

FAIRFIELD TOWNSHIP CEMETERY ORDINANCE

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF FAIRFIELD, SHIAWASSEE COUNTY, STATE OF MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

Revised 5/6/2021

The Township of Fairfield, County of Shiawassee, State of Michigan ordains:

Section 1: Title

This ordinance shall be known and cited as the *Fairfield Township Cemetery Ordinance*. The effective date of this Ordinance shall be thirty (30) days after a copy of the Ordinance appears in the newspaper and upon our website (fairfieldtwp.us). All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 2: Purpose and Intent

The Fairfield Township Board recognizes and concludes that the proper and reasonable maintenance, appearance, and use of the cemeteries owned by the Township is an important function of this 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 the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3: Definitions

Within this document, the “Township” refers to Fairfield Township, Shiawassee County and the “Township Board” refers to its governing body.

A cemetery lot shall consist of burial spaces sufficient to accommodate one adult or two child or stillborn burials.

- A. An adult burial space shall consist of a land area approximately forty (40) to forty-eight (48) inches wide and ten (10) feet in length.

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- B. A single child or stillborn burial space shall consist of a land area no more than four (4) feet wide and five (5) feet long. Two children/stillborn spaces may be placed in one adult space, however, the markers for both burial spaces must be placed at the head of the adult space unless the burial space furthest from the 'head' of the burial space is of a type which can be mowed over.
- C. Only one person may be buried in a burial space except for a parent and infant who are being interred at the same time, or two children buried at opposite ends of the same site. One to seven (1-7) cremated remains (cremains) may be allowed on each burial space with only one stone per site, after obtaining appropriate permission from the Township Representative. Cremains may only be buried in a container approved by the Township Representative.

Section 4: Sale of lots for burial spaces

- A. Hereafter, the cemetery lots or burial spaces shall be sold only to residents or taxpayers of the Township for the purpose of the burial of purchaser and his or her heirs, heirs at law or next of kin. No sale shall be made to funeral directors for others as heretofore set forth, unless they are acting as the agent for an eligible purchaser. The Township Representative, 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 through previous residence within the Township or relationship to persons interred within. Such a sale shall be at a price designated for a non-residential burial.
- B. All 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 burial space(s) sold. Such form shall be executed by the Township Representative.
- C. Burial right may be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be effected only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Representative and entered upon the official records. Upon such assignment, the Township Representative shall issue a new burial permit to the assignee and shall cancel and terminate upon such records the original permit thus assigned.

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- D. The Township shall have the right to correct any errors that may be made concerning interments, disinterment's, or in the description, transfer, or conveyance of any burial space or spaces. To do so, the Township may cancel the permit for a particular vacant burial space or spaces and substitute and convey in lieu thereof another vacant burial space or spaces within a similar location within the cemetery at issue, or refund the money paid for the burial space to the purchaser or successors. In the event that an error involves the interment of remains, the Township shall have the right to remove and transfer those remains to another burial space in a similar location in the same Township cemetery in accordance with the law.
- E. The owner of every burial space shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5: Purchase Price and Transfer Fees

- A. Each adult resident burial space shall cost the sum of \$100.00. For those spaces in which a non-resident is to be interred, the sum shall be \$300.00 per site, the additional difference being payable before a burial permit is issued.
- B. Any transfer of one or more burial spaces from the original purchaser to a qualified assignee shall cost \$25.00 for each division.
- C. The forementioned charges shall be paid to the Township Representative and shall be deposited in the General Fund.
- D. The Township Board may by resolution periodically alter the cemetery fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6: Grave opening charges

- A. The opening and closing of any burial space prior to and following a burial therein, including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board and be payable to the Township Representative.
- B. No burial spaces shall be opened or closed except under the direction of the Sexton/Grave Digger. This provision shall not apply to legal proceedings for removal and re-interment of bodies and remains under the supervision of the local health department.

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Section 7: Markers, Monuments and Memorials

- A. All markers or memorials must be of stone (due to its tendency to deteriorate, sandstone is not an acceptable material) or other equally durable composition (bronze, stainless steel, etc.).
- B. Any monument must be placed upon a suitable foundation to maintain the monument in an upright position. The Township Board will set the fee and dimensions for monument foundations.
- C. Only one marker or monument shall be permitted per burial space, with the exceptions being: 1) a bronze military plaque may be permanently attached to a stone memorial, (2) certain fraternal and veterans' markers, and (3) two children's markers may be placed in a single adult burial space (see 2C above).
- D. The foundation or footing upon which any marker, monument, or memorial must be placed shall be constructed by the Sexton/Grave Digger at cost to the owner of the burial right. This fee shall be paid to the Township Representative.
- E. Markers or monuments shall not exceed 42" in height, 14" in depth, and in width as follows per burial site:

(1) single site	32"	(2) double site	72"
(3) triple site	112"	(4) Four or more sites	152"
- F. Markers, monuments, memorials, and plaques may not contain any language or symbols which in the view of the Township Board are deemed vulgar, offensive, or inappropriate. Those items found to be in violation may be removed or modified at the expense of the owner of the burial rights.

Section 8: Interment Regulations

- A. Not less than thirty-six (36) hour notice shall be given in advance of any time of a funeral to allow for the opening of the burial space.
- B. The appropriate permit for the burial space involved, together with adequate identification of the person to be buried therein shall be presented either to the Sexton or the Township Representative prior to interment. Where such permit has been lost or destroyed, the Township Representative shall be satisfied from their records that the person to be buried on that burial site is qualified (see Section 3). No interment may be completed until the Township Representative is satisfied.
- C. All graves shall be placed in an orderly and neat appearing manner within the space of the burial space involved. Alignment of all memorials or markers shall be consistent with one another across the back of the memorial.

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Section 9: Grounds maintenance

- A. No grading, leveling, or excavation upon a burial space shall be allowed without the permission of the Township Representative.
- B. No flowers, shrubs, trees, or other vegetation of any permanent type shall be installed/planted without the approval of the Township Board and in no case may vegetation extend beyond twelve (12) inches from the front of the marker only, not to the sides nor the back. Anything planted without such approval shall be removed by the Sexton with the approval of the Township Board.
- C. The Township Board reserves the right to remove or trim any tree, shrub or plant located within the cemetery in the interest of maintaining proper appearance and use of the cemetery.
- D. Mounds, stones, and/or vegetation which hinder the free use of a large lawnmower or other machinery are prohibited. In addition, decorative objects (flagpoles, benches, fencing, shepherds' crooks, etc.) which hinder access are also prohibited. Decisions about machinery access shall be made by the Sexton.
- E. The cemetery Sexton shall have the right with Township Board approval to remove and dispose of any and all growth, emblems, displays, decorations, or containers that through decay, deterioration, damage become unsightly. This includes items which become a source of litter or become a maintenance problem.
- F. All refuse of any kind or nature including dried or plastic flowers, wreaths, blankets, papers must be removed from the cemetery grounds or deposited within approved containers within the cemetery. All graves shall have annual flowers and other decorations removed by **October 1st of every year**. Grave blankets and other materials shall be removed by **April 15th of every year**. Any materials not removed by burial space owners or heirs shall be removed and appropriate disposition shall be made by the Sexton.
- G. Permanent burial space surfaces other than earth or sod are prohibited.
- H. Notice of summer and winter cleanup of the cemetery shall be placed in a local paper and on the Fairfield Township website (fairfieldtwp.us) at least 30 days prior to the deadlines.

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Section 10: Forfeiture of vacant cemetery lots or burial spaces.

Ownership of cemetery lots or burial spaces sold after December 31, 1991 (date of last revision) and remaining vacant for forty (40) YEARS from the date of sale shall revert to the Township. Notice shall be sent by the Township Representative by Certified Mail to the last known address of the owner of record, informing them of the expiration of the forty (40) year period and that all rights with respect to said lots or spaces shall be forfeited.

- A. If the owner or heirs do not affirmatively indicate in writing to the Township Representative within ninety (90) days of the date of the mailing of their desire to retain said burial spaces, the property reverts to the Township.
- B. If no written response to said notice is received after ninety (90) days, the property reverts to the Township.

Section 11: Repurchase of vacant cemetery lots or burial spaces.

Fairfield Township has the option to repurchase any vacant lot or burial space from the owner for 75% of the original price paid to the Township upon written request of said owner or his legal heirs or representatives.

Section 12: Records

The Township Representative shall maintain records concerning all burials, issuance of burial permits, and any perpetual care fund, separate and apart from any other records of the Township, and these records shall be open to public inspection at all reasonable business hours.

Section 13: Cemetery Hours

- A. The cemeteries shall be open to the general public from one-half hour before sunrise until one-half hour after sunset each day.
- B. No person shall be permitted in any Township Cemetery at any other time except with the permission of a member of the Township Board or the Sexton/Grave digger of the Cemetery.

Section 14: Responsibilities and Liabilities

The Township will take all reasonable precautions to protect plot users and the property rights of plot users within the cemeteries from loss or damage. However, the Township disclaims all responsibility for loss or damage from causes beyond its reasonable control. Every person who enters, remains in, and travels within a Township cemetery does so at their own risk.

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Furthermore, the Township is not responsible for damage or vandalism, theft of, or deterioration of any burial monument, headstone, urn, or any other item placed at or near a burial space or elsewhere within a Township cemetery. These causes include the elements, Acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or the order of any military or civilian authority, whether the damages are direct or collateral, other than herein provided. Such waiver, release, and hold harmless provision shall apply not only to the Township, but also to the Township Sexton and any Township employee, officer, official, or agent.

Section 15: Penalties

Any person, firm or corporation that violates any provision of this ordinance shall be guilty of a municipal civil infraction as may be determined by a court of competent jurisdiction. 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, shall be in violation of the Ordinance and responsible for a civil infraction. This section also applies to any person who knowingly or intentionally aids or abets another in violation of this Ordinance. Each day that a violation continues to exist shall constitute a separate offense. Any prosecution under this section shall not prevent civil proceedings for abatement and termination of the activity in question.

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. For the purposes of this section, "subsequent offense" means another violation of the Ordinance committed by the same person within twelve (12) months of a violation for which said person has admitted responsibility or been adjudged responsible.

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

Section 16: Authority of Sexton

- A. The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Board. The Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- B. The Sexton shall assist other Township officials with enforcement and administration of this Ordinance.
- C. The Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified by the Township Board.

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Section 17: Applicability of this Ordinance

- A. This Ordinance shall apply only to cemeteries owned, controlled, or operated by the Township.
- B. This Ordinance shall not apply to Township officials or their agents or designees involved with the upgrading, maintenance, administration, or care of Township cemeteries.
- C. This Ordinance shall not apply to police officers or firefighters acting within their official duties.

Section 18: Interpretation/Appeals to the Township Board

- A. The Township Board shall have the authority to render binding interpretations regarding any of the clauses, provision, 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 when practical difficulties would result in hardship to a particular person or the general public. Any such waiver must not impair the intent and purposes of this Ordinance.
- B. Any party aggrieved by any interpretation or decision made by the Sexton or any Township Official, agent, or contractor pursuant to this Ordinance, as well as any matter relating to a cemetery, burial space or other matters arising from this Ordinance, shall have the right to appeal to the Township Board. Any appeal must be in writing and shall be filed with the Township within thirty (30) days of the matter being appealed. The Township Board shall give the aggrieved party at least ten (10) days prior written notice of the meeting where the Township Board will address the matter. IF the appeal is of an emergency nature, the Township Board shall utilize reasonable efforts to notify the aggrieved party of a special/emergency meeting of the Board at which the matter will be addressed.
- C. Pursuant to any such appeal, the decision of the Township Board shall be final.
- D. The Township Board may set a fee or fees for any such appeal from time to time by resolution.

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Section 19: Authority to Remove Items from Township Cemetery

Any monument, marker, planting, trellis, personal item, urn, flowers, or foliage (real or artificial), structure, flag (except for lawful veterans flags) or any other item that has been placed, installed, left, or maintained in any Township cemetery in violation of this Ordinance, or any county, state or federal law may be removed by the Township at any time. These items may be 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, or kept such item in the cemetery. No such item (see section 9 for additional examples) can be installed, placed, kept, or left in a Township cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Township. Even if such an item is authorized under the Ordinance, the Township shall have the sole discretion to remove such items at any time and dispose of same without prior notice to, consent of or liability to any person or persons who installed or left these items in a Township cemetery.

Section 20: Enforcement of Ordinance

Unless otherwise specified by Township Board resolution, the following officials or officers shall have the authority to enforce this Ordinance and to issued municipal civil infractions /tickets pursuant to this Ordinance:

- *Township Supervisor
- *Township Clerk
- *Township Sexton
- *Township or County Zoning Administrator
- *Township or County Ordinance Enforcement Officer
- *Any Deputy of the County Sheriff's Department
- *Any State Police Officer

Section 21: 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 for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new burial space, transfer fees for burial spaces, and other matters. Any check for fees should be made out to the Township or Township Treasurer and not to the Sexton or other Township employee.

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Section 22: Severability

The provisions of this 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.