ARTICLE XVII - Cemetery Rules and Regulations

For the mutual protection of lot owners and the Cemetery as a whole, the following Rules and Regulations are proposed. All lot owners and visitors within the Cemetery as well as all lots sold shall be subject to said Rules and Regulations, amendments, or alterations adopted pursuant to state and local laws from time to time. Reference to these Rules and Regulations in Deed or Certificate of Ownership to a lot shall have the same force and effect as set forth in full herein.

These Rules and Regulations replace any prior rules governing the Cemeteries in the Town of Phillipston.

1. General Rules

a) The Cemeteries are closed between sunset and sunrise.

b) Employees of the Cemetery Commission are not permitted to do any work for lot owners except upon order of the Cemetery Commission Maintenance Superintendent or a Cemetery Commissioner.

c) All fees and charges for services are payable through the Cemetery Commission Treasurer or a Cemetery Commissioner. Patrons of the Cemeteries are requested not to pay any fee or gratuity to Cemetery employees.

d) Persons within the Cemeteries are only to use roads and walkways. No one is permitted to walk upon or cross lots or lawns unless it is necessary to do so to gain access to one's own lot. The Cemetery Commission expressly disclaims liability for injuries sustained by anyone who violates this rule

e) Whoever uses as a means of passage from one point to another, not being thereupon at the time for any other purpose, the premises of the Cemetery, in any other parts than roads or walkways, shall be fined not more than twenty ($20.00) dollars, pursuant to MGL c.114, sec. 42.

f) Persons visiting the Cemeteries or attending funerals are prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant, or from writing upon, defacing or injuring any memorials, fence or other structure within the Cemetery grounds. Violation of this rule is also a violation of state laws (MGL c.272, secs. 73, 74, 75) under which violators may be subject to criminal prosecution resulting in fines and/or imprisonment.

g) Motor vehicles must be kept under complete control at all times. When meeting a funeral procession, they must stop until the procession has passed. They must not pass a procession going in the same direction. Motor vehicles must not be left running and the emergency brakes must be set when the driver is not in the driver's seat. Mufflers must not be opened, nor the horn sounded within the Cemetery.

h) The following are prohibited:

(1) The driving of a motor vehicle through the gates or within the Cemetery in excess of 10 MPH.

(2) Driving any motor vehicle or riding any animal across or upon any lot, plot or lawn, or parking or leaving the same thereon.

(3) 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 Cemetery Commission will remove vehicles in violation of this rule at the owner's expense.

i) No bicycle or motorcycle will be admitted except such as may be in attendance at funerals or on official business.

j) Disposal of rubbish at any place, other than the waste receptacles provided, is prohibited.

k) In order to maintain the solemnity of the Cemeteries, the following activities are prohibited:

(1) Loud or boisterous talking.

(2) Loitering on the grounds or any of the buildings.

(3) Bringing food or alcoholic beverages into the Cemeteries and consuming them on the grounds.

(4) Peddling or soliciting.

(5) Placing of signs, notices, or advertisements of any kind.

(6) Bringing animals, other than guide dogs for the blind, deaf, or hearing impaired, into the Cemeteries.

l) To the extent permitted by law, all monuments, stones or other structures erected on plots shall be subject to approval of the Cemetery Commission who shall have the right to disapprove any monument, effigy, enclosure, structure, or any inscription thereon if the same shall be deemed offensive, improper or injurious to the appearance of the surrounding plots and grounds.

m) Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The Cemetery Commission, therefore, reserves the right to make exceptions, suspensions, or modifications of these Rules and Regulations without notice when in the judgment of the Cemetery Commission such actions appear necessary.

n) The Town of Phillipston reserves the right to add to, amend, alter, or appeal these Rules and Regulations pursuant to MGL c. 114, sec. 23. The Town Meeting Warrant will serve as sufficient notice of any rule change.

2. Plots and Plot Owners

a) Persons desiring to purchase a lot, or lots, should contact a Cemetery Commissioner and schedule an appointment to visit the Cemetery. A Cemetery Commissioner will aide them with a selection and issue them the appropriate documents describing the plot purchase.

b) Before any stone, marker, memorial, or adornments are placed or planted on a plot, complete payment for the plot must be made to the Cemetery Commission for the plot, unless waived by the Cemetery Commission. Plots will be sold for cash, money order or a check presented at the time of signing the purchase order. If paid by check, the Deed will not be released to the owner(s) until the check has cleared. Plots may be purchased under a deferred payment schedule by which 30% of the purchase price must be paid upon signing the purchase order, and 10% of the purchase price must be paid no later than the 5th of each month until the balance is paid in full. If an interment is necessary in a plot or lots purchased under a deferred payment schedule, before such interment will be made, the unpaid balance for all lots purchased must be paid in full.

When the purchase price of a plot or plots is paid, a Deed for burial purposes only will be issued by the Cemetery Commission.

If a plot is purchased under a deferred payment schedule, and the purchaser fails to complete payment of the full purchase price within seven (7) months from the date of the purchase order, the said purchase order shall become null and void and the Cemetery Commission will retain all monies paid under the purchase order as liquidated damages or otherwise.

c) No Plot or lot shall be used for any other purpose than the burial of the human dead.

d) The Cemetery Commission reserves the right to:

(1) Enlarge, reduce, change platting, or change the boundaries or grading of the Cemetery, or a section or sections, from time to time, including the right to modify or change the locations or remove or regrade roads, walkways, or any part thereof.

(2) Lay, maintain, and operate, or alter or change, pipelines or gutters for sprinkle systems, drainage, etc.

(3) Use Cemetery property not sold to individual plot owners for Cemetery purposes, including interment of the dead, or for anything necessary, convenient, or incidental to the care of the Cemeteries.

e) The Cemetery Commission reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over plots for the purpose of passing to and from other plots.

f) It is the duty of the plot owner to notify the Cemetery Commission of any changes of address for contact purposes.

g) Any statement of any employee or single commissioner, unless confirmed in writing by the Board of Commissioners, shall in no way bind the Cemetery Commission.

3. Care of Lots

a) The general care of the Cemeteries is assumed by the Cemetery Commission and includes the cutting of the grass at reasonable intervals and the raking and cleaning of the grounds.

b) This general care shall in no case mean the maintenance, repair or replacement of any memorial, tomb, or mausoleum placed or erected upon plots, 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 Plot, or any portion or portions thereof in the Cemetery damaged by the elements, acts 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.

c) The Cemetery Commission will not be responsible for the maintenance and care of any trees, shrubs, plants or flowers planted, or in containers, which have been placed by plot owners.

4. Correction of Errors

The Cemetery Commission reserves the right, and shall have the right, to correct any errors that may be made either in making interments, disinterments or removals, or the description, transfer or conveyance of any interment property, either by canceling such conveyance and substituting any conveyance in lieu thereof for other interment property of equal value and similar locations as far as possible, or as may be selected by the Cemetery Commission, or in the sole discretion of the Cemetery Commission, 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 Cemetery Commission reserves the right to remove or transfer such remains so interred to such other property, consistent with the law, of equal value and similar location as may be substituted and conveyed in lieu thereof.

5. Descent of Titles

The laws of the Commonwealth of Massachusetts govern descent of title to Cemetery plots as well as other matters pertaining to assignments, conveyances, devises, trust deeds, and inalienability. The Cemetery Commission will assist any plot owner who desires information or advise on questions pertaining to their plots.

6. Interments

a) The Cemetery will be open for interments from 8:00 a.m. to 5:00 p.m. daily through the months of April to December (weather permitting) with the exceptions of Sundays, Memorial Day, July 4th, and Thanksgiving Day. When Memorial Day or July 4th falls on a Saturday or Monday, and delay will cause unreasonable hardship or inconvenience, interments may be made on such days, but an additional fee of fifty ($50.00) dollars will be incurred. Winter interments may be conducted after the frost has set, but all additional costs of equipment rental/fees will be incurred by the individual requesting the internment.

b) Where immediate burial is required by state law, or under the rules and regulations of the Phillipston Board of Health, interments may be made on a Sunday or Holiday, but an additional fee of fifty ($50.00) dollars will be incurred, and entrance to the Cemetery will be allowed only to the hearse and vehicles in the funeral procession.

c) Upon entering a Cemetery all funerals shall be under the charge of the Cemetery Commission.

d) Once a casket containing a body is within the confines of the Cemetery, no funeral director nor their embalmer, assistant, employee, or agent shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased, or by a signed court order.

e) Upon arrival at the Cemetery funeral directors must present the burial permit issued by the Board of Health or Town Clerk to the Cemetery Commission Burial Agent or other Cemetery Commissioner.

f) Plot owners shall not allow burials in their lots for remuneration of any kind.

g) No interment of two or more bodies shall be made in one lot, except in the case of parent and small child or two infants in one casket.

h) Only two cremations may be interred in one lot unless waived by the Cemetery Commission.

i) When an interment is to be made in a plot, the lot location of such interment shall be designated by the plot owner or their representative. Should the plot owner fail or neglect to make such determination, the Cemetery Commission reserves the right to make the interment in a location designated by a Cemetery Commissioner.

j) The Cemetery Commissioners, and/or personnel employed by the Commission, are the only personnel who will be permitted to open a grave site with the following exceptions:

(1) When the Cemetery Commission is directed to make a disinterment by judicial order and a certified copy of such order has been received and filed by the Cemetery Commission.

(2) When the Coroner/Medical Examiner directs a disinterment for the purpose of holding an inquest and has filed a signed authorization with the Cemetery Commission to release the body to a lawful agent.

(3) In either case, the disinterment must be made by the Coroner/Medical Examiner, or by their lawful agent. The Cemetery Commission and employees of the Cemetery Commission will not be permitted to assist.

k) In order to maintain a high standard of care and to eliminate sunken graves caused by collapse of wooden boxes, it is required that all interments must be made in outside containers

(vaults) made of natural stone or of metal or of reinforced concrete. All such containers must be made and installed to meet specifications established by the Cemetery Commission.

l) Arrangements for the payment for any remaining balance on a plot due the Cemetery Commission must be paid before an interment is made.

m) The Cemetery Commission reserves the right to insist on at least forty eight (48) hours notification prior to an interment and at least one week's notice prior to any disinterment or removal.

n) The Cemetery Commission will not be responsible for any request given by telephone or in writing, or for any mistake occurring because of a lack of precise and proper instructions as to the particular space, size of plot(s), and location of a lot where an interment is desired.

o) The Cemetery Commission will not be responsible for obtaining the interment permit or for identifying the person being interred.

7. Trees, shrubs, plants and flowers

a) All shrubs/trees must be kept trimmed by the lot owner to a height no higher than the stone and approximately two feet in diameter. In the absence of a stone, shrubs/trees must be kept trimmed to no higher than three feet tall and two feet in diameter.

b) All plantings of any kind must be within one foot of the stone and must be cleared of grass so it does not become overgrown.

c) Spreading flowers such as violets, rose bushes, etc., are prohibited.

d) The Cemetery Commission reserves the right to remove any trees/shrubs which are not kept trimmed or plantings which are not planted in accordance with these rules.

e) All pots, urns, vases, baskets, artificial flowers, and decorations must be removed in the Spring by April 15, and in the Fall by October 1st for the purpose of Spring and Fall clean up. They will otherwise be disposed of by the Cemetery Commission. All new pots, urns, vases, baskets, artificial flowers, and decorations may be placed on the lots starting in the Spring May 1st, and in the Fall October 15th.

f) No baskets or containers shall be wired or tied down.

g) No fences will be erected around any lots or plots without the expressed written permission of the Cemetery Commission.

h) The Cemetery Commission shall not be responsible for any kind of plantings damaged by vandals, thieves, or other elements beyond its control. The Cemetery Commission shall have the further authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage

of any kind from the Cemetery as soon as they become unsightly, dangerous, detrimental, or diseased.

i) The Cemetery Commission will not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached. The only exception will be agreements made between the Cemetery Commission and funeral services solely for purpose of interments.

8. Enforcement of Rules and Regulations

The Cemetery Commission is empowered to enforce all Rules and Regulations and to exclude from the Cemetery any persons violating the same.

9. Definitions

a) ***Cemetery*** **--** A burial Park for earth interments.

b) ***Cemetery Commissioner*** **--** An official elected by the Town of Phillipston to maintain and operate all Town Cemeteries.

c) ***Cemetery Commission*** **--** The three Cemetery Commissioners comprising the Board of Commissioners.

d) ***Cemetery Employee*** **--** Personnel employed by the Cemetery Commission to perform labor in the Town Cemeteries.

e) ***Plot*** **--** Any section of the Cemetery consisting of one or more lots.

f) ***Lot*** **--** An individual section, or grave, of a plot.

g) ***Interment*** **--** The permanent disposition of the remains of a deceased person by cremation, entombment, or burial.

h) ***Maintenance Superintendent*** **--** A Cemetery Commissioner elected by the Board of Commissioners to develop and execute maintenance programs to include grounds and equipment.

i) ***Cemetery Treasurer*** **--** A Cemetery Commissioner elected by the Board of Commissioners to manage Cemetery Commission finances.

j) ***Burial Agent*** **--** A Cemetery Commissioner elected by the Board of Commissioners to be the point of contact between the Commission and funeral services for burials and to coordinate any and all arrangements associated with a burial.