

## National Park Service, Interior

## § 12.5

by one or more persons, the conduct of which is reasonably likely to attract a crowd or onlookers. This term does not include casual park use by persons that is not reasonably likely to attract a crowd or onlookers.

*Eligible person* means an individual authorized by Federal statute and VA Policy to be interred or memorialized in a national cemetery.

*Government headstone* means a standard upright stone, provided by the Veterans Administration, of the same design currently in use in a national cemetery to identify the interred remains.

*Gravesite reservation* means a written agreement executed between a person and the National Park Service to secure a gravesite prior to the death of an eligible person.

*Headstone* means a permanent stone placed vertically on a grave to identify the interred remains.

*Historic enclosure* means a permanent fence, wall, hedge, or other structure that surrounds the burial sections and defines the unique historic boundary of a national cemetery.

*Marker* means a permanent device placed horizontally on a grave to identify the interred remains.

*Memorial headstone* means a private or government headstone placed in a memorial section of a national cemetery with the words "In Memory Of" inscribed to honor a deceased eligible person whose remains could not be interred in the national cemetery.

*NPS Policy* means the National Park Service's *Guidelines for National Cemeteries, NPS-61*.

*Private headstone* means an upright stone provided by a person at no expense to the government and in lieu of a government headstone.

*Recreational activity* means any form of athletics, sport or other leisure pursuit or event, whether organized or spontaneous, that is engaged in by one or more persons for the primary purpose of exercise, relaxation or enjoyment, including but not limited to the following: jogging, racing, skating, skateboarding, ball playing, kite flying, model airplane flying, throwing objects through the air, sunbathing, bicycling and picnicking. This term does not include walking, hiking or casual strolling.

*Special event* means a sports event, pageant, celebration, historical reenactment, entertainment, exhibition, parade, fair, festival, or similar activity that is not a demonstration, engaged in by one or more persons, the conduct of which is reasonably likely to attract a crowd or onlookers. This term does not include casual park use by persons that is not reasonably likely to attract a crowd or onlookers.

*VA Policy* means the current editions of the Veterans Administration's Manuals that pertain to the administration of the National Cemetery System.

[51 FR 8979, Mar. 14, 1986, as amended at 79 FR 33436, June 11, 2014]

### § 12.4 Special events and demonstrations.

Conducting a special event or demonstration, whether spontaneous or organized, is prohibited except for official commemorative events conducted for Memorial Day, Veterans Day and other dates designated by the superintendent as having special historic and commemorative significance to a particular national cemetery. Committal services are excluded from this restriction.

### § 12.5 Interments.

(a) *Who may be interred.* A person's eligibility for burial in a national cemetery is determined in accordance with the provisions of Federal statutory law. Interments are conducted in accordance with NPS policy and VA Policy.

(b) *Burial permit.* (1) A burial permit is required in accordance with the laws and regulations of the State and local municipality within whose boundaries the cemetery is located.

(2) The remains of a member of the Armed Forces who dies on active duty may be interred prior to receipt of a burial permit.

(3) The superintendent shall process a burial permit in accordance with VA Policy.

(c) *Gravesite assignment.* (1) Gravesite assignment and allotment are made according to VA Policy which specifies that only one gravesite is authorized for the burial of an eligible member of

## § 12.6

## 36 CFR Ch. I (7-1-16 Edition)

the Armed Forces and eligible immediate family members. Exceptions to this practice may be approved only by the Director.

(2) The superintendent is responsible for the actual assignment of a gravesite.

(3) The superintendent may not accept a new gravesite reservation. A gravesite reservation granted in writing prior to the adoption of the one-gravesite-per-family-unit restriction shall be honored as long as the person remains eligible.

(d) *Burial sections.* (1) The superintendent of each national cemetery shall develop an interment plan for burial sections in keeping with the historic character of the national cemetery, to be approved by the Regional Director.

(2) The superintendent shall specify gravesite dimensions that conform to the historic design of the national cemetery.

(3) Expansion of a burial section is prohibited without the approval of the Regional Director.

(4) An interment is authorized only within a burial section; the superintendent may not authorize an interment within a memorial section.

(5) Cremated remains may be scattered in a national cemetery in conformance with the provisions of § 2.62 of this chapter and applicable State laws.

(6) Expansion of a national cemetery outside the confines of its historic enclosure is prohibited.

### § 12.6 Disinterments and exhumations.

(a) Interment of an eligible person's remains is considered permanent. Disinterment and removal of remains are allowed only for the most compelling of reasons and may be accomplished only under the supervision of the superintendent.

(b) Except for a directed exhumation conducted pursuant to paragraph (f) of this section, a disinterment is allowed only pursuant to the terms and conditions of a permit issued by the superintendent.

(c) A disinterment shall be accomplished at no cost to the National Park Service. The superintendent shall establish a fee designed to recover the costs associated with supervising and

administering a disinterment, including the costs of opening and closing the grave and redressing any disturbed graves or headstones.

(d) The next-of-kin is responsible for making all arrangements and incurring all financial obligations related to a disinterment. These arrangements and obligations include, but are not limited to the following:

(1) Compliance with State and local health laws and regulations;

(2) Engaging a funeral director;

(3) Recasketing the remains;

(4) Rehabilitation of the gravesite according to conditions established by the superintendent;

(5) Providing the superintendent a notarized affidavit by each living close relative of the deceased and by the person who directed the initial interment, if living, and even though the legal relationship of such person to the decedent may have changed, granting permission for the disinterment; and

(6) Providing the superintendent a sworn statement, by a person having first hand knowledge thereof, that those who supplied such affidavits comprise all the living close relatives of the decedent, including the person who directed the initial interment.

(e) The following are prohibited:

(1) Failure to obtain a permit required pursuant to this section;

(2) Violation of a condition established by the superintendent or of a term or condition of a permit issued in accordance with this section; or

(3) Failure to pay a fee prescribed by the superintendent in accordance with this section.

(f) The directed exhumation of an eligible person's remains shall be accomplished upon receipt by the superintendent of an order issued by a State or Federal court of competent jurisdiction. The superintendent shall retain court orders and other pertinent documents in the national cemetery files as a permanent record of the action.

(g) To the extent practicable, a directed exhumation shall be accomplished without expense to the National Park Service and without direct participation by national cemetery employees.

(h) The superintendent shall coordinate a directed exhumation with the