



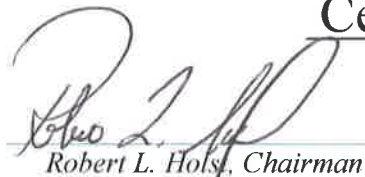
# TOWN OF ERVING

CHAPTER 315

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## REGULATION

### Cemetery Rules & Regulations

  
Robert L. Hols, Chairman

  
Laura Bezio

  
Holly Fitzpatrick

Erving Cemetery Commission

Attested:   
Richard Newton, Town Clerk

Date: 1/10/2024

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#### **ISSUE DATE / EFFECTIVE DATE**

This regulation was duly passed at a meeting of the Cemetery Commission, held on January 9, 2024, and is effective on January 1, 2024.

This regulation supersedes the regulations previously issued on December 19, 2023 and September 24, 2007.

## **ARTICLE 1 INTRODUCTION**

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**§ 315-1** For the mutual protection and benefit of deed owners and the Cemetery as a whole, the following Rules and Regulations are proposed for adoption by the Town of Erving Board of Selectmen and approval by Town Meeting vote, pursuant to the Acts of 1892, as the rules and regulation of the Town of Erving cemeteries.

All deed owners and visitors within the Cemetery, as well as all lots sold, shall be subject to said Rules and Regulations. All are subject further to such other Rules and Regulations, amendments and/or alterations adopted, pursuant to state and local law. Reference to these Rules and Regulations in the Deed to a lot shall have the same force and effect as set forth in full therein.

## **ARTICLE 2 DEFINITIONS**

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**§ 315-2** For the purpose of these regulations the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning.

**Cemetery:** A burial park for earth interments, a community mausoleum for vault or crypt interments, and columbarium for cremated remains, or a combination of one or more therein.

**Deed:** The original conveyance given by the Town of Erving to the original purchaser. The deed does not convey ownership of the lot, only a right to use the lot for burial purposes.

**Grave:** A place for burial that is ten (10) feet long by forty-five (45) inches wide.

**Interment:** The permanent disposition of the remains of a deceased person by cremation or traditional burial.

**Lot:** Numbered division as shown on the record plot, which consists of one or more graves.

**Lot Marker:** Any means used by the Cemetery Department to locate corners of the lot or grave.

**Marker:** Small, flush, stone items used to identify the interred or the corners of a lot, usually placed at the foot of the grave. Also refers to those items given to US Veterans to identify interred.

**Monument:** A large memorial placed at the head of a lot, centered upon deeded graves. Some regulations may apply to size and location of monument. Check with the Town Board before installing any monument.

**Vault:** A reinforced concrete grave liner box. No vault over forty-two (42) inches in exterior width will be accepted for a single grave. If a deed owner needs to use a vault larger than forty-two (42) (42) inches in exterior width, two (2) graves will be required for interment.

## **ARTICLE 3 GENERAL RULES**

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**§ 315-3** Persons within the Cemetery may use only the avenues and roads. No one is permitted to walk upon or across lots or lawns unless it is necessary to do so to gain access to one's own lot. The Cemetery expressly disclaims liability for any injuries sustained by anyone violating this rule.

**§ 315-4** Picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant is prohibited. Writing upon, defacing, or injuring any memorials, fences, or other structures within the Cemetery grounds is prohibited. Violation of this rule is also a violation of state laws (MGL c.272, sects.

73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines and/or imprisonment.

**§ 315-5** Motor vehicles must be kept under complete control at all times. When meeting a funeral procession, they must stop until the procession passes. They must not pass a funeral procession going in the same direction. Motor vehicles must not be left with the engine running and the emergency brakes must be set when the driver is not in his/her seat. Mufflers must not be opened, nor the horn sounded within the Cemetery.

**§ 315-6** The following is prohibited:

- A. Driving more than ten (10) mph within the grounds of the Cemetery.
- B. Driving any wheeled vehicle, motorized or otherwise, or riding any animal across or upon any grave, lot, or lawn, or parking or leaving the same thereon.
- C. Parking or leaving any motor vehicle on any road or driveway within the Cemetery at such location or in such position as to prevent any other vehicle from passing. The Town will have any vehicle violating this rule towed at the owner's expense.

**§ 315-7** Children under sixteen (16) years of age are not permitted within the Cemetery, or its buildings, unless accompanied by a responsible adult or having been given approval from the Town Board.

**§ 315-8** In order to maintain the solemnity of the Cemetery, the following activities are prohibited:

- A. Loud or boisterous talking;
- B. Loitering on the grounds, or in any of the buildings;
- C. Peddling or soliciting;
- D. Placing of signs, notices, or advertisements of any kind;
- E. Allowing dogs, other than guide dogs, off the driveway/road is strictly prohibited;

**§ 315-9** Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Town Board, therefore, reserves the right to make exceptions, suspensions, or modifications of any of these Rules and Regulations, without notice, when in the judgment of the Town Board such modification shall in no way be construed as affecting the general application of such Rules and Regulations.

**§ 315-10** The Town Board reserves the right to add to, amend, alter, or repeal these Rules and Regulations pursuant to MGL c. 144, sec. 23.

## **ARTICLE 6 LOTS AND DEED OWNERS**

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**§ 315-11** Persons desiring to purchase a right to burial should contact the Town where they will be aided in making a selection and will be issued a memorandum describing the lot purchased.

**§ 315-12** Before any stone, marker, or shrubs are placed or planted on a grave or lot, the Town must approve the location, and complete payment for the grave must be made to the Town. The Town will issue, when the fee is paid in full, a deed/certificate of ownership for burial purposes.

**§ 315-13** No lot or grave shall be used for any purpose other than for burial of the human dead.

**§ 315-14** No easement or right of interment is granted to any deed owner in any road, drive, alley, or walk with 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.

**§ 315-15** The Town reserves the right to:

- A. Enlarge, reduce, re-plot, or change the boundaries or grading of the Cemetery, or section(s), from time to time, including the right to modify or change the locations or remove or re-grade roads, drives, or walks, or lot markers, or monuments, or markers or any part thereof;
- B. Lay, maintain, and operate or alter or change pipelines or gutters for sprinkler systems, water systems, drainage, etc;
- C. Use Cemetery property not sold to individual deed owner for Cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto.

**§ 315-16** The Cemetery reserves to it and to those lawfully entitled thereto, a perpetual right on ingress and egress over graves for the purpose of passing to and from other graves or lots.

**§ 315-17** Description of lots will be in accordance with the Cemetery plats.

**§ 315-18** The Town will take all reasonable precautions to protect deed owner, , within the Cemetery from loss or damage. The Town will not be liable for loss or damage from causes beyond its reasonable control, such as damage caused by the elements, an act of God, thieves, vandals, explosions, unavoidable accidents, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than herein provided.

**§ 315-19** It is the duty of the deed owner to notify the Town of any change in mailing address.

**§ 315-20** The instrument of conveyance, these Rules and Regulations, and any amendments thereto, constitute the sole agreement between the Town and the deed owner. The statement of any employee or agent, unless confirmed in writing by the Select Board, shall in no way bind the Town.

## **ARTICLE 7 CARE OF LOTS**

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**§ 315-21** The general care of the Cemetery is assumed by the Town and includes the cutting of grass at reasonable intervals and the raking and cleaning of the grounds.

**§ 315-22** This general care shall typically not mean the maintenance, repair, or replacement of any memorial, tomb, or mausoleum placed or erected upon lots, nor the doing of any special or unusual work in the Cemetery. Additionally excluded is the reconstruction of any marble or granite work on any section or grave or any portion or portions thereof in the Cemetery, caused by the elements, and act of God, thieves, vandals, explosions, unavoidable accidents, or by the order of any military or civil authority, whether the damage be direct or collateral, other than herein provided.

**§ 315-23** Funds for this general care shall be provided by town appropriation pursuant to MGL c.114, sec. 16.

**§ 315-24** Pursuant to MGL c.114, sec. 25, the Town of Erving may receive gifts or bequests for maintenance of the Cemetery. These funds shall be paid to the Town Treasurer, kept separate from other town funds and accounts, and invested in accordance with any stipulations from the grantor, if any. Proceeds of lot sales or rights of burial shall be paid into the town treasury and appropriated to reimburse the Town for Cemetery maintenance and expenditures.

**§ 315-25** Pursuant to MGL c.114, sec. 19, the Town of Erving may receive, hold, and apply any funds, money, or securities deposited with the Town Treasurer for the preservation, care, improvement, or embellishment of the Cemetery or of lots in the Cemetery. The Town Treasurer shall invest these monies to ensure a maximum income.

## **ARTICLE 8 CORRECTIONS OF ERRORS**

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**§ 315-26** The Town reserves, and shall have, the right to correct any errors that may be made by it either in making interments, disinterment, removals, deed descriptions, transfers, or conveyances of any interment property, either by canceling such conveyance and substituting any conveying in lieu thereof other interment property of equal value and similar locations 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 of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Town reserves, and shall have the right to remove or transfer such remains of interred to such other property (consistent with the law) of equal value and similar location as may be substituted and conveyed in lieu thereof. The Town will make every effort to notify property deed owners before taking any action.

## **ARTICLE 9 DESCENT OF TITLE**

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**§ 315-27** The Laws of the Commonwealth of Massachusetts govern descent of title to Cemetery lots as well as other matters pertaining to assignments, conveyances, devises, trust deeds, and inalienability. The Town will assist any deed owner who desires information or advice on questions pertaining to his/her lot.

## **ARTICLE 10 INTERMENTS**

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**§ 315-26** Except for winter months (starting when the ground freezes until the ground has thawed and is dry enough to be mud free) the Cemetery will be open for interments at regular rates between 8:00 AM and 2:00 PM, Monday through Thursday. Funerals at the Cemetery during off hours, Fridays, and Saturdays are subject to higher fees. No burials will take place on Sundays, or Town holidays. When delays cause unreasonable hardship or inconvenience, interments may be made on such days, but an additional fee of \$250.00 will apply.

**§ 315-27** Where immediate burial is required by state law or under the Rules and Regulations of the Erving Board of Health, interments may be made on Sundays and holidays, but an additional fee of \$250.00 will be added to the regular interment charge and entrance to the Cemetery will be allowed only to the hearse and vehicles in the funeral procession. The Cemetery Commission chairperson, in collaboration with the sexton, is appointed to address requested emergency or religious exemptions to these Rules and Regulations in the event that a Cemetery Commission meeting cannot be legally posted.

In the event that the chair is unavailable, any other committee member is authorized to act in place of the chair.

**§ 315-28** All funerals, upon entering the Cemetery, shall be under the charge of the Town.

**§ 315-29** Once a casket containing a body is within the confines of the Cemetery, no funeral director, or their staff, shall be permitted to open the casket or to touch the body without consent of the legal representative of the deceased or by court order.

**§ 315-30** Funeral directors, upon arrival at the Cemetery, must present the burial permit issued by the Board of Health.

**§ 315-31** Deed owners shall not allow burials in their lots for remuneration of any kind.

**§ 315-32** Each grave may contain one traditional size casket or one adult size casket and one infant size casket or up to ten (10) cremains.

**§ 315-33** When an interment is to be made in a lot, the deed owner shall designate the location of such interment. Should the deed owner fail or neglect to make such designation, the Cemetery reserves the right to make the interment in a location designated by the Town.

**§ 315-34** Employees of the Cemetery are the only persons who will be permitted to open graves with the following exceptions:

- A. When the Cemetery is directed to make a disinterment by judicial order and a certified copy of such order has been filed with the Town; or
- B. When the Medical Examiner directs the disinterment for the purpose of holding an inquest and has filed with the Town a legal, signed authorization to release the body to the Medical Examiner or lawful agent. In such cases, the Medical Examiner or lawful agent does the disinterment. Cemetery employees will not be permitted to assist.

**§ 315-35** In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, it is required that all traditional burials are made inside a vault. The "outside" width of such vaults shall not exceed forty-two (42) inches. In such cases where an oversized vault is needed to accommodate an oversized casket, the deed owner will need to use two (2) deeded graves. Burial vaults may be procured from any source provided they meet the established specifications. When Cemetery employees handle or install such containers, a reasonable charge will be made for such service.

**§ 315-36** All charges for interment or services in connection therewith, shall be paid to the Town before or at the time of burial.

**§ 315-37** Arrangements for the payment of indebtedness due the Town must be made before interment is made.

**§ 315-38** The Town reserves the right to insist upon at least thirty-six (36) hours notice prior to any interment and at least one (1) week's notice prior to any disinterment or removal.

**§ 315-39** All interments, disinterment, and removals must be made at the time, in the manner, and upon the charges fixed by the Town.

**§ 315-40** Besides being subject to these Rules and Regulations, all interments, disinterment, and removals are made subject to local and state laws, by-laws, ordinances, or regulations.

**§ 315-41** The Town will not be responsible for any order given by telephone or for any mistake occurring from the lack of precise and proper instructions as to the particular space, size of grave, and location of a grave where interment is desired.

**§ 315-42** The Town will not be liable to the interment permit nor for the identity of the person sought to be interred.

## **ARTICLE 11 PLANTS AND SHRUBS**

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**§ 315-43** Monument gardens are permissible as long as they are planted within the following guidelines:

- A. Gardens shall not extend further than twelve (12) inches from the base of the monument.
- B. No plantings or decorations at foot markers. Plantings and decorations may only be placed at the main lot monument.
- C. Vines or creeping perennial flowers (i.e. phlox) and rose bushes are not permissible. Bark mulch and stones are not permitted in gardens.
- D. Gardens may be edged with natural products only (i.e. bricks, rocks, pavers). No plastic edging, plastic fencing, or metal wire fencing may be used. The Town will remove them.

**§ 315-44** No shrubs shall be planted without written consent of the Town. Shrubs shall not exceed fifteen (15) inches in diameter and shall not grow higher than the monument (maximum height of three [3] feet). It is the deed owner's responsibility to maintain their shrubs within these specifications. Any shrub planted without consent, or overgrown, will be removed at the Town's convenience.

**§ 315-45** The Town shall not be responsible for any kind of plantings or lot decorations damaged by the elements, vandals, thieves, or other causes beyond its control. The Town shall have the further authority to remove all floral designs, flowers, weeds, trees, plants, herbage, or decorations of any kind from the Cemetery as soon as, in the judgment of the Town, they become unsightly, dangerous, detrimental, or diseased, or do not conform to the standard maintained.

**§ 315-46** The Town shall not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached, nor for such floral pieces for memorial services held in the Cemetery.

**§ 315-47** Artificial flowers may be used to decorate lots, but may be removed or discarded by the Town if, and or when, in the sole opinion of Town cemetery employees, they become faded or unsightly.

## **ARTICLE 12 ENFORCEMENT OF RULES**

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**§ 315-48** The Town of Erving is hereby empowered to enforce all Rules and Regulations, and to exclude from the Cemetery, any person violating the same. The Town shall have charge of the grounds and buildings, including the conduct of funerals, traffic, employees, deed owners, and visitors, and, at all times, shall have supervision and control of all persons in the Cemetery.

## SCHEDULE I FEES & CHARGES

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### Sale of Lots

Residents Only <sup>1</sup> /Deed owner	\$ 25.00/each
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### Internments

Regular full vault and casket burials	\$500.00
Cremations	\$300.00

No Sunday or Holiday Burials

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<sup>1</sup> The Right to Burial Deeds are only available to current Erving residents. Anyone who is not a current resident may appeal to the Cemetery Commission.