

THE TOWNSHIP OF TUSCOLA, TUSCOLA COUNTY, MICHIGAN ORDAINS:

Section 1: Title

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

Section 2: Definitions

[The following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Burial rights certificate shall mean a certificate which grants the right of burial in a grave.

Cemetery shall mean a burial ground for earth interments.

Cemetery services shall mean all services offered to the public, including grave opening, closings and foundation installation.

Cremaains shall mean the container and incinerated body of the deceased person.

Columbarium shall mean above ground memorial that holds cremaains.

Foundation shall mean the concrete slab that the monument or headstone sits on.

Grave or **Grave site** shall consist of a single burial space, consisting of a land area of approximately four feet wide and ten feet in length, sufficient to accommodate one vault; one vault and one cremaain; or up to four cremaains with no vault.

Grave or **lot owner** shall mean the owner(s) of burial rights. Such rights are limited to a burial privilege as evidence by a burial rights certificate. The owner interest created by purchase or transfer of any grave or lot is a personal contract right and not an interest or estate in real property. Spouses, or no more than two persons may be joint owners with rights of survivorship to any burial space.

Headstone shall mean a stone above the ground used for a single grave site indicating the given and/or family name(s).

Immediate family shall mean the spouse, parent, stepparent, grandparent, child, stepchild, grandchild and spouse of the aforementioned, of the owner(s), and shall include "great" to the above where applicable.

Interment shall mean the disposition of the remains of a deceased human by earth interment.

Lot shall mean a measured parcel of land in the cemetery consisting of numbered divisions as shown on the recorded plats, sufficient to accommodate up to twelve grave site. A typical lot consists of twelve graves.

Lot marker refers to any means used by the Township to locate and mark corners of the lot.

Management shall mean the person or persons duly designated by the Township Board for the purpose of managing the cemetery.

Marker shall mean a marker or plaque that is flush with the ground.

Memorial shall mean an object commemorating the remembrance of a person.

Monument shall mean a sculpted and shaped stone extending above the ground inscribed with the family name, and usually used to mark multiple grave sites.

Resident shall mean any person who has legal or official ownership individually or jointly with another, of any real property which is subject to assessment by the Township for ad valorem property taxes.

Trustees shall mean the Township Board of Trustees.

Urn shall mean a concrete or stone container with an open top for planting flowers.

Vault shall mean a prefabricated container made of metal or concrete into which a casket is placed for burial.

Section 3: Purchase of lots, graves, and burial rights

(a) Purchase of burial rights. All sales shall be recorded on a burial rights certificate (see Appendix A), approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or grave sold. Such forms shall be executed by the Township Clerk.

(a) Fees. The Township Board shall establish the fee for the purchase of a grave. These fees may be revised by resolution of the Township Board (see Appendix B). Cemetery fees and charges shall be submitted to the Township and shall be deposited in the cemetery funds.

(b) Payment. Payments shall be made by cash or check, payable to the Township Board. Payment is due in full at the time of burial rights assignment.

(c) Transfer of burial rights. Burial rights maybe transferred. A transfer of burial rights must be endorsed by and filed with the Township Clerk. Upon such transfer, the Clerk shall issue a new burial rights certificate to the assignee and shall cancel the original burial rights certificate issued.

(d) Repurchase of graves. The Township will repurchase the burial rights to any cemetery grave from the owner at 75% of the current price, upon written request of said owner or his or her legal heirs or representative, and upon producing receipt of purchase.

Section 4: Grave opening and closing

(a) Authority to establish grave opening/closing fees. The opening and closing of any grave, prior to and following a burial, and including the interment of cremains shall be at a cost to be determined by resolution (Appendix C) of the Township Board. Payable to the Township.

(b) Authority to open/close graves. No graves shall be opened or closed except under the direction and control of such individual as designated by the Township Board. This provision

shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the County Health Department, or other properly constituted public authorities.

- (c) **Authority to open/close columbariums.** No cremains shall be interred into a headstone or columbarium without written notification to the Township Clerk. The interment of cremains shall be at a cost to be determined from time-to-time by resolution (Appendix D) of the Trustees, payable to the Township.

Section 5: Markers, memorials, headstones or monuments

- (a) **Permitted size of a headstone.** All headstones shall not exceed a size of 40" in width, 36" in height and 24" in depth
- (b) **Permitted materials and styles.** All markers, memorials and headstones should be of quality granite, marble or standard bronze. The Township Board may cause a marker, memorial or headstone to be removed, rebuilt or remodeled, where and when such is desirable for the proper maintenance and orderly developments of the Cemetery and to preserve the aesthetic value thereof. In the event that a marker, memorial or headstone must be removed, rebuilt or remodeled, the Township will not be responsible for any loss thereof either to the lot owner or dealer.
- (c) **Township's liability.** The Township assumes no responsibility for assuring that ordered markers, memorials or headstones are proper for the area and for name placement on the marker.
- (d) **Monument companies liable for damage.** Monument companies are responsible for all damage to cemetery grounds and surrounding markers, memorials or headstones that occurs during the installation of a marker, memorial or headstone.
- (e) **Headstone regulations.** Only one upright headstone permitted per grave.
- (f) **Marker regulations.** Up to three markers are allowed per grave. Markers must be flush with the ground.
- (g) **Foundations.** The foundation upon which any marker, memorial, monument, or headstone must be placed, shall be constructed by such individual as designated by the Township Board, per specifications from the Clerk's office, and shall be billed by the Township to the grave owner or the deceased member's family at the rate set by resolution (Appendix E) by the Township Board. Orders for foundations shall be placed a minimum of 30 days in advance of delivery of the marker/memorial or headstone. Foundations shall not be poured during the winter months, nor for a period of 60 days from the date of the burial to allow sufficient time for the ground to settle. Foundation fees must be paid in full before the foundation will be poured.
- (h) **Variances from requirements.** Any variation from the preceding requirements must be approved by the Trustees.

Section 6: Interment regulations

(a) **Interments per grave site.** Only one vault shall be allowed in a single grave site. Interments per grave site shall also allow one vault and one cremain; or up to four cremains with no vault.

(1) Full body interment must precede cremain interment.

(b) **Advance notice required.** Not less than 48-hour notice shall be given in advance of the time of the funeral to allow for the opening of the grave(s).

(c) Burial transit permit and fee required. A burial transit permit (Appendix F) and interment fee must be provided for all interments per Act No. 368 of the Public Acts of 1978 and Act. No. 299 of the Public Acts of 1980.

(d) Method of ordering grave opening. The Township shall not assume responsibility for errors in opening graves when orders are given by any means of communication other than in writing. Orders submitted by funeral directors for the opening of graves will be considered as if coming from the lot or grave owner.

(e) Removal of flowers and emblems. Following an interment, all flowers or emblems used at the interment that have become unsightly shall be removed and the Township assumes no responsibility for their return to the owners.

(f) Interments on Sundays and holidays. Interments taking place on Sundays or holidays will be subject to a higher fee as set by resolution (Appendix G) of the Trustees.

Section 7: Ground maintenance

(a) Unauthorized groundwork. No grading, leveling or excavating upon a grave shall be allowed without the permission of the Township Clerk or designee(s).

(b) Plantings. No planting of trees or shrubs shall be allowed in cemetery.

(c) Board authority regarding plantings. The Trustees reserve the right to direct the removal or trimming of any tree, plant or shrub, or other planting(s) located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery. The Township has the discretionary authority to trim and/or remove all existing trees, shrubs and plantings, which have become unsightly, or overgrown and encroaching on an adjacent grave. No unauthorized trimming, pruning or removing of a branch from any tree or shrub in the cemetery is permitted except under the supervision of the Township of their designee(s).

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

(e) Maintenance authority. The Township, or its designee, shall have the right and authority to remove and dispose of: any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem, without notice.

(f) Location of flower beds. Flower beds must be located 24" in front of the headstone.

(g) Required surface. All grave surfaces other than what's allowed within the parameters of the flower beds must be grass.

(h) Proper disposal of refuse. With the exception of dirt or soil, 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.

(i) Urn regulations. An urn must be set in line with the marker, memorial or headstone.

(j) Artificial flowers, wreaths and grave blankets. The Township, or its designee(s), shall remove all "winter" artificial flowers, wreaths and grave blankets remaining on the grave after April 1st of each year, and all "summer" artificial flower, wreaths and grave blankets remaining on the grave after October 1st of each year.

Section 8: Items allowed in cemetery within the chosen parameters (24" in front of headstone)

Commercial grade edging, Perennial or annual flowers, artificial flower, one weighted pot or urn of flowers, one solar light, mulch or stone (must be contained within edging), one shepherd's

hook placed behind headstone, one stone/ cement statue not to exceed 16" in height. Grave blankets are permitted from November 1st through April 1st.

Section 9: Items not allowed in cemetery

Mounds raised around the graves, steps or artificial walkways, fencing of any kind, clothing (hats, shoes, etc.), photos not attached to the marker, arbors, trellises or wire screens, breakable receptacles, bird houses and/ or feeders, benches (with the exception of a monument bench). Other questionable items are subject to the discretion of the Township Board.

Section 10: Forfeiture of vacant cemetery lots or graves

Burial rights for cemetery lot(s) or grave(s) sold after the effective date of the ordinance and remaining vacant 40 years from the date of their sale or last transfer shall automatically revert to the Township upon occurrence of the following events:

(1) 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 or her of the expiration of the 40-year period and that all rights with respect to said lot(s) or grave(s) will be forfeited if he or she does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing the notice his or her desire to retain said burial rights.

(2) No written response to said notice indicating a desire to retain the cemetery lot(s) or grave(s) in question is received by the Township Clerk from the last owner of record of said lot(s) or grave(s) or his or her heirs or legal representative within 60 days from the date of notice.

Section 11: Records

The Township Clerk shall maintain records concerning sales of all burial rights, all burial, issuance of burial permits and transfers of burial rights.

Section 12: Vaults

(a) All full body burials shall be contained within a standard concrete vault placed in each grave before interment with the exception of cremains.

(b) All cremains shall be contained in some type of container. Scattering of ashes is not allowed.

Section 13: Cemetery hours

(a) **Public visitation hours.** Township cemeteries shall be open during the time from sunrise to sunset Eastern Standard Time.

(b) **Visitation during non-visitation hours.** No person shall be permitted in any Township cemetery at any time other than during sunrise to sunset Eastern Standard Time, except upon permission of the Township Clerk.

Section 14: Penalties

Any person, firm or corporation who violates any of the provisions within this chapter shall be guilty of a misdemeanor and shall be subject to a fine of up to \$500.00 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction, plus the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity.

Section 15: Damage to cemetery properties

The Township shall not be responsible for any kinds of damage by the elements, vandals, and thieves or by other causes beyond its control. The defacement of markers, memorials, headstones, graves or cemetery appurtenances, whether intentional or otherwise, and the removal of flower, urns or any of the cemetery equipment without proper authority will be considered a misdemeanor and the offending individual(s) shall be liable for the damages.

Section 16: Vehicles and speed limit

(a) The operator of any vehicles shall be liable for any damage caused by said vehicle, whether intentional or unintentional. The speed limit established on cemetery roads is ten miles per hour.

(b) Recreational vehicles are prohibited including but not limited to: snowmobiles, golf carts, four-wheelers, three-wheelers, and razors.

Section 17: Disinterments and reinterments

(a) *Disinterment regulations.* Disinterment of a body once properly interred shall not be made without approval of the Township Clerk and is subject to the orders and laws of the properly constituted public authorities. Graves shall not be opened for the inspection except for official investigation.

(1) A permit for disinterment and reinterment is required before disinterment of a body. The County Health Department shall issue the permit.

(2) The County Health Department shall prepare and furnish to the Township the forms for permits and applications therefore, which shall be used in the procedures prescribed by this section. The County Health Department and the Township shall retain an application for a disinterment and in reinterment permit for not less than five years. A duplicate copy of the permit shall be maintained in permanent records of the cemetery from which the body was disinterred.

(3) If a required consent cannot be obtained, a person may petition the County Circuit Court for disinterment order.

(b) *Notices and fees required.* At least one week's notice is required prior to any disinterment or remove, subject to the acquisition of a permit from the County Health Department. All fees for disinterment and reinterment shall be prepaid at the rate determined by resolution (Appendix H) of the Township Board.

(c) *Markers, memorials or headstones.* Any markers, memorials or headstones designating the location of an interment may be removed at the time a disinterment is made.

Section 18: Effective date

This ordinance shall take effect on _____. All ordinances or parts of ordinances in conflict herewith are hereby repealed.