

CEMETERY ORDINANCE

Ordinance No. 2018-1

ADOPTED: April 17, 2018

EFFECTIVE: June 15, 2018

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: Purpose and Intent

The Township Board recognizes and concludes that the proper and reasonable maintenance, appearance, and use of the cemetery or cemeteries owned or 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 this Ordinance is in the best interests of the property owners and the residents of the Township.

Section 3: 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.

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

Columbarium shall mean above ground memorial that holds cremains that is personal or Township owned.

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

Flower urn shall mean a vase for holding flowers.

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 four cremains; or up to four cremains 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 or flush with the ground that can be used for single or multiple grave site(s) 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.

Infant shall mean someone who is two (2) years old or younger when s/he passes away.

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 sites. 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.

Memorial Bench shall mean a bench that commemorates the remembrance of a person and is made from quality granite, marble or standard bronze.

Owner shall mean the person who purchased the right of burial to a specific cemetery plot from the Township.

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 container with a closed top that is used to hold the ashes of someone who has been cremated.

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

Section 4: Purchase of lots, graves, and burial rights

The Township shall sell Cemetery graves to Township residents and taxpayers for the purpose of burial for the purchaser of a cemetery grave or his or her family.

- All sales of cemetery graves shall be made on a burial rights certificate, which grants the right of burial only and does not convey any other title or right to the grave sold. Such certificates shall be signed by the Township Clerk. All sales shall be made through the Township Clerk's office.

- Cemetery graves may be sold by the Township to any non-resident and non-taxpayer of the Township on an as needed basis. The Township Clerk is hereby granted the authority to make such sale where the purchaser has a member of their immediate family buried at the cemetery.

- The Township Board shall have the authority to place a limit on the number of graves 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 grave or graves will be sold and where such grave or graves will be located. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant graves available and whether family or relatives of the person seeking to purchase a grave or graves are buried adjacent or nearby the grave or graves requested.

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

(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.

(b) Fees. Each grave shall cost the sum of \$300 for Township residents and taxpayers and \$600 for non-residents and non-taxpayers. Graves for cremains shall cost the sum of \$100 for residents and taxpayers and \$200 for non-residents and taxpayers. These fees may be revised by resolution of the Township Board. Cemetery fees and charges shall be submitted to the Township and shall be deposited in the cemetery funds.

(c) Payment. Payments shall be made in full by cash or check, payable to Tuscola Township.

(d) Transfer of burial rights. Burial rights may be transferred. A transfer of burial rights must be endorsed by and filed with the Township Clerk. The original burial rights certificate must be surrendered to the Clerk at the time of transfer. A new burial rights certificate shall be issued to the assignee.

(e) Repurchase of graves. The Township will repurchase the burial rights to any cemetery grave from the owner for \$150, upon written request of said owner or his or her legal heirs or representative, and upon producing burial certificate.

Section 5: 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 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/ headstones.** 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 by resolution of the Township Board, payable to the Township.

Section 6: Markers, memorials, headstones, memorial benches or family markers

- (a) **Permitted size of a headstone.** A headstone for a grave site shall not exceed a size of 40" in width, 36" in height and 24" in depth. A headstone for two grave sites shall not exceed a size of 60" in width, 36" in height and 24" in depth.
- (b) **Permitted size of a marker.** Markers shall not exceed a size of 12" X 24".
- (c) **Permitted materials and styles.** All markers, memorials, memorial benches 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.
- (d) **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.
- (e) **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.
- (f) **Headstone regulations.** Only one upright headstone permitted per grave.
- (g) **Marker regulations.** Up to four markers are allowed per grave. In areas designated cremains only, one marker per grave is allowed. Markers must be flush with the ground.
- (h) **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 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.
- (i) **Variances from requirements.** Any variation from the preceding requirements must be approved by the Trustees.

(j) Family markers. One family marker is permitted per lot. Same family must own entire lot.

- Should any marker, memorial, headstone, or similar item become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the right, at the expense of the owner of the grave, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the grave prior to any such work beginning.

Section 7: Interment regulations

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

(1) Full body interment must precede cremains 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). Notices given less than 48 hours in advance will be subject to an additional fee.

(c) Burial transit permit and fee required. A burial transit permit (**Appendix B**) 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 of the Trustees.

Section 8: 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 ashes shall be interred in a non-biodegradable container. Scattering of ashes is not allowed.

Section 9: Ground maintenance

(a) Unauthorized groundwork. No grading, leveling or excavating upon a grave shall be allowed without the permission of the Management 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 abut to the headstone or marker extending up to 24" over the body.

(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) **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 10: Items allowed in cemetery within the chosen parameters (abut to the headstone or marker extending up to 24" over the body)

Commercial grade edging, perennial or annual flowers, artificial flower, one weighted pot or flower urn, 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 11: 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 12: 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 13: 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 14: Areas designated for cremations only

Tuscola Township shall have certain areas of the cemetery reserved for cremations only. In these sections headstones and family markers are not permitted. Only markers are allowed to mark a grave. Only one flower urn per gravesite shall be permitted. All other decorations aforementioned in **Section 10** are not allowed.

Section 15: 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 Management.

Section 16: 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/certificate 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 will 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 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.

A violation of any permit/certificate or permit/certificate condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 17: 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 Clerk
- Township Sexton
- Any deputy of the county sheriff's department

Section 18: 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 19: 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 20: 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, 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 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 21: Applicability of this Ordinance

This Ordinance shall apply only to cemeteries owned, controlled, or operated by Tuscola Township.

Section 22: Interpretation by the Township Board

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.

Section 23: 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 24: Effective date; Conflicts

This ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or part of ordinances in conflict herewith are hereby repealed.

Section 25: Disclaimer of Township Liability and Responsibility

Every person who enters, remains in, and travels within a Township cemetery does so at his/her own risk. The Township is not responsible for any injury, accident, or other calamity which 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 of 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 any Township employee, officer, official, or agent.

Michelle Hicks, Clerk
Tuscola Township