

Deerfield Township
Mecosta County, Michigan
(Ordinance No, 2021-1)

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 Township of Deerfield, in Mecosta 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 DEERFIELD("Township"), COUNTY OF MECOSTA, MICHIGAN
ORDAINS:

Section 1. Title

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

Section 2. Purpose and Intent

The Deerfield 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, 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 Township Board finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

- (a) A "cemetery plot" shall consist of an area in a Township cemetery sufficient to accommodate four (4) adult graves. Each grave site is 4' by 10'. Exceptions may be made with Township permission to accommodate infant burial or the burial of cremains.

- (b) "Township" means Deerfield Township.

- (c) "Township cemetery" or "Cemetery" means any cemetery owned, operated and/or controlled by the Township.

Section 4. Sale of Cemetery Plots

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the Township for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.

- (b) All sales and transfers of cemetery plots shall be made on a form approved by the Township Board and signed by the designated Township official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the Township Clerk or deputy Township Clerk, and shall constitute a permit when approved.

- (c) Cemetery plots may be sold by the Township to any resident or taxpayer of the Township. The Township Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred in the Township cemetery involved. Any such decision by the Township Clerk (either granting or denying such variance) may be overturned by the Township Board pursuant to section 23 hereof.

- (d) At the time of purchase from the Township, each cemetery plot shall be assigned the name of a specific person who shall be interred in that cemetery plot upon death. Each such person must either be a resident or taxpayer of the Township, or be a member of the immediate family of a qualified purchaser.

- (e) Burial spot designation is transferable by filing the proper paperwork with the Township.

- (f) The owner of every cemetery plot shall be responsible for notifying the Township whenever that person's mailing address, phone number, and email changes.

Section 5. Purchase Price for Cemetery Plots

- (a) Each cemetery plot containing four (4) adult graves shall cost \$200 for a current resident and \$400 for a nonresident. Half plots containing two (2) adult graves shall cost \$100 for a current resident and \$200 for a nonresident. Single grave spaces will be sold out of the same lot until that plot is completely sold, then a new plot will be opened up for single spaces.

- (b) All charges shall be paid to the Township Treasurer.

- (c) The Township Board by resolution may periodically alter the aforementioned fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6. Grave Opening Charges

Grave opening charges are handled through the funeral home.

Section 7. Markers or Memorials

- (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) Only one marker shall be allowed per burial spot or one marker or memorial in total where two adjoining plots share that one marker or memorial. Markers shall be no more than thirty inches (30") in width or forty – eight inches (48") in width for a double marker, with an overall height of no more than thirty inches (30") above ground level, including the foundation. Markers for cremains shall be limited to two (2) 2'x2' or one (1) 2'x5'.

- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township board. Fees for such work shall be set from time to time by resolution of the Township Board, payable to the Township. Foundations shall be 2" larger all the way around than the marker or memorial.

- (d) 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 Township Board shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.

- (e) 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 Township has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a burial place, except as otherwise provided below:
 - (1) One adult and one infant may be buried in one burial place with the prior approval of the Township Sexton or Township Clerk;

- (2) Two (2) children may be buried in one burial space with the prior approval of the Township Sexton or Township Clerk;
 - (3) One (1) adult and the cremains of another person may be buried in one burial space with the prior approval of the Township Sexton or Township Clerk and provided that the full burial is done before the interment of the cremains;
 - (4) Four (4) cremains may be buried in one burial space with the prior approval of the Township Sexton or Township Clerk.
- (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 burial space. The opening and closing of the burial space shall be done only by the Township Sexton or such person or persons as are designated by the Township.
 - (c) The appropriate permit or form (Deed) issued by the Township for the cemetery plot 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 Township sexton or the Township Clerk (or designated Township Official) prior to interment. Where such a permit has been lost or destroyed, the clerk shall be satisfied, from his/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) The surface all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.
 - (e) Burial between December 1 and April 1 is an additional \$800 or a negotiated amount subject to weather at the Township Board's discretion.

Section 9. Disinterment

- (a) 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.
- (b) 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 (issued by a court of competent jurisdiction) or does not have reasonable basis.

Section 10. Cremains

- (a) Cremains shall be buried in a funeral home approved container in a burial space in a Township cemetery in accordance with the provisions of this Section and Section 8 of this Ordinance.
- (b) No cremains shall be scattered or dispersed within Township cemetery.
- (c) No cremains shall be buried without the consent of the Township Sexton.

Section 11. Grounds Maintenance

- (a) Flower pots and urns may be placed and maintained at the head stones of graves no earlier than May 1 and must be removed by November 1. Grave blankets must be removed by April 15.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township Board. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior written permission of the Township Board.
- (c) The Township Board reserves the right to 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. Flowers will be planted within an area not more than 18 inches behind the head stone.
- (d) Mounds, bricks, blocks, or any border which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (e) The Township shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that through decay, deterioration, damage or otherwise become unsightly, a source or litter or a maintenance problem.
- (f) Surface other than earth or sod are prohibited.
- (g) All refuse of any kind or nature including, among others, dried flowers, wreaths, papers and flower containers, must be removed.

- (h) Plastic flowers will be placed in unbreakable containers at the base of the headstone only. Old and faded flowers will be removed by the Township. All artificial flowers will be removed by the Township and disposed of if they remain on graves after November 1.
- (i) No glass containers or items are allowed.

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 owns and maintains the Township cemeteries in its governmental function as a Township. The Township shall not be liable for liability or damage of any kind with respect to any matter arising out of or in any way related to the ownership or operation of any Township cemetery or any part thereof. No officer, agent, or employee of the Township shall have any liability for any damage which may occur to any persons or property as a result of any act, decision or other consequence or occurrence arising out of any duties or conduct associated with the Township cemeteries. 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 the cemetery plot, burial place or anywhere in the 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 hold 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 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 plots or burial spaces

Cemetery plots or burial spaces sold after the effective date of the Ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon the 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 or record informing him/her of the expiration of the 40-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 cemetery plots or burial spaces in question is received by the Township Clerk from the last owner for 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 14. Repurchases of Plots or Burial Spaces

The Township may repurchase any cemetery plot from the owner for the original price paid to the Township upon written request of said owner or his /her legal heirs or representatives, to the Township Board.

Section 15. Records

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

Section 16. Vaults

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.

- (b) Cremains shall be in a funeral home approved container.

- (c) Green Burials – must consist of the following; no embalming, no metal casket, no burial vault.

Section 17. Cemetery Hours

Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed from dusk to dawn. During these hours, 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 or 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 the cemetery.
- (g) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (h) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (i) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (j) There shall be no dirt bikes, snowmobiles, four-wheelers, go-carts or similar vehicles.
- (k) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (l) There shall be no disinterment or grave openings unless approved by the Township.
- (m) There shall be no possession or consumption of any alcoholic beverage.

- (n) There shall be no picnicking or consumption of food without prior Township approval.
- (o) 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.
- (p) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (q) There shall be no littering or dumping.
- (r) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (s) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (t) There shall be no fires, candles or open flames.
- (u) 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.
- (v) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this provision shall not apply to service dogs accommodating the need of an individual.
- (w) 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.
- (x) No person shall engage in any fight, quarrel or disturbance.
- (y) Cremains or ashes of a deceased person shall not be scattered or dispersed.

- (z) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

Section 19. 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 are not limited to, a fee or fees burial permit, disinterment 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 20. Applicability of this Ordinance

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by the Township.
- (b) The provisions of this Ordinance shall not apply to Township officials or their agents or designees involved with upgrading, maintenance, administration or care of a Township cemetery.
- (c) The provisions of the Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 21. Interpretation/Appeals by 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 their 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 plot, 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 charge for any incurred cost for the appeal.

Section 22. Authority of the Township to Remove Unauthorized or Unlawful Items from a Township 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 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 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 monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag or similar item) can be installed, placed, maintained or kept in a Township Cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Township. Even if such and item is authorized to be installed, kept, 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 the 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 not be 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 the 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 or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

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 Sexton
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the county sheriff's department
- Any State Police officer

Section 25. 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 26. 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 parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member _____ and was seconded by Township Board Member _____, the vote being as follows:

Ayes:

Nays:

Absent / Abstain:

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Deerfield Township Board at a regular meeting held on _____, at the Deerfield Township hall, pursuant to the required statutory procedures.

Dated: _____, 20_____

Respectfully submitted,

By _____, Deerfield Township Clerk