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# **Griffins Mills Cemetery**

## **Information Booklet**

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## I.

### **FOREWORD**

The Griffins Mills Cemetery Information Booklet has been prepared as a reference guide, as to the operation of the Griffins Mills Cemetery board of directors.

Hopefully this booklet will provide you with an understanding of the Griffins Mills Cemetery operations.

For further information, you may contact the following officers:

President:	Mark Gemerek	(716) 655-8776
Treasurer:	Clair Kruppa	(716) 655-8776
Secretary:	Lori Ignatowski	(716) 652-0781

## II.

### **INTRODUCTION**

The New York State Public Health Law provides that the remains of a deceased person shall be decently buried or incinerated within a reasonable time after death. Apart from this requirement, individuals are free to determine the manner, type and location of burial.

Traditionally, churches and families arranged for burials, but as New York's population grew, they were unable to cope with the problems of burial space, and groups were organized to secure larger tracts of land for cemeteries. Burial rights were then sold to individuals. From this evolved the modern day cemetery.

The need for regulation and guidance of cemeteries led to the creation of the Division of Cemeteries in 1949. Expanding populations and urbanization transformed many cemeteries from small enterprises to more involved ventures with complex management and financial problems.

## III.

## **THE CEMETERY BOARD**

The Griffins Mills Cemetery Board is made up of a president, vice president, treasurer, secretary, and lot owners. *Its functions include:*

1. Approving the rules, regulations and fees of Griffins Mills Cemetery.
2. Amending and modifying the rules, regulations and fees of the Griffins Mills Cemetery at any time.
3. Following of NYS rules and regulations for permanent and current maintenance funds.
4. Handling complaints.
5. Reviewing operation policies and procedures.
6. Managing maintenance contractors and/or employees.
7. Selling of grave sights/lots and keeping cemetery map available.
8. Distributing deeds to the purchaser.
9. Scheduling burials and foundation installation.
10. Paying the bills.
11. Insurance oversight.
12. Banking/Investment oversight
13. Filing NYS reports (Annual reports, Audit every 2 years)

## **IV.**

### **GRIFFINS MILLS CEMETERY OPERATIONS**

#### How the Griffins Mills Cemetery Operates

The bylaws of the Griffins Mills Cemetery are adopted by the lot-owner members. They elect trustees or directors to carry out the policies. In turn, the trustees elect a president, vice president, secretary and treasurer.

The lot owners are the true owners of the cemetery. A lot owner of 60 or more square feet is entitled to vote at the cemetery annual meeting and to run for an elective cemetery office. Such meetings are routinely advertised in the legal notices section of the local newspaper.

Rules and Regulations/Prices

The directors or trustees of the Griffins Mills Cemetery set the rules, regulations and prices of the cemetery, which are subject to the NYS Cemetery Board's approval. Amendments to the rules must be filed with the NYS Cemetery Board and must be approved by the NYS Cemetery Board before they become effective. Rules, regulations, charges and prices for lots must be plainly posted or be available upon request, and a copy filed with the NYS Cemetery Board.

The Griffins Mills Cemetery Rules and Regulations are as follows:

- 1) No planting of any kind (trees, bushes, flowers etc.).
- 2) All urns/pots can only be placed on the end of monuments.
- 3) No plastic flowers unless in an urn/pot.
- 4) No glass, plastic, or tin containers.
- 5) Temporary urns/pots must be removed by October 15<sup>th</sup>.
- 6) Winter wreaths from December 1st to April 15<sup>th</sup> only.
- 7) Any plants, pots, etc. that are not allowed, will be removed after due notice to the lot owner.
- 8) All permanent pots will be emptied and turned over by November 1<sup>st</sup>.
- 9) One body and three cremations per grave, or four cremations per grave.

The Griffins Mills Price List as of September 1, 2013 is as follows:

Full Body Burial	\$ 700	Opening grave & lowering device
Cremation Burial	\$ 400	Opening grave
Foundation	\$ 55	per cubic foot
Gravesite	\$ 700	

Matting, chairs, tent and other fees associated with these services are provided through the funeral home. Additional charges may be incurred for snowplowing and other snow removal when necessary.

### Annual Reports

On or before March 15<sup>th</sup> of each year, the following reports must be filed with the NYS Cemetery Board:

- A. Trust funds for the previous calendar or fiscal year;
- B. The disposition of the proceeds from the sale of lots or plots during the previous year;
- C. Perpetual care funds; and
- D. Any changes in certificates-of-indebtedness accounts during the previous year.

The schedule of all prices for burial lots, plots, niches and crypts must be filed with the NYS Cemetery Board before they become effective. All Griffins Mills Cemetery service charges (e.g., interment fee, foundation installation charge) must be filed and approved by the NYS Cemetery Board before they are put into effect.

### Liability

The Griffins Mills Cemetery is liable for damages to monuments, railings, beds and other installations caused by the negligent acts of its contractors or employees. However, the Griffins Mills Cemetery is not an insurer of the monuments on its grounds, and no liability exists unless the damage is the result of some negligent act by the Griffins Mills Cemetery or the result of its failure to perform some duty.

## **LOTS**

### Sale of Lots

The Griffins Mills Cemetery is permitted to use their own discretion in fixing lot prices. However, the service charge must be approved by the NYS Cemetery Board.

The conveyance of each lot must be signed by the president or vice president and the treasurer or assistant treasurer of the Griffins Mills Cemetery. The document of sale of any burial lot or plot must include: the actual amount paid, a description showing the dimension of the property, the plot number, section and block number as they appear on the Griffins Mills Cemetery map.

Since the sale of a cemetery lot does not convey title to the land but, instead, conveys only burial rights, it is not practical to record the deed of sale. However, the rights of the lot owners are defined and protected by law.

The State of New York has determined that it is contrary to public interest for cemetery property to be used for profit/making purposes, and the resale of lots by the purchaser is, therefore, prohibited.

#### Resale By Lot Owner

Lot owners may dispose of their burial rights under certain conditions. If the lot has not been used for burials, the lot must first be offered to the Griffins Mill's Cemetery at the original price, plus simple interest. If the cemetery refuses, in writing, to repurchase it, the lot may be offered to an outside buyer. However, cemetery property may not be sold to funeral directors or brokers for the purpose of resale. NYS Cemetery Board approval is required after the owner has obtained a buyer. Forms for the resale of lots are provided by the NYS Cemetery Board upon request.

#### Heirship Rights and Gifts

The heir filing an affidavit of heirship should record burial rights obtained through inheritance with the Griffins Mill's Cemetery. Ownership of lots, unless specifically devised (i.e., the lot is specifically mentioned in the will and left to a specific person or persons), the cemetery lot goes to the descendants of the lot owner. A transfer of burial rights by gift also requires that satisfactory evidence be submitted to the NYS Cemetery Board, in affidavit form, to establish that a bona fide gift has, in fact, been made.

### **FUNDS**

#### Maintenance Funds

For the purpose of maintaining and preserving cemeteries, the Griffins Mills Cemetery is required to establish a permanent maintenance fund and a current maintenance fund. The Griffins Mills Cemetery is required to deposit at least ten percent of the gross proceeds from the sale of each lot into the permanent maintenance fund and an additional 15 percent of the proceeds of each sale into the current maintenance fund.

The permanent maintenance fund is a trust fund, and only its investment income can be used for maintaining the cemetery. Should the 10 percent allocation for permanent maintenance fund be inadequate, the trustees or officers can adopt a funding program more realistic to current and future needs.

The current maintenance fund is created for the Griffins Mills Cemetery's day-to-day operations and is also used to maintain the grounds. This fund receives its income from the permanent maintenance fund investments, as well as the 15 percent from lot sales. The term "current maintenance fund" is, in many cases, synonymous with the cemetery's general fund.

### Trust Funds

Ultimately, trust funds are estimated from a complete survey of the Griffins Mills Cemetery's duties and expenses. Expenses for general care, sunken graves, grass cutting, debris removal, and road and fencing maintenance will continue even after land sales and burial activity ends, and these expenses should be adequately provided for.

### Investments

How and where trust monies can be invested is regulated by the Estates, Powers and Trusts Law of the State of New York. The spirit and intent of the law is clear: because a cemetery is entrusted with someone else's money, its funds should be invested only "in such securities as would be acquired by prudent men – who are seeking a reasonable income and preservation of their capital." These securities may take the form of interest-bearing bank accounts, certificates of deposit, stocks, bonds, etc. A minimum of two officers must approve investment of Griffins Mills Cemetery funds.

There is an important distinction between perpetual care and permanent maintenance trust funds. Permanent maintenance trust funds are for the overall Griffins Mills Cemetery care, while perpetual care trusts are established for care of an individual grave, plot, mausoleum or columbarium space.

The law allows the Griffins Mills Cemetery to accept a sum of money for perpetual care (endowment) provided the Griffins Mills Cemetery agrees to invest the money. The income from the investment, so far as it may be sufficient, is then devoted to



the perpetual care of a specified lot. The Griffins Mill's Cemetery may use only the income. The principal must be held intact.

The Griffin Mills Cemetery must issue a "Trust Receipt", acknowledging the sum given for perpetual care, designating the graves or plots to which care is to be given and identifying the legal conditions under which money is accepted.

While the law implies the obligation of the Griffins Mills Cemetery to establish trust funds for future care when a plot is sold, many older cemeteries do not have sufficient funds to meet even the most modest demands. It is, therefore, the custom of some cemeteries to encourage a perpetual care endowment from owners who have purchased their lots in prior years.

### Financial Management

The purpose of careful accounting procedures is to enable the Griffins Mills Cemetery to plan for future needs in light of current information.

Proper procedure calls for a separate accounting for each major service. The difference between income and expenses may result in either a surplus or a deficit for each major service.

Funeral homes are responsible for the costs of each burial and payment is due at time of burial. Headstone/Memorial facilities are responsible for the costs of each foundation that is installed. Payment is due prior to foundation installation.

An officer of the board, may approve an emergency appropriation of funds, not to exceed \$3,000.00 and does not need board approval. Non-emergency appropriation of funds over \$500.00, needs 75% of the boards approval.

### **BURIALS/INTERMENTS**

A person has the right to leave instructions as to the manner of disposal of his/her body after death. While such instructions are not legally binding, it is considered prudent for a person desiring a specific type of disposition (cremation, burial, entombment) to so designate in writing. The ultimate manner of disposition is determined by the surviving spouse or next of kin charged with the burial.

The public health law provides that the body of every deceased person shall be decently buried or incinerated within a reasonable time. Failure by the owner to pay the annual care charge does not constitute a reason for refusing burial.

A Griffins Mills Cemetery board member must be present at time of burial and \_\_\_\_\_ form needs to be signed by the board member and funeral director. Upon burial, all appropriate paperwork must be turned into the East Aurora town clerk within one week.

### Burial / Interment

Certain cemeteries, because of diminishing land, permit a family to use a grave for double- or even triple- depth interment. Griffins Mill's Cemetery allows the following Burial / Interment practices:

Burial/Interment per gravesite:

One body and three cremations per gravesite or;

Four cremations per gravesite

Headstones per gravesite:

One headstone per gravesite

### Disinterments

A body interred in the Griffins Mills Cemetery may be removed with the consent of all of the following survivors of the deceased: spouse, children over the age of 21, and parents. If the consent of any surviving person or of the Griffins Mills Cemetery cannot be obtained, permission from the County Court or from the State Supreme Court in the Judicial District where the cemetery is situated shall be sufficient.

### Refusing Burial

Griffins Mills Cemetery cannot refuse the right and privileges of burial to those lawfully entitled thereto, except for default in payment of the purchase price of the lot, plot, crypt or niche, failure to pay the correct interment fee or failure to pay a duly authorized lot tax.

The mutual benefit of all lot owners includes the right to enter and leave over Griffins Mills Cemetery roads and paths provided for this purpose.