

AKRON TOWNSHIP CEMETERY ORDINANCE

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 Township of Akron, Tuscola County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF AKRON, COUNTY OF TUSCOLA, MICHIGAN ORDAINS:

Section 1: Title

This Ordinance shall be known and cited as the “Akron Township Cemetery Ordinance”.

Section 2: Purpose and Intent

The Akron Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemeteries owned and controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments 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 Township Board finds that the adoption and enforcement of the Ordinance is in the best interests of the property owners and residents of the Township.

Section 3: Definitions of Cemetery Lots and Burial Spaces

A “cemetery lot” shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person and/or cremation. It shall consist of a land area 44 inches wide and 10 feet in length.

“Township” means Akron Township.

“Township cemetery” or “cemetery” means any cemetery owned, operated and/or controlled by the Township.

Demorest Cemetery: A cemetery lot shall consist of burial spaces sufficient to accommodate from one or as many spaces as needed.

Hickory Island: A cemetery lot shall consist of burial spaces sufficient to accommodate from one to four burial spaces.

Section 4: Sale of Lots or Burial Spaces

After the effective date of this Ordinance, cemetery lots or burial spaces shall be sold by the Township only to residents or taxpayers of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth except for those acting as an agent for an eligible purchaser. The Township Clerk, however, is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the township or relationship to persons interred therein.

All such sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by the Township Clerk.

Burial rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Clerk, approved by said Clerk, and entered upon the official records of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit to the assignee and shall cancel and terminate upon such records, the original permit thus assigned.

The Township Board 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 Township 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 lot or lots will be located and within which Township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery lots available and whether family or relatives of the person seeking to purchase a cemetery lot or lots are buried adjacent or nearby the cemetery lot or lots requested.

The Township 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 lot and substituting and conveying in lieu thereof another vacant cemetery lot in a similar location within the cemetery at issue or by refunding the money paid for the cemetery lot 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 Township shall have the right to remove and transfer the remains so interred to another cemetery lot in a similar location in the same Township cemetery in accordance with law.

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

Section 5: Purchase Price and Transfer Fees

Each cemetery lot shall cost the sum of \$250.00 per grave for township residents and taxpayers and \$500.00 perpetual care fee for non-residents.

Any transfer of one or more burial spaces from an original purchaser to a qualified assignee shall cost \$50.00 for residents or taxpayers or \$100.00 plus \$100.00 perpetual care for non-residents.

The lawful owner of any cemetery lot within the Township shall promptly provide the Township Clerk with any change in that owner's mailing address.

The foregoing charges shall be paid to the Township Treasurer and shall be deposited in the cemetery fund for the particular cemetery involved in the sale or transfer. However, the sexton may receive the fees, issue township receipts, and will remit the money to the treasurer.

The Township Board, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6: Grave Opening Charges

The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township. Opening and closing cost is \$450.00 for burials from April 1st through November 30th; \$500.00 for burials from December 1st through March 31st; and \$125 for a cremation burial from April 1st thru November 30th only.

No cemetery lot shall be opened and closed except under the direction and control of the Cemetery Sexton. This provision shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Township Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.

Section 7: Markers or Memorials

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. Any large upright monument must be placed upon a suitable foundation to maintain the same in an erect position.

All markers, memorial, statue or similar item are not to exceed 30" in length for a single lot or 60" for a double lot. The foundation must be 6" wider than the dimensions of the base of monument or marker on all sides. This is to provide adequate distance for trimming and mowing purposes around the monument. If the foundation exceeds 5 feet long, the foundation must be poured on site prior to delivery of monument. This and other special foundations must be approved by Sexton or Township Clerk.

It is the responsibility of the monument business to provide or pour the foundation for the monument or memorial for a lot or grave site. If the monument business does not provide such a service, the Sexton or Township Clerk must be notified to make special arrangements for a foundation.

Memorial business must notify Sexton as to the size of the monument or memorial, foundation and lot number that is being serviced. Sexton also needs to be notified as to the date of when lot will be serviced prior to any foundation being placed or poured at a grave site. Monuments and memorials must be placed by monument company and have foundations placed upon setting of monument/memorial or unless other arrangements have been made with Sexton or Township Clerk. Foundations and monuments must be level. If, over time, that the foundation and/or monument become unlevel, monument business is responsible for releveling.

Section 8: Interment Regulations

A burial space is acceptable as follows:

- One Full Burial
- One Full Burial of a parent and infant at the same time of burial
- Two children buried at the same time
- One Full Burial and one cremation
- Two cremations

Not less than 36 hours prior notice shall be given in advance of any time of any funeral to allow for the opening of the burial spaces. The opening and closing of cemetery lots shall be done only by the Township Sexton.

The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, and the burial-transit permit from the Health Department shall be presented to either the Sexton or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the deceased person to be buried in the burial space is an authorized and appropriate person for that space before any interment is commenced or completed. The Funeral Director appoints a witness of the burial.

All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

Graves that have been opened the evening before interment must be covered for safety purposes.

Section 9: Disinterments

No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the Township.

The Township Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave if the disinterment or digging up of an occupied grave is not done pursuant to a court order or does not have a reasonable basis.

Section 10: Cremains

Cremains shall be buried within a plastic or metal container no larger than 12”x6”x5” and must be sealed. No cremains shall be scattered or dispersed within a Township cemetery.

Section 11: Grounds Maintenance

No grading, leveling, or excavating upon burial space shall be allowed without the prior permission of the Cemetery Sexton or the Township Clerk.

No flowers, shrubs, trees or vegetation (including moss) of any type shall be planted without the approval of the Sexton or the Township Clerk. Any of the foregoing items planted without such approval may be removed by the Township or the Cemetery Sexton.

The Township Board reserves the right to remove or trim any existing tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.

Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.

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

Surfaces other than earth or sod are prohibited.

No more than three refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flowers containers on a cemetery plot. No glass containers or items are allowed. The refuse must be removed or deposited in containers located within the cemetery. All winter wreaths will be removed after April 1st.

All vehicles must stay on roadway.

Section 12: Disclaimer of Township Liability and Responsibility

Every person who enters, remains in and travels within a Township cemetery does so at their own risk. The Township is not responsible for any injury, accident or other calamity that might occur to any person present in a Township cemetery. Furthermore, the Township 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 Township 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 Township 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 Township, but also as to the Township Sexton, and any Township employee, officer, official or agent.

Section 13: Forfeiture of Vacant Cemetery Lots or Burial Spaces

Cemetery lots or burial spaces sold after the effective date of this Ordinance and remaining vacant for 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:

- (a) Notice 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 40-year period and that all rights with respect to said lots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of such notice his/her desire to retain said burial rights; and
- (b) No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of said notice.

Section 14: Repurchase of Lots or Burial Spaces

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

Section 15: Records

The Township Clerk shall maintain records concerning all burials, cemetery lots, issuance of burial permits, and any other records of the Township related to Township Cemeteries, separate and apart from any other records of the township, and the same shall be open to public inspection at all reasonable business hours.

Section 16: Vault

All burials shall be within a standard concrete vault installed or constructed in each burial space before interment. No plastic or metal vaults will be allowed. Cremains shall be in a container approved by the Township.

Section 17: Cemetery Hours

The cemetery shall be open to the general public during daylight hours each day. During hours of dusk and darkness, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Township Sexton, any Township official, a person accompanied by the Township Sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 18: Prohibited Uses and Activities

The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure 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) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc. of any tree or plant within a cemetery.
- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
- (l) There shall be no gathering of persons in excess of 100 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial.)
- (m) There shall be no disinterment or grave openings unless approved by the Township.
- (n) There shall be no possession or consumption of any alcoholic beverage.

- (o) There shall be no picnicking or consumption of food without prior Township approval.
- (p) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles or open flames.
- (v) 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.
- (w) There shall be no domestic animals of any kind or pets allowed within the cemetery ground. However, this prohibition shall not apply to dogs assisting handicapped persons.
- (x) 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.
- (y) No person shall engage in any fight, quarrel or disturbance.
- (z) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (aa) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- (bb) No person shall possess or consume any alcoholic beverage.

Section 19: 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 20: Fees

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

Section 21: Interpretation/Appeals to the Township Board

- a. The Township Board 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 Township Board (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 Township Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a cemetery lot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Township shall give the aggrieved party who filed the written appeal with the Township at least ten (10) days' prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Township Board shall be final.
- c. The Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 22: Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery

Any 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 Township cemetery in violation of this Ordinance, any Township rule or regulation regarding Township cemeteries, or any county, state or federal law, statute or regulation may be removed by the Township from the Township cemetery at any time and destroyed or disposed of by the Township 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 Township cemetery. No such item (including, but not limited to, a marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or left in a Township cemetery, the Township 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 Township cemetery.

Section 23: Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to 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) for the first offense and not less than two hundred dollars (\$200) 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 the same provision 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 24: Township Officials Who Can Enforce this Ordinance

Unless otherwise specified by the Township Board 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:

- Township Supervisor
- Township Clerk
- Township Treasurer
- Township Trustee
- Township Sexton
- Township Zoning Administrator
- Any deputy of the Tuscola County Sheriff’s department
- Any Michigan State Police officer
- Any on-duty police officers

Section 25: Severability

The provisions of the within ordinance are hereby declared to be severable and should any provision, section or part thereof be declared 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 such Ordinance, which shall continue in full force and effect.

Section 26: Effective Date

This ordinance shall take effect on July 30, 2012. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Akron Township Board at a Township meeting held on Thursday, June 21, 2012 at the Akron Township Hall, pursuant to the required statutory procedures.

Dated: June 21, 2012

Respectfully submitted,

By _____, Township Clerk
Ann Allen