

VILLAGE OF DRYDEN
CEMETERY ORDINANCE

Ordinance No. 43.1

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, maintenance and management of cemeteries owned, controlled or operated by the Village of Dryden, in Lapeer County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

THE VILLAGE OF DRYDEN ORDAINS:

Section 1: Purpose and Intent.

The Dryden Village Council recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Village is an important function of the government of the Village. It is also important that burials, disinterment's and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Village Council finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Village.

Section 2: Definitions.

A. A grave site shall consist of burial space sufficient to accommodate one full burial and one cremation or two cremations. Full burial must happen first to allow both a burial and cremation on one grave site.

B. "Village cemetery" or "cemetery" means any cemetery owned, operated and/or controlled by the Village.

Section 3: Sale of Cemetery Plots and Transfer Fees

A. Purchase price, transfer fees, and footing charges shall be established by resolution of the Village Council.

B. The Village board, by resolution, may periodically alter the foregoing fees to accommodated increased costs and needed reserve funds for cemetery maintenance and acquisition.

C. At the time of purchase from the Village, each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death.

D. Cemetery plots are nontransferable without prior written approval by the Village.

E. The Village Council shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Village shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located and within which Village cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.

F. The Village shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the Village shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same Village cemetery in accordance with law.

G. The owner of every cemetery plot shall be responsible for notifying the Village whenever that person's mailing address changes.

Section 4: Purchase Price for Cemetery Plots.

A. The cost for each cemetery plot and Burial spaces for infants or cremains shall be set by resolution of the Village Council.

B. All charges shall be paid to the Village Official.

Section 5: Markers, Memorials and Monuments.

A. All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.

B. The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Village, or such person(s) as may be designated by the Village Council. Fees for such work shall be set from time to time by resolution of the Village Council, payable to the Village.

C. Should any monument or memorial (including any monument or memorial that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Village Council shall have the right, at the expense of the owner

of the cemetery plot, to correct the condition or remove the same. The Village shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.

D. The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The Village has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

E. All monument deliveries must be scheduled with the sexton prior to delivery. A back charge will be assessed if delivery is not scheduled and will be subject to all costs associated with monument placement by the village.

Section 6: Interment Regulations.

A. Only one (1) person shall be buried in a cemetery plot, except for a mother and infant, one (1) person and cremation (full burial must happen first) or (2) cremations.

B. The Village shall be given not less than forty-eight (48) hours prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the Village Sexton or such person or persons as are designated by the Village.

C. The appropriate permit for the grave site involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery sexton or the village official prior to interment. Where such permit had been lost or destroyed, a village official shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.

D. All graves shall be located in an orderly and neat appearing manner within the confines of the grave site involved.

Section 7: Winter Burials.

A. The Village may charge additional fees for winter burials.

B. No winter burials shall occur without the prior consent of the Village Sexton.

Section 8: Cremains.

A. Cremains may be buried in a container approved by the Village in a cemetery plot.

B. No cremains shall be scattered or dispersed within a Village cemetery.

Section 9: Grounds Maintenance.

A. Flower pots, urns and grave blankets may be placed and maintained at the head stones of graves. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. All grave blankets must be removed by April 1. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.

B. No grading, leveling or excavating within a cemetery shall be allowed. Furthermore, no tree, shrub, landscaping or similar plantings shall occur.

C. No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Village approval will be removed by the Village or the Village Sexton.

D. The Village Council reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.

E. Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.

F. The Village Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.

G. Surfaces other than earth or sod are prohibited.

H. All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within 10 days after a burial.

I. No glass containers or items are allowed.

J. Except for markers, memorials, flowers, and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a Village cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the Village.

Section 10: Disclaimer of Village Liability and Responsibility.

Every person who enters, remains in and travels within a Village cemetery does so at their own risk. The Village is not responsible for any injury, accident or other calamity that might occur to any person present in a Village cemetery. Furthermore, the Village is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a Village cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Village for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Village, but also as to the Village Sexton and any Village employee, officer, official or agent.

Section 11: Forfeiture of vacant cemetery plots or burial spaces.

Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Village upon the occurrence of the following events:

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

Section 12: Records.

The Village Clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Village related to Village cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 13: Cemetery Hours.

Unless otherwise specified by the Village Council by resolution, all Village cemeteries shall be closed during the hours from Dusk till dawn. During those hours, no person shall be present in a Village cemetery.

Section 14: Authority of the Village Sexton.

A. The Village Council shall appoint a Village Sexton, who shall serve at the discretion of the Village Council. The Village Sexton may be a Village employee or independent contractor for the Village at the discretion of the Village Council.

B. The Village Sexton shall assist other Village officials with the enforcement and administration of this Ordinance.

C. The Village Sexton shall have such duties and obligations with regard to Village cemeteries as may be specified from time to time by the Village Council.

Section 15: Fees.

The Village Council shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 16: Applicability of this Ordinance.

A. This Ordinance shall apply only to cemeteries owned, controlled or operated by the Village.

B. The provisions of this Ordinance shall not apply to Village officials or their agents or designees involved with the upgrading, maintenance, administration or care of a Village cemetery.

C. The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 17: Interpretation/Appeals to the Village Council.

A. The Village Council shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Ordinance and any rule or regulation adopted pursuant to this Ordinance, as well as their applicability. The Village Council (or its designee) is also authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.

B. Any party aggrieved by any interpretation or decision made by the Village Sexton or any Village official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Village cemetery, rights to a cemetery plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Village Council. Any such appeal shall be in writing and shall be filed with the Village within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Village shall give the aggrieved party who filed the written appeal with the Village at least ten (10) days' prior

written notice of the meeting at which the Village Council will address the matter unless an emergency is involved, in which case the Village shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Village Council at which the matter will be addressed. Pursuant to any such appeal, the decision of the Village Council shall be final.

C. The Village Council may set a fee or fees for any such appeal from time to time by resolution.

Section 18: Authority of the Village to Remove Unauthorized or Unlawful Items from a Village Cemetery.

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed, installed, left or maintained in any Village cemetery in violation of this Ordinance, any Village rule or regulation regarding Village cemeteries, or any county, state or federal law, statute or regulation may be removed by the Village from the Village cemetery at any time and destroyed or disposed of by the Village without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained or kept such item in the Village cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or kept in a Village cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Village. Even if such an item is authorized to be installed, kept, maintained or left in a Village cemetery, the Village shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from or liability to the person or persons who installed, maintained or left such item in a Village cemetery.

Section 19: Penalty and Enforcement.

Any person, firm, or corporation who shall violate any provision of this Ordinance shall be deemed responsible for violating a municipal civil infraction and shall, upon finding thereof, be subject to a fine of not less than Five hundred and 00/100 (\$500.00) Dollars, plus costs and costs of prosecution at the discretion of the Court. Repeated offenses under this Ordinance shall be subject to increased fines as provided for in the Dryden Village Civil Infraction Ordinance No. 96.001. Each day that a violation occurs shall be considered a separate offense. The Village may also seek injunctive relief in which case the violator shall be responsible for all attorney fees and all other costs incurred by the Village in enforcing this Ordinance. A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 20: Village Officials Who Can Enforce this Ordinance.

Unless otherwise specified by the Village Council by resolution, the following officials or officers shall have the authority to enforce this

Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Village President
- Village Clerk
- Village Sexton
- Village Zoning Administrator
- Village Ordinance Enforcement Officer
- Any deputy of the county sheriff's department
- Any Township, County and State Police officer

Section 21: 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 22: Repeal.

The former Village of Dryden Cemetery Ordinance No. 43, as adopted on June 1, 1987 is hereby repealed in its entirety.

Section 23: Effective Date; Conflicts.

This Ordinance shall become effective thirty (20) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The undersigned President and Clerk of the Village of Dryden hereby certify that this Ordinance was duly adopted by the Dryden Village Council at a meeting held on the 1st day of December, 2015 and was published in the Tri-City Times News Paper on the 9th day of December, 2015. This Ordinance was made effective 20 days after the date of adoption.

Pat Betcher, President

Holly Shroyer, Clerk

Prices will be as follows:

Grave Sites:

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| a. Resident of the Village of Dryden | \$450.00 |
| b. Non-Resident of the Village of Dryden | \$650.00 |

Grave Openings:

Full Casket Burial

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| a. Weekdays before 3 p.m. | \$450.00 |
| b. Weekends, Holidays and after 3 p.m. | \$550.00 |

Cremains Only 2 per Grave Site

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| a. Weekdays before 3 p.m. | \$200.00 |
| b. Weekends, Holidays and after 3 p.m. | \$250.00 |

Babies

- | | |
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| a. Weekdays before 3 p.m. | \$200.00 |
| b. Weekends, Holidays and after 3 p.m. | \$250.00 |

Footings

.30 cents per square inch

Transfer Fees:

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|--------------------------------------|----------|
| a. Village Resident Transfer Fee | \$ 25.00 |
| b. Village Non-Resident Transfer Fee | \$225.00 |