of repair charged to the funeral Director. Upon failure to pay such costs immediately, that funeral Director's permission to bury in Town cemeteries will be revoked.

e) Ropes or other guys are not to be tied to any tree or other object. No post or anchors will be sunk into any occupied grave.

f) No materials, tools, ground covers, lowering devices, etc. will be left in any cemetery. Such items must be removed immediately after funeral service is completed.

g) It will be the responsibility of the Funeral Director to remove any water from an open grave before burial. The Funeral Director will also be responsible for moving any dirt in an open grave caused by cave-in of grave walls.

h) The responsibility of the Funeral Director shall end when the grave has been properly closed. The responsibility for repair of graves from this point on reverts back to the Town.

#### **Sec. 26-11. Operation of motor vehicles.**

a) No vehicle shall be driven in a Town-operated cemetery except upon the roadway provided therein.

b) No person shall operate a motor vehicle within a Town-operated cemetery at a speed in excess of five (5) miles per hour.

c) No motor vehicle shall enter a Town-operated cemetery except for the purpose of attending funerals, visiting graves, or other lawful purposes.

d) Parking or leaving any motor vehicle on any driveway within the cemetery grounds at such location or in such position as to prevent any other vehicle from passing the vehicle, and if so parked or left the Police may remove such vehicle at the owner's expense.

(Code 1985, § 94.06; Code 1999, § 26-10; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

#### **Sec. 26-12. Deposit of unsightly substances; removal of construction materials.**

a) No person shall deposit any rubbish, waste, refuse, trash, or other unclean or unsightly substance in a Town-operated cemetery.

b) All persons carrying structures or materials into a Town-operated cemetery for the purpose of erecting monuments, markers, or other lawful structures shall remove the unused materials from the cemetery.  
(Code 1985, § 94.06; Code 1999, § 26-11; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

**Sec. 26-13. Tampering with grave markers prohibited.**

No person shall remove the stakes from any burial plot, or any board, gravestone, headstone, marker, or other monument which may have been erected at any grave; nor shall any person deface, injure, destroy, or damage such board, gravestone, marker, or monument in any way.  
(Code 1985, § 94.11; Code 1999, § 26-12; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

**Sec. 26-14. Perpetual fund.**

The Finance Director shall be responsible for the collection of all funds from Town-operated cemeteries. The Finance Director shall also be responsible for establishing a perpetual fund and maintaining all records that relate to this fund.  
(Code 1999, § 26-13; Ord. of 2-15-1999; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

**Sec. 26-15. Disinterment or removals.**

a) It shall be unlawful for any person to disinter any human remains for any plot or premises within a Town-operated cemetery without first obtaining a permit for disinterment/reinternment from the Cumberland County Health Department or such other agency as required by state law. A copy of the authorization permit shall be provided to the Public Works Director prior to removal of any remains. Disinterment shall be accomplished in compliance with the North Carolina General Statutes, the county regulations and local ordinances.

b) The Funeral Home Director or requesting party shall be responsible for all costs associated with the disinterment and restoration of the removal site subject to inspection by the Public Works Director.  
(Code 1999, § 26-14; Ord. of 2-5-2001, § 1; Ord. of 3-7-2013, Sec. 1, 3-7-2013)

**Sec. 26-16. Prohibited Acts.**

The following acts are not permitted on cemetery grounds:

- a) Loud, boisterous or obscene language.
- b) Improper conduct or unseemly noise; all activities of a noisy nature in any area around an interment will cease during graveside funeral service.
- c) Picnicking, lunching, camping, hunting, gathering berries, fruits or nuts, running, romping, playing, loitering, lounging, lying full length or sitting on the ground.
- d) Cutting, picking or pulling flowers or plants whether cultivated or wild, breaking branches from any shrub or tree; scratching, marring, defacing, injuring or disturbing any monument headstone or footstone, building or any other thing being a part of or placed or used in connection with the cemetery grounds, or any plot, pathway, street or roadway therein.

e) Putting or depositing, paper, rubbish, dead or wilted flowers, shrubs, plants, branches or any unsightly or unseemly thing on any plot, walk, drive or other part of the cemetery, except in receptacles provided for that purposes.

f) Sitting or climbing on a marker, monument, mausoleum or fixture of any kind.

g) Peddling, begging, soliciting or collecting.

h) The display or distribution of signs, cards, handbills, circulars, or anything relating to any business, profession, office or other matter.

i) Playing games or otherwise engaging in similar conduct on the cemetery property by children or adults.

j) Fishing, hunting, trapping, molesting or killing of any birds, water fowl or game of any kind, except by an authorized animal control officer, acting in performance of his duties to control such birds, water fowl or game.

**Sec. 26-17. Hours of Operation.**

a) No interment shall be allowed or permitted after sunset and in no event after 7:00 p.m. or before 8:00 a.m.

b) All business is to be conducted Monday through Saturday between 8:00 a.m. and 5:00 p.m., except legal Town holidays.

c) It shall be unlawful for any person to go or to be within or upon any cemetery or cemetery area in the Town except for purposes related in good faith to the cemetery or cemetery area concerned; such as preparation for or participation in funeral or graveside ceremonies, maintenance or administration work, or visiting or viewing graves.

d) During the period from 8:00 a.m. to 7:00 p.m. cemeteries will be open for visiting.

State regulatory reference – 10A N.C.A.C. 41H .0505 (the Local Registrar of Vital Statistics issues disinterment-reinternment permits).

**Adopted this 19th day of October, 2020.**

Attest:

  
Jane G. Starling, Town Clerk



Jackie Warner, Mayor

