

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated. Do not use italics or underlining to indicate new matter.

**DRAFT**

County  City  Town  Village  
(Select one:)

of Canandaigua

4/8/2022

Local Law No. \_\_\_\_\_ of the year 2022

A local law Creation of Chapter 45 Cemeteries and Monuments  
(Insert Title)

Be it enacted by the Town Board of the \_\_\_\_\_  
(Name of Legislative Body)

County  City  Town  Village  
(Select one:)

of Canandaigua as follows:

See Attachment A

(If additional space is needed, attach pages the same size as this sheet, and number each.)

# Chapter 45 Cemeteries and Monuments

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## Article I Cemetery Committee

### § 45-1 **Committee established.**

By Resolution No \_\_ dated \_\_\_\_\_, 2022, the Canandaigua Town Board thereby established a committee to be named the “Town of Canandaigua Cemetery Committee” to serve the Town of Canandaigua.

### § 45-2 **Intent and purpose.**

- A. There is hereby established a Town of Canandaigua Cemetery Committee (hereinafter referred to as the “Cemetery Committee”) the purpose of which is created in an effort to govern, preserve, ensure maintenance, interpret and educate about historic cemeteries, active and inactive, in the Town of Canandaigua.
- B. The Cemetery Committee was created:
  - (1) To govern the activities and functions of all aspects of the operation and maintenance of the cemeteries under the responsibility of the Town of Canandaigua as required by NYS Town Law Article 17
  - (2) To interpret and honor the history of the Town of Canandaigua with a goal of preserving our burial grounds.
  - (3) To research and document the cemeteries in the Town of Canandaigua.
  - (4) To increase public awareness of the value of historic and cultural preservation by developing and participating in education programs as approved by the Town Board.

### § 45-3 **Powers and duties.**

- A. The general function of the Cemetery Committee shall be to oversee the operation, preservation, and maintenance of the cemeteries under the responsibility of the Town of Canandaigua within the parameters of the annual budgetary appropriation provided by the Town Board.
- B. The Cemetery Committee shall review the operations of the cemeteries and make recommendations to the Town Board on any matter related to the cemeteries, reserving for the Town Board all decisions relating to the expenditure of moneys outside the parameters of the annually established cemetery budget.
- C. It shall be the duty of the Cemetery Committee to advise, assist and support the Town

Historian, Town Board, Planning Board, Zoning Board or any Town committee or team, in matters pertaining to the Town of Canandaigua's cemeteries, active and inactive.

- D. The Cemetery Committee shall identify and assist in securing grants that contribute to the preservation and use of historic burial grounds in the Town of Canandaigua.
- E. It shall be the duty of the Cemetery Committee to contribute knowledge for educational materials as approved by the Town Board, that promise an understanding and appreciation of preserving our historic cemeteries, including, but not limited to, walking tours, brochures, lectures, exhibits and other appropriate methods of knowledge.

**§ 45-4 Appointment; terms of office.**

Members of the Cemetery Committee shall be appointed by the Town Board. Said Cemetery Committee shall consist of five members, at least three of whom reside in the Town of Canandaigua and have an interest in and knowledge of local history and historic preservation, and no more than two of whom have an affiliation and/or special interest in the Canandaigua community and have specialized education and/or knowledge of cemetery management, cemetery preservation, and/or grant opportunities. Terms of office shall be for five years and shall be so fixed that one shall expire each official year. The Town Historian and/or Former Town Historian may serve as a voting member or an ex-officio nonvoting member.

**Article II**  
**Cost of Lots and Interment**

**§ 45-5 Cost of lots.**

The Town Board, through the office of the Town Clerk, shall permit purchase of lots in any cemetery under its jurisdiction where said lots are available at a charge per cemetery lot as set from time to time by resolution of the Town Board.

**§ 45-6 Costs of interment responsibility of lot owner.**

All costs of interment, including grave opening and closing, suitable seating and marking, shall be performed by the owner or his heirs or legal representatives, or will be charged to the owner at a fee established by the Town Board.

**§ 45-7 Survey to be made.**

The Town Clerk shall cause to be made a survey of the available lots in each of the cemeteries under the jurisdiction of the Town, if any.

**Article III**  
**Rules and Regulations**

**§ 45-8 Rules and regulations.**

- A. All graves sold for Cemeteries in the Town of Canandaigua shall be in accordance with

the provisions of the laws of the State of New York and shall not be used for any other purpose than as a burial place for deceased human beings.

- B. Graves shall be used only by the purchaser or the purchaser's spouse or distributees.
- C. Placement of items on graves.
  - (1) One non-glass crock, non-glass vase of flowers, shepherd's hook or wreath per grave is allowed, and it must be located immediately next to the headstone. Two eternal flames are allowed and must be located immediately next to each side of the headstone. Crocks, vases and shepherd's hooks may be placed on the graves after May 15 and shall be removed by November 1 of each year. Wreaths may be placed on the graves after November 1 and shall be removed by April 1. Eternal flames may be left year round. The Town of Canandaigua reserves the right to remove all items from graves as soon as they become unsightly or according to the schedule above.
  - (2) The placing of glass blocks or vases as receptacles for flowers, either artificial or grown on graves or plots, is prohibited.
- D. Corner posts or markers of a suitable material may be installed by the Town of Canandaigua at the corners of lots upon written request to the Cemetery Committee. A lot is considered a group of four consecutive graves owned by one family. Only the Town of Canandaigua may install such corner markers, and the expense shall be incurred by the grave owner requesting the marker.
- E. The Town Board reserves the right to have removed any article found within the grounds of the Town of Canandaigua cemeteries not permitted in accordance with the rules and regulations set forth herein. In addition, agents and employees of the Town Board shall have the right to enter upon or use any adjoining grave or plot to carry out its responsibilities as to internment or maintenance of the cemetery.
- F. The Town of Canandaigua assumes no responsibility for monuments, memorials or markers or any other articles of any nature removed from any plot or grave or for damage or destruction of any such articles.
- G. Schedule of internments.
  - (1) Hours of burials and disinterments shall be as follows:
    - (a) Weekdays, Monday through Friday, beginning at 9:00 a.m. to be completed by 2:00 p.m.
  - (2) No holiday or weekend burials will be conducted; however, and only in the event that

an extremely exigent circumstance exists, the Town will consider such request(s) and weigh the matter accordingly.

(a) Such request for holiday or weekend burial should be made to the Town Clerk and include the facts and circumstances surrounding the exigent need.

(b) The Cemetery Committee shall make a determination to approve or deny a holiday or weekend burial.

(c) Any approved weekend or holiday burial shall occur between the hours of 9:00 a.m. and 2:00 p.m. Any holiday or weekend burial shall be completed by 2:00 p.m.

(3) Weekend or holiday burials are subject to additional fees as periodically set by the Town Board by resolution.

L. All Town cemeteries will be open from dawn to dusk unless public notification is given or is otherwise posted.

M. The following are strictly prohibited within cemetery grounds:

(1) Uncontrolled Dogs.

(2) The placing of watering cans, fertilizer, and decorative stones.

(3) Children under 12 years of age unless accompanied by parents or adult guardians.

(4) Conduct which would result in damage to cemetery property.

(5) Picking flowers or breaking or damaging trees, shrubs, or plants.

(6) Soliciting business of any kind, or soliciting contracts or orders for monuments, headstones or any other work.

(7) Signs, notices or advertisements of contractors, stonecutters, undertakers or others.

(8) Selling refreshments of any kind.

(9) The discarding of wastepaper, flowers, plants or any other waste articles except by depositing the same in receptacles situated within the cemetery for that purpose.

N. Lot owners are prohibited from allowing interments to be made on their lots for compensation.

**§ 45-9 Fee schedule.**

The fees for cemetery services for the sale of graves and interments shall be established

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periodically by the Town Board by resolution. A copy of the current fees may be obtained from the Town Clerk.

**§ 45-10 Collection of fees.**

The Town Clerk shall be responsible for collecting and turning over to the Town all internment fees and consideration received for the sale of graves.

**§ 45-11 Penalties for offenses.**

Any person violating any provision of this article, upon conviction thereof, be deemed guilty of an offense and subject to a fine of not less than \$250 or greater than \$500 for the first offense. Any subsequent violations of this chapter by such offender shall be a misdemeanor and, upon conviction, such person shall be subject to a fine of not less than \$500 or greater than \$1,000 or imprisonment not exceeding six months, or both such fine and imprisonment.

**§ 45-12 Penalties for offenses.**

The provisions of this article shall be enforced by the Town's Code Enforcement Officer or any law enforcement officer of the State of New York or County of Ontario. The Code Enforcement Officer and any law enforcement officer of the State of New York or County of Ontario are hereby empowered to issue appearance tickets for violations of any provision of this article.

Revised April 4, 2022 by Town of Canandaigua Ordinance Committee.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

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**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 2022 of the (County)(City)(Town)(Village) of Canandaigua was duly passed by the Town Board on \_\_\_\_\_ in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20  , in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: \_\_\_\_\_

(Seal)

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