

***May a town restrict the sale of town cemetery plots to former and current residents, or landowners of that town?***

VLCT believes that towns may restrict to whom they sell cemetery plots through the use of ordinances. 24 V.S.A. Chapter 59; 18 V.S.A. § 5305.

An example: Jill was from Illinois, but her mother was born and raised in a Vermont valley town. Before Jill's mother passed on, she asked that she be buried in the town of her birth. Years later, Jill, though never having moved to Vermont herself, found that she wanted to be buried beside her mother. The town, however, prohibits non-residents from being buried there.

There is very little case law to guide towns on how to handle this situation. Some towns have an ordinance that restricts who may purchase a lot. Some also, however, permit the selectboard or cemetery commission to grant permission to sell to applicants who are not former or current residents, or landowners in the town. This process operates in much the same way as a request for a zoning variance.

Ultimately, a town may limit to whom it sells cemetery plots. Towns have a reasonable basis in restricting lots to town residents, past and present, and landowners, because those individuals have stronger ties, through their resident status, as well as their paying taxes which support this governmental service. However, it would be wise for towns to carefully word their restrictions and to establish guidelines that permit local legislative bodies that govern cemeteries to grant permission to purchase plots in situations that do not conform to the town ordinances. Think about it. Do you really want to be put in the position where you have to tell Jill, from our example above, that she cannot be buried next to her mother?

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