

CEMETERY ORDINANCE

An Ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, and management of cemeteries owned by the Township of Oceola, Livingston County, Michigan; to provide penalties for the violation of said Ordinance, and to repeal all previous Oceola Township Cemetery Ordinances.

THE TOWNSHIP OF OCEOLA, LIVINGSTON COUNTY, MICHIGAN, ORDAINS:

Section 1: Title

This Ordinance shall be known and cited as the Oceola Township Cemetery Ordinance.

Section 2: Burial Spaces; Indigent Burials

- (a) Cremains are cremated human remains. A cremation burial space shall consist of dimensions in size sufficient to accommodate the cremation of one (1) adult.
- (b) Adult burial rights also known as burial spaces are sold as single spaces. Burial spaces for infants or cremains may have a designated area in the cemetery; however an adult burial space may be purchased at the price stated in the current fee schedule for either an infant or cremains burial.
- (c) The Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery for the burial of indigent persons. To qualify for an indigent burial the deceased must be a Township resident or the next of kin of a resident which includes mother, father, child or sibling of a resident.
- (d) The Township Board may, by resolution periodically alter the fee schedule to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 3: Sale of Burial Rights

- (a) All such sales shall be made on an approved form, which grants a right of burial only and does not convey any other title to the burial space. Such form shall be executed by the Township Clerk or his or her designee and shall constitute a permit when approved. Burial rights shall be sold for the purpose of the burial of the person stated on the certificate; burial rights may be transferred to others upon proper application with the Township Clerk. No sale shall be made to funeral directors or others than as heretofore set forth.
- (b) Burial rights may only be transferred to those persons eligible under this ordinance and may be affected only by endorsement of an assignment of such burial right upon the original burial permit form issued by the Township Clerk on behalf of the township, approved by said Clerk, and entered upon the official records of said Clerk, with payment of appropriate fees as stated in the current Oceola Township fee schedule.
- (c) The lawful owner of any burial right within the township shall promptly provide the Township Clerk with any change in that owner's mailing address.

Section 4: Purchase Price and Transfer Fees

- (a) Each adult burial space shall cost the sum recorded in accordance with a rate schedule adopted by the Township Board and available through the Clerk's office.
- (b) The Township Board, by resolution, may periodically adjust the foregoing fees.
- (c) Resident and Non-resident fees will apply; a resident is anyone whose legal address is in the township, whose legal address has been in the township or is a current property taxpayer in the township. A non-resident includes all others.
- (d) The Clerk or his or her designee will be responsible for the sale of burial rights. Charges for the burial rights shall be paid to Oceola Township.

Section 5: Grave Opening Charges

- (a) The Township Board may charge reasonable fees for the opening and closing of any burial space, prior to and following a burial therein, and including the interment of cremains. Such fees shall be set from time to time by resolution of the Township Board.
- (b) No burial space shall be opened or closed except under the direction and control of the Township Board or the cemetery sexton or such other individual as the Township Board or sexton shall designate.

Section 6: Markers and Memorials

- (a) All markers or memorials must be of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- (b) Any upright monuments must be located upon a suitable solid foundation to maintain same in an erect position. The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the township sexton or his or her designee at a cost to the owner of the burial right or his or her representative, as recorded in the rate schedule. Footings can be placed on burial spaces from May to October by the sexton or his or her appointee.
- (c) Only one monument, marker or memorial shall be permitted per burial space except for an additional military foot marker. Individual markers for cremains shall be flush with the ground and shall be uniform in size measuring twelve (12) inches by twenty-four (24) inches. This requirement does not apply to full size burial spaces.
- (d) All monuments, headstones and similar items placed at a burial space are at the risk of the family. The township has no liability or responsibility for watching over such items or repairing, or replacing them, whether due to vandalism, weather, theft, deterioration or other cause.
- (e) If any monument or memorial becomes unsightly, broken, a safety hazard, etc., the Township Board has the right, to either repair or remove the marker or memorial. This cost shall be the responsibility of the owner of the burial right or his or her representative.

Section 7: Interment Regulations

- (a) One (1) person or (2) infants may be buried in each burial space unless approved by the Clerk or the Sexton.
- (b) The Township shall be given not less than 36 hours prior notice in advance of any funeral to allow for the opening of the grave. The opening and closing of graves shall be done only by the sexton or such person or persons as are designated by the Township Board.
- (c) The appropriate permit for the burial space involved, together with the appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery sexton or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk or his or her designee shall determine if the person has the legal right to be buried in the space before interment is commenced.

Section 8: Ground Maintenance

- (a) No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the cemetery sexton or the Township Clerk.
- (b) No shrubs or trees shall be planted without the approval of the cemetery sexton or the Township Clerk. Any of the foregoing items planted without such approval, may be removed by the cemetery sexton.
- (c) The Township Board reserves the right to have the sexton remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (d) The surface of all graves shall be kept in an orderly and neat appearing manner.
- (e) Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited. Surfaces other than earth or sod are prohibited.
- (f) The cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that become unsightly, or a maintenance problem.
- (g) All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery. All winter flowers, etc., must be removed by April 1st.

Section 9: Prohibited Uses and Activities

The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise damage any monument, sign, tree or other lawful item located within a Township cemetery.

- (b) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any Township cemetery.
- (c) There shall be no driving of an automobile, truck, off road vehicles including snowmobiles or any vehicle on any portion of a cemetery except the designated roads or drives.
- (d) There shall be no grave openings unless approved by the Township sexton.
- (e) There shall be no possession or consumption of any alcoholic beverage or illegal drugs.
- (f) There shall be no littering or dumping.
- (g) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (h) There shall be no fires, candles or open flames.
- (i) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (j) There shall be no domestic animals of any kind including horses or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons. (MCL 750.67)
- (k) No firearms or archery arrows shall be discharged or shot except that military or other veterans' organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (l) Cremains of a deceased person shall not be scattered or dispersed.
- (m) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

Section 10: Authority of the Township Sexton

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Township Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.
- (c) The Township Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

Section 11: Forfeiture of vacant cemetery spaces

All lots and burial rights that have not been used for 50 years and 1 day from the date of purchase or transfer will be subject to forfeiture and shall automatically revert back to the township upon the occurrence of the following events:

- (a) A resolution by the Township Board shall be sent by the Township Clerk by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 50-year period and that all rights with respect to said plots or spaces will be forfeited if

he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and

- (b) No written response to said notice indicating a desire to retain the burial rights in question is received by the Township Clerk from the last owner of record of said plots or spaces, or his/her legal representative, within sixty (60) days from the date of mailing of said notice.

Section 12: Repurchase of Lots or Burial Rights

The Township will repurchase any cemetery lot or burial right from the owner for the original price paid to the township upon the written request of said owner or his/her legal heirs or representatives.

Section 13: Records

The Township Clerk shall maintain records concerning all burials, issuance of burial permits, and the same shall be open to public inspection during business hours.

Section 14: Vault

- (a) Burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each burial space before interment. Vaults of other suitable materials may be allowed at the discretion of the Township sexton if allowed by law.

- (b) Cremains shall be in a container approved by, and buried by the Township sexton.

Section 15: Penalties

A violation of this Ordinance constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 16: Severability

The provisions of this Ordinance are hereby declared to be severable and should any provision, section, or part thereof be declared to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part thereof involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 17: Effective Date; Conflicts

(a) This Cemetery Ordinance shall become effective upon publication of this Ordinance (or summary thereof) once published in a newspaper of record.

(b) All previous Oceola Township cemetery ordinances are hereby repealed.

The above Cemetery Ordinance was offered for adoption by Schuhmacher and seconded by Huff, the vote being as follows:

YEAS: 6

NAYS: 0

ABSENT: 1

ORDINANCE DECLARED ADOPTED.

Respectfully submitted,

By Kathleen McLean, Oceola Township Clerk

Adopted: 1/19/2012

Published: 2/10/2012

Effective: 2/10/2012

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Oceola Township Board at a Regular meeting held on January 19, 2012, at the Oceola Township Hall, pursuant to the required statutory procedures.

Kathleen McLean, Clerk

Dated: _____, 20____.