

**CUMBERLAND CEMETERY ASSOCIATION
Rules and Regulations
Revised as of September 7, 2011**

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ARTICLE 1 GENERAL

- 1.1 **Purpose** The Town of Cumberland, Maine (“Town”) owns six public cemeteries (“Cemeteries”) in Cumberland. The Cumberland Cemetery Association (“Association”), incorporated as a non-profit entity in 1933, was created by citizens of Cumberland to maintain and administer these cemeteries as well as to manage the funds established for the benefit of the Cemeteries. The Town and the Association work closely together to preserve and protect the Cemeteries as peaceful and beautiful areas that serve as reverent symbols of the citizens’ respect for the deceased. To accomplish these goals, rules and regulations (“Rules and Regulations”) are used to influence the conduct of individuals while they visit the Cemeteries. In formulating these Rules and Regulations, a balance of the interests of the various stakeholders (purchasers and owners of rights of interment or inurnment; family, friends, and acquaintances of the deceased buried therein; Cumberland citizens and taxpayers; maintenance workers; and commercial service providers) is taken into consideration. In particular, the Rules and Regulations are based upon a proper fit of the Cemeteries in Cumberland, aesthetics of the park-like spaces, the cost of maintaining them, historical preservation, civic pride, and, most important of all, **safety of all who enter these Cemeteries.** All persons visiting the Cemeteries will be expected to abide by these Rules and Regulations.
- 1.2 **Amendment** The Trustees of the Association hereby reserve the right to adopt additional rules and regulations or to amend, alter, or repeal any rule or regulation at any time they deem appropriate. The Trustees also reserve the right to waive or temporarily

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suspend or modify one or more of these Rules and Regulations in unique situations that may arise in which strict enforcement may result in undue and unfair hardship or other unintended consequence. Such waivers or temporary suspensions or modifications of Rules and Regulations are expected to be very rare, based upon good reasoning and rationale, and not necessarily binding precedent for later situations.

- 1.3 **Reserved Rights** The Association reserves the right to enlarge, reduce, re-plot, or change the boundaries or grading of the Cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or re-grade roads, drives, or walks, or any part thereof. The Association also reserves the right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes and to use cemetery property, but not inconsistent with Rights of Interment already sold to Grantees, for cemetery purposes, including interment and inurnment of the dead, or for anything necessary, incidental, or convenient thereto. The Association reserves to itself and to those lawfully entitled thereto, a perpetual right of ingress and egress over burial sites for the purpose of passing to and from other burial sites.
- 1.4 **Access** The Cemeteries shall be open to the public seven days per week from one-half hour prior to sunrise to one-half hour after sunset. No individual shall walk across lots or lawn unless it is necessary to gain access to a particular burial site. The Association and Town expressly disclaim responsibility for any property damage or injury sustained by any person violating this rule. Association officials and their agents, maintenance workers, and funeral workers may enter the Cemeteries outside of these hours if necessary for the timely completion of their tasks.
- 1.5 **Vehicles** Motor vehicles must stop when meeting a funeral cortege and only resume movement when the procession passes. Maximum speed is ten (10) miles per hour. No vehicle may be driven or parked across or upon any burial site or lawn. Parking or leaving any vehicle on any road or drive in such a way as to prevent any other vehicle from passing is prohibited. Commercial vehicles that are not directly involved in the business of the Cemeteries are not permitted. Snowmobiles and unregistered motor

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vehicles such as motor scooters and all-terrain vehicles are prohibited within the Cemeteries except as may be in attendance at funerals.

- 1.6 **Enforcement** Any violation of these Rules and Regulations will be treated as a trespass or nuisance, depending on the violation, and will be referred to the Town Manager or Police Chief accordingly. Violation of the Rules and Regulations may also lead to prosecution for violation of federal or state laws. Improper conduct or violation of Rules and Regulations by anyone may result in a request to leave the Cemeteries.
- 1.7 **Waste** Individuals who enter the Cemeteries must carry out all waste that they create while in the Cemeteries. Depositing of waste, rubbish, and debris on the grounds of the Cemeteries, or neighboring/adjacent property, is prohibited.
- 1.8 **Functions** The only group functions that are allowed within the Cemeteries are funerals, burials, memorial services, and educational tours. Other types of functions are not permitted unless permission is sought and granted by the Town Manager or the Town Council.
- 1.9 **Corrections** The Association reserves, shall have, the right to correct any errors that may be made by it or its agents in making interments, disinterments or removals, or in the description, transfer or conveyance of any Rights of Interment or interment property. Such corrections may include cancelling such conveyance and substituting and conveying in lieu thereof other Rights of Interment or other interment property of equal value and similar location as far as possible, or as may be selected by the Association, or, in the sole discretion of the Association, by refunding the amount of money paid to the Association on account of said conveyance. In the event such error shall involve the interment of the remains of any person in such property, the Association reserves the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.
- 1.10 **Superintendent** The Superintendent(s) chosen by the Association shall have charge of the grounds and property within the Cemeteries assigned to them and shall have supervision and control of Association employees or agents and all persons visiting the Cemeteries, whether Grantees of Rights or otherwise.

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- 1.11 **Town Clerk** Town Clerk is the official Town Clerk of Cumberland, or holder of a successor position in the Town of Cumberland.
- 1.12 **Losses** Reasonable precautions will be taken to protect Grantees from loss or damage, but the Association and the Town will not be responsible for loss or damage from causes beyond their reasonable control, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the same be direct or collateral.

ARTICLE 2 RIGHTS OF INTERMENT

- 2.1 **Rights** The Town will issue a Right of Interment (“Right”) (right to bury human remains or to bury the ashes of a human being (“cremated remains” or “cremains”), the latter hereinafter referred to as an Inurnment) upon the payment in full of the current price for such rights. Purchase of a Right in no way grants any other rights or privileges to the purchaser, and a Right is subject to these Rules and Regulations. No Right shall be used for any purpose other than the burial or the memorializing of the human dead, or the cremains of the human dead. The statement of any employee or agent of the Association or Town, unless confirmed in writing by an authorized representative of the Association or Town, shall in no way bind the Association or Town.
- 2.2 **Contact** Individuals considering the purchase of a Right should contact the **Town Clerk** at the Cumberland Town Hall. The Town Clerk will notify the appropriate Superintendent of Cemetery who will be responsible for aiding the individual in making a decision to purchase.
- 2.3 **Payment** Complete payment of the purchase price for the Right must be made to the Association before any burial is permitted. No partial payments will be accepted. Upon full payment for the Right, and signing of Grantee Acknowledgement Form, the Town of Cumberland will issue an executed document signifying the granting of the Right. Half of the payment for Rights shall be added to the Association’s Perpetual Care Fund. The principal of the Perpetual Care Fund is nonrefundable and must remain intact in trust in perpetuity for the

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care of the Cemeteries. It shall be invested and a prudent portion of the net income and appreciation from this Fund shall be applied annually by the Association to the operating costs of the Cemeteries.

2.4 Grantee The Grantee is the individual who has purchased the Right, or has inherited the Right from a deceased predecessor Grantee. The Grantee “owns” the rights, but does not own real property, just the right to use one or more specific burial sites in the Cemeteries subject to all of the Rules and Regulations as well as applicable laws and ordinances. It shall be the duty of the Grantee (or Grantee’s descendants or assigns) to notify the Association or the Town of any change of address or ownership by inheritance. Any purported change in ownership must be supported by adequate evidence to the satisfaction of the Association.

2.5 Descent The laws of the state of Maine govern the descent of title to Rights. Upon the death of a Grantee, the heirs or devisees of such person should file with the Town Clerk proof of ownership for the purpose of correcting the record. Notarized statements as to relationship and certified copies of wills or court decrees (if any) are normally sufficient. The Association shall charge an administrative fee for each descent of title of each burial right (space)

2.6 Repurchase The Association and Town have no obligation to repurchase Rights from Grantees. Each and every request to repurchase shall be considered by the Association’s Trustees at their Annual Meeting and will be decided on a case by case basis. Prior decisions to repurchase or not to repurchase Rights will not have any bearing or influence on any subsequent request to repurchase. If the Association decides to repurchase Rights, it will pay the Grantee no more than the price originally paid by the Grantee for the Right, less the Perpetual Care Fund portion which will be retained in the Perpetual Care Fund.

2.7 Transfer Attempts by Grantees to transfer rights to other parties will not be recognized by the Association or Town unless consents of the Superintendent and the President (or Vice President) of the Association are given, and the transfer is endorsed by the Town Clerk on a Transfer of Right Form, such forms to be obtained at the Town Hall. If Perpetual Care was not previously paid for the Right to be transferred, the Perpetual Care Fee at the current rate shall

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be paid in full prior to issuance of the executed Transfer of Right Form. The Association shall charge an administrative fee for each transfer of each burial right (space) .

2.8 **Exchanges** The Association may, but is not obligated to, allow exchanges of Rights for different burial sites within its Cemeteries. Trustees at the Annual Meeting shall consider requests for such exchanges. If Perpetual Care was not previously paid for the Right to be transferred, the Perpetual Care Fee at the current rate shall be paid in full prior to issuance of the executed Transfer of Right Form. The Association shall charge an administrative fee for each exchange of each burial right (space).

ARTICLE 3 CARE OF BURIAL SITES

3.1 **General** The general care of the surface conditions of the Cemeteries is the responsibility of the Association and includes cutting the grass, trimming bushes and trees, and raking and cleaning the grounds. The Association does not assume the responsibility for caring for or planting flowers or ornamental plants, or repairing or replacing Monuments or Markers.

3.2 **Burial Site** Burial Site is the basic unit of space within the Cemeteries used or intended to be used for the burial of human remains. It is also commonly referred to as a single “grave site” or “burial space.”

3.3 **Boundary** No burial site shall be defined by a fence, railing, hedge, crypt, or enclosure of any description. Boundaries that existed prior to the adoption of this rule in March, 2004, around burial sites may be maintained as a boundary, but no one is allowed to add to or replace them.

3.4 **Cleanup** The Superintendent shall conduct a fall cleanup between October 1 and November 15 of every year, and a spring cleanup between April 1 and May 15 of every year. Any items of value to the Grantees shall be removed by the Grantee prior to the cleanup periods.

3.5 **Removal** The Association, Superintendent, or their agent/designee has the right to remove all floral designs, vases, urns, decorations, flowers, shrubs, wreaths, plants, and other

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materials placed in Cemeteries that, in their opinion, become unsightly, dangerous, detrimental, diseased, or that interfere with normal maintenance of Cemeteries.

ARTICLE 4 INTERMENTS AND INURNMENTS

4.1 **Timing** Cemeteries shall be open for interments at the discretion of the Superintendent. There shall be no interments permitted after December 1 until the following spring thaw is complete. Interments will not be permitted on Sundays or federal or state holidays.

4.2 **Notice** Forty-eight (48) hours notice (not counting Sundays or holidays) must be given to the Superintendent by the funeral or burial service provider prior to all interments.

4.3 **Delay** The Association and Town shall not be responsible or held liable for any costs or damages for any delay in an interment/inurnment due to a written, timely protest to the interment or inurnment by a third party, or where the Rules and Regulations or any law or ordinance has not been complied with. The Association is under no obligation to recognize any protest of an interment or inurnment unless it is in writing and delivered to the Superintendent or the President of the Association.

4.4 **Location** When an interment is to be made, the location of such interment shall be designated by the Grantee of the Right or their representative or agent. Should the Grantee or their representative fail or neglect to make such designation, particularly when the Grantee owns rights in multiple burial sites, the Association reserves the right to make or direct the interment in a location designated by the Superintendent. An individual who presents himself or herself as having the authority of the Grantee for this purpose of locating an interment or inurnment shall certify in writing that they have such authority and accept full responsibility and liability for their actions, and will hold the Association, Superintendent, and Town harmless from any liability, including legal costs, on the account of such authority and disposition.

4.5 **Instructions** Prior to the interment or inurnment, Grantees or their heirs or representatives are encouraged to provide the Superintendent a written communication as to the location of the burial. The Association cannot be responsible for a mistake as to the particular

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space or location in the plot resulting from lack of precise and proper written instructions (for example, mistake caused by any order given by telephone).

4.6 Grave Liners In order to maintain a high standard of care and to eliminate sunken graves, all burials must be made using rigid and durable outside containers (commonly known as “vaults,” “graveliners,” and “concrete boxes”) made of natural stone, reinforced concrete, or any similar container approved by the Superintendent. Cremated remains must be interred in a permanent container approved by the Superintendent.

4.7 Limits No interment of two (2) or more bodies shall be made in one (1) burial site except in the case of a mother or father and a child, or two (2) infants buried in one (1) casket (or two (2) caskets if small enough to fit within the burial space), or two (2) cremated remains, or one (1) full burial and one (1) cremation. All interments of multiple bodies/cremains shall be located and made by the Superintendent. No double depth standard interments will be made.

4.8 Prohibition Interments and inurnments are to be performed only by the Superintendent or individuals or entities approved by the Superintendent. Grantees and other parties not approved by the Superintendent are specifically prohibited from performing interments or inurnments. The Association and Town will take all reasonable action to rectify any such prohibited burials and seek damages and costs from violators of this rule. The Association, Superintendent and Town will not be responsible for recording the unauthorized burial, including the identity of the deceased.

4.9 Movement Monuments and Markers may have to be moved or removed to gain access to burial sites for purposes on interment or inurnment. The Superintendent will restore the moved items to their initial position as soon as time and weather permit.

4.10 Directors All funeral or burial parties entering Cemeteries shall be under the direction of a funeral director licensed by the state of Maine who shall abide by the Rules and Regulations.

4.11 Casket Once a casket containing a body is within the Cemeteries, it shall not be opened except by a licensed funeral director or his or her assistants or on an order signed by a

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court of competent jurisdiction.

4.12 **Fee** The Association will charge an administrative fee for all interments and inurnments.

ARTICLE 5 PLANTS

5.1 **Shrubs** Prior to planting any shrub, approval of the Superintendent must be obtained. Shrubs growing on any burial site may be pruned or removed by the Association or its agents at the discretion of the Superintendent. Generally, no shrubs or evergreens will be permitted on a single burial site, or at individual Monuments or Markers. Plantings on two (2) abutting burial sites, or larger plots, may be permitted, subject to pre-approval of the Superintendent.

5.2 **Trees** Planting of trees on or near burial sites is prohibited.

5.3 **Burials** Planted materials may have to be removed to gain access to burial sites. The Association, Superintendent, and Town are not responsible for damage or losses resulting from removal of plant material during any interment or inurnment process.

5.4 **Landscape** The Association will undertake to maintain, to the extent practicable, the planting and pruning of trees and shrubs to preserve the general landscape features of the Cemeteries, but will not undertake to maintain individual plantings, or containers of plants.

5.5 **Flowers** Any planting of flowering plants is restricted to non-spreading varieties. Any perennial plantings must be pre-approved by the Superintendent.

ARTICLE 6 MONUMENTS AND MARKERS

6.1 **Definitions** Monument shall mean any above grade level burial site identification object made of stone or stone and bronze. Marker (also commonly called “headstones” or “flush markers or memorials”) shall mean any grade level burial site identification object made of stone or stone and bronze.

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6.2 **Location** The location of all Monuments and Markers shall be determined and marked out by the Superintendent or his designee at the Grantee's expense. The Grantee has no authority, either specific or implied, to locate or mark out the Monument or Marker by himself or herself or to cause his or her agent to do so. The Grantee is responsible for any and all costs incurred for remedying any error in their locating a Monument or Marker independently of the Superintendent. All Monuments must have a foundation as specified by the Superintendent. All foundations for Monuments shall be not less than four (4) feet in depth.

6.3 **Single Burial Site** A single burial site shall have no more than one (1) Monument and no more than two (2) Markers . The foundation base on a single burial site generally shall be no wider than thirty-two (32) inches. At the discretion of the Superintendent, a Monument or Marker may have a base size of up to seventy-five percent (75%) of the width of the burial space.

6.4 **Multiple Burial Sites** Multiple burial sites that abut each other may have a larger Monument than a single burial site, if approved in advance. The Superintendent has authority to approve applications for such Monuments.

6.5 **Repair** Monuments and Markers erected by Grantees shall be maintained in a safe condition by the Grantee (including heirs and assigns), and the repair and replacement of same, after damage from any cause, shall be at the expense of the Grantee. Notwithstanding the primary maintenance responsibility of the Grantee, the Association may, at its sole discretion, undertake to clean Monuments and Markers and to resolve safety concerns.

6.6 **Selection** The Superintendent must approve all Monuments and Markers based upon durability, safety, aesthetics, quality of workmanship, and installation technique. Grantees should seek the Superintendent's approval of Monuments and Markers prior to purchasing them.

6.7 **Installation** Monuments and Markers may not be installed until all relevant fees and expenses have been paid. The Superintendent must approve all installations.

6.8 **Temporary** Temporary Markers may remain on a burial site for up to 120 days of an internment or inurnment. The Superintendent may remove such markers at the end of this period

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if the Grantee fails to do so. If a Monument or Marker is on order by the end of the 120-day period, the Superintendent will allow the Temporary Marker to remain.

ARTICLE 7 DISINTERNMENTS

7.1 **Law** Disinterments are governed by Title 22, Section 2843, M.R.S.A. A permit for disinterment or removal of a dead human body must be obtained from the Clerk of the Town of Cumberland.

7.2 **Fee** Cost of the disinterment shall be the responsibility of the party causing or seeking the disinterment. The Association may charge an administrative fee at the discretion of the Superintendent.

7.3 **Opening** The Superintendent will allow and observe the opening of a grave upon showing, to his or her satisfaction, of requisite identification, authorization documentation and permit. In all disinterment cases, the responsibility of the Association shall be limited to identifying the grave only and the actual disinterment must be made by the person authorized to do so.

ARTICLE 8 RULES OF CONDUCT

8.1 **Mischief** No person shall destroy, mutilate, deface, injure or remove any Monument, Marker, gravestone, fence, railing, other structure, plant, or other Association or Town properties within the Cemeteries.

8.2 **Dogs** Dogs brought into the Cemeteries must be on leash at all times. Persons walking dogs in the Cemeteries must pick up any of their droppings and dispose of it outside of the Cemeteries, and will be strictly liable for any personal harm or property damage caused by the dog.

8.3 **Insurance** All commercial service providers entering the Cemeteries to perform services or deliver commercial products must have liability¹ and workers' compensation

¹ As of April 2011, liability insurance must be not less than \$1 million per person/\$2 million per occurrence and property damage of not less than \$25,000.

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coverage consistent with the Town's requirements and present proof of insurance to the Superintendent. The Superintendent shall maintain a file of such proof of insurance and update it annually.

8.4 Prohibited Some articles are considered injurious to the beauty and dignity of the Cemeteries, can create safety hazards, and reduce the peaceful ambiance therein. The following objects are not permitted in the Cemeteries:

- Breakable items
- Unsightly items
- Eternal flames or any open flames
- Weapons except those used by honor guards or in military funerals or carried by law enforcement officers consistent with their policies and procedures

8.5 Substance No person shall be in possession of or consume any alcoholic beverage within Cemeteries. No person shall be in possession of or consume any illegal substance within Cemeteries.

8.6 Peace No person shall behave in a loud, indecent, or disorderly manner in the Cemeteries or create any unnecessary disturbance therein. It is of the utmost importance that there should be a strict observance of the proprieties in the cemetery. The discharge of firearms or fireworks therein is strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person if such ceremonial undertaking has been previously scheduled with the Superintendent.

8.7 Dignity Picnics, horseplay, games, contests, sports activities, or any similar activity or gathering not in keeping with the purpose and dignity of a cemetery are prohibited within the Cemeteries.

8.9 Horses Horses are prohibited from the Cemeteries except for the purpose of funeral, ceremonial, or memorial functions. Owners are responsible for cleaning up after their horses.

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GRANTEE ACKNOWLEDGEMENT FORM

I understand that it is my responsibility to read and follow the Rules and Regulations of the Cumberland Cemetery Association which are published on the Town of Cumberland's website and also available in hard copy from the Town Clerk, the Superintendent, or the President of the Cumberland Cemetery Association. I also understand and acknowledge that the Rules and Regulations may be amended from time to time and that it is my responsibility to learn and follow such amended Rules and Regulations.

Grantee's printed name: _____

Grantee's signature: _____

Date of Acknowledgement: _____

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RIGHT OF INTERMENT

KNOW ALL BY THESE PRESENTS, THAT the Inhabitants of the

TOWN OF CUMBERLAND,

a municipal corporation located in the County of Cumberland and state of Maine, in consideration of _____ Dollars, paid by

_____ of _____, _____,

hereinafter referred to as Grantee, hereby give and grant to the said Grantee, his or her heirs and assigns forever, the right to occupy for the purpose of burial of human remains

Gravesite(s) _____ of Lot Number/Range _____ of Section _____ of _____ Cemetery, the plan of which is on file at the office of the Town of Cumberland.

This Right of Interment is granted and is to be held and enjoyed subject to the following conditions and restrictions:

1. The cemetery is cared for and managed by the Cumberland Cemetery Association and its Rules and Regulations, as may be amended from time to time, must be observed at all times by the Grantee and heirs or assigns of the Grantee.
2. All Town of Cumberland ordinances as have been or may be adopted shall be observed.
3. This Right of Interment may not be assigned or transferred without the consent of the Town of Cumberland and such assignment or transfer must comply with the Cumberland Cemetery Association's, or its successor's, Rules and Regulations, as well as state law.

IN WITNESS WHEREOF, the Inhabitants of the Town of Cumberland have caused this instrument to be signed in its corporate name and sealed with its corporate seal, by

_____, _____ of said Town, this _____ day of _____, 20__.

TOWN OF CUMBERLAND

By _____

(Seal)

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RIGHT OF INTERMENT

TOWN OF CUMBERLAND

To

For burial in

Cemetery

Cumberland, Maine

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TRANSFER OF RIGHT OF INTERMENT

Application by Grantee to Transfer Interment Right

_____ of _____,
(Grantee) claim/claims ownership in and wish/wishes to transfer Right of Interment in
Gravesite(s) _____ of Lot Number/Range _____ of Section _____ of _____
Cemetery to _____ of _____ in consideration of
_____. Perpetual Care for these Gravesites has previously
been paid to the Cumberland Cemetery Association, or will be paid no later than the
consummation of this requested transfer. Grantee will hold the Cumberland Cemetery
Association, the Town of Cumberland, and all of their agents, trustees, employees, and officers
harmless against any and all claims in regard to this transfer in the future, including legal costs.
The conveyed Right of Internment will continue to be subject to all of the original conditions and
restrictions, including the requirement to observe the Rules and Regulations of the Cumberland
Cemetery Association or its successor.

Grantee(s) signature(s)

Date

Consent by Cumberland Cemetery Association

Perpetual Care owed for Right of Interment to be transferred (if any): \$ _____
Relying on the Grantee's claim of ownership of the Right of Internment described above, we
consent to the requested transfer, pending payment of the above Perpetual Care obligation.

, Superintendent

, President/Vice President

TRANSFER

KNOW ALL BY THESE PRESENTS, THAT the Inhabitants of the Town of Cumberland,
Maine, in reliance upon the statements made by the Grantee above, hereby transfer the Right of
Interment described above from _____ to
_____ subject to all of Cumberland Cemetery Association's
(or successor's) Rules and Regulations, Town of Cumberland Ordinances, and state of Maine
statutes, including future amendments to all, this _____ day of _____, 20_____.

TOWN OF CUMBERLAND

By

Its