

**HAMILTON TOWNSHIP
VAN BUREN COUNTY, MICHIGAN**

ADOPTED: May 9, 2017

EFFECTIVE: June 24, 2017

Ordinance No. 01/05-09-2017

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

HAMILTON TOWNSHIP (“Township”), VANBUREN COUNTY, MICHIGAN HEREBY ORDAINS:

Section 1. Title

This Ordinance shall be known and cited as the “Hamilton 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 residents of the Township.

Section 3. Definitions

- A. A “cemetery plot” shall consist of a designated area in a Township cemetery sufficient to accommodate one burial space for one deceased person, which may also include one cremains burial, or one infant burial. One “cemetery plot” may also accommodate two cremains burials.
- B. “Township” means Hamilton Township
- C. “Township cemetery” or “cemetery” means any cemetery owned, operated, and/or controlled by the Township.

Section 4. Sale of Cemetery Plots; Nontransferable

- A. The Township shall sell Cemetery plots to Township residents and taxpayers 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 of cemetery plots 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 or right to the cemetery plot sold. Such forms shall be signed by the Township Sexton, Clerk or the Township Clerk's designee, and shall constitute a permit when approved. All sales forms shall be retained in the Township Clerk's office.
- C. Cemetery plots may be sold by the Township to any non-resident and non-taxpayer of the Township on an as needed basis. The Township Sexton is hereby granted the authority to make such sale where the purchaser has a member of their immediate family buried at the cemetery. The non-resident, non-taxpayer may purchase two (2) cemetery plots.
- D. At the time of purchase from the Township, each cemetery plot shall be assigned the name of the 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. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person must sell the cemetery plot back to the Township and repurchase that space in the name of another eligible person, since cemetery plots are otherwise nontransferable.
- E. Cemetery plots are nontransferable, but may be sold back for the original purchase price to the Township (for resale by the Township).
- F. 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 plot or plots 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 plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
- G. 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 plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot 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 plot in a similar location in the same Township cemetery in accordance with law.

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

Section 5. Purchase Price for Cemetery Plots; Indigent Burials

- A. Each cemetery plot shall cost the sum of \$100.00 for Township residents and taxpayers, \$300.00 for Van Buren County residents and taxpayers, and \$500.00 for non-residents and non-taxpayers. Cemetery plots for infants or cremains shall cost the sum of \$100.00 for Township residents and taxpayers, \$300.00 for Van Buren County residents and taxpayers, and \$500.00 for non-residents and non-taxpayers.
- B. All charges shall be paid to the Township Treasurer.
- C. The Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery or cemeteries for the burial of indigent persons.
- D. The Township Board may by resolution periodically alter the foregoing fees.

Section 6. Grave Opening Charges

- A. The Township may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- B. No cemetery plot shall be opened or closed except under the supervision of the Township Sexton, and the direction and control of the Township Clerk's office.

Section 7. Markers or Memorials; No Monuments

- A. All markers and memorials must be comprised of stone or other equally durable composition and shall be placed at the head of the cemetery plot facing the same direction as the markers and memorials around them. A flat marker comprised of stone or other equally durable composition may be placed flush with the ground on the grave when a cremation burial is placed on a full body vault burial.

- B. Except for monuments which existed in a Township cemetery before the effective date of this Ordinance, no monument will be allowed or erected in a cemetery. For purposes of this Ordinance, "monument" shall be defined as any marker, memorial, statue or similar item which exceeds thirty-eight (38) inches in height above normal ground level or which has a ground surface area exceeding thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than forty (40) inches above ground level, including the foundation. Unless exception is made by the Township Clerk when an infant is buried with a parent, only one (1) marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial, except a flat, flush set marker for a cremation burial placed on a full body vault burial. Markers shall be no more than thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than forty (40) inches above ground level, including the foundation. No advertising shall be allowed on said markers or memorial.
- C. The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Township Sexton, 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. Cemetery plots shall be verified by the monument company with the Township Sexton prior to ordering placement of a foundation.
- D. Should any monument or memorial 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. One (1) person as full body vault burial and one (1) person cremation burial, or two (2) person cremation burials shall be buried in a cemetery plot, except for a parent and infant child.
- 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 cemetery plot. The opening and closing of cemetery plots 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 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 the Township Sexton or his or her designee(s), prior to interment. Where such permit or form has been lost or destroyed, the Township Sexton must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- D. The surface of all graves shall be kept in an orderly and neat appearing manner within the confines of the cemetery plot involved.

Section 9. Disinterments

- 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. All disinterment's are to be supervised by the Township Sexton.
- B. The Township Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a Township disinterment permit for the same) 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 a reasonable basis.

Section 10. Winter Burials

- A. The Township may charge additional fees for winter burials.
- B. If a winter burial cannot occur due to inclement weather, frozen ground, or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.

Section 11. Cremains

- A. Cremains may be buried in a container approved by the Township in a cemetery plot or in a columbarium which has been installed by the Township within a Township cemetery.
- B. No cremains or human ashes shall be scattered or dispersed within a Township cemetery outside of designated Scatter Garden area and under the supervision of the Sexton.

Section 12. Decorations and Plantings

- A. Summer plot decorations of flower pots, urns may be placed and maintained at the head stones of graves from May 1 through September 30 of each year. Winter plot decorations, including grave blankets, may be placed and maintained from November 1 through March 31 of the following year. Flags and flag holders are provided for all Veterans. Flags are put in place each year just prior to Memorial Day.
- B. No tree, shrub, landscaping, or similar plantings shall be permitted by individuals. The Township will be responsible for all such plantings.
- C. Perennial flowers may be planted in urns or vases on either side of the memorial. Annual flowers shall be planted within 12 inches of the memorial and not extend past lot boundaries in full bloom. Cut flowers shall be allowed the same as annual flowers. Artificial flowers are to be placed on the sides or in front of memorials the same as regular flowers.
- D. To memorialize loved ones and to beautify and enhance the appearance of the Township cemeteries, the Township Board will provide a tree planting program. These trees may be purchased by you or your family independently or through the Township Board. All plantings will be done in an orderly fashion in accordance with the master plan established by the Township Board.
- E. The Township Board reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- F. Mounds, bricks, blocks, and any borders which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- G. The Township shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers, and other items which through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- H. Surfaces other than earth or sod are prohibited.
- I. All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers, and plastic flower containers must be removed from the cemetery within 10 days after a burial.
- J. No glass containers or items are allowed in the cemetery except for markers, memorials, flowers, urns, solar lights, and iron works expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but not limited to, signs, trellises, landscaping, bricks, stones, grave border materials, or other structures) shall be installed or maintained within a Township cemetery, nor shall any grading, digging, mounding, or similar alteration of the ground or

earth occur except as authorized by this Ordinance or by the Township for the purposes of decorating or adding plantings to grave sites.

Section 13. 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 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 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 any Township employee, officer, official, or agent.

Section 14. Forfeiture of vacant cemetery plots

Cemetery plots sold after the effective date of this 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 of record informing him/her of the expiration of the 40-year period and that that all rights with respect to said plots 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 in question is received by the Township Clerk from the last owner of record of said plots, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 15. Repurchases of plots

The Township may repurchase any cemetery plot from the owner for a price set by the Township Board, upon the written request of said owner or his or her legal heirs or representatives.

Section 16. Records

The Township Clerk 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 17. 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 container approved by the Township.

Section 18. Cemetery Hours

Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed at dusk until dawn the next morning. During those 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 any Township official, a person accompanied by the Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 19. 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, fences, trellises, 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. All unauthorized off-road motor vehicles are prohibited in the cemetery at all times, including, but not limited to snowmobiles, four-wheelers, go-carts, or similar motorized vehicles.
- L. 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).
- 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, 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 exceeding of posted speed limits.
- X. There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.

- Y. 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.
- Z. No person shall engage in any fight, quarrel, or disturbance.
- AA. Remains or ashes of a deceased person shall not be scattered or dispersed.
- BB. There shall be no dumping, vandalizing, or tipping over of any lawful garbage container or receptacle.

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 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 cemetery plot, transfer fees for cemetery plots, and other matters.

Section 21. 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 the upgrading, maintenance, administration or care of a Township cemetery.
- C. The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

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. 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 which has

been placed, installed, left, or maintained in any Township cemetery in violation of this Ordinance, 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 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. Even if such an 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 24. 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 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 (\$100.00) 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 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 or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 25. 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 Ordinance Enforcement Officer
- Any deputy of the county sheriff's department

Section 26. 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 27. 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.

Tina Leary, Clerk
Hamilton Township
P. O. Box 35
Decatur, MI 49045
269-268-0148

CLERK'S CERTIFICATE

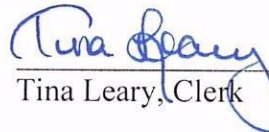
I, Tina Leary, Township Clerk of Hamilton Township, Van Buren County, Michigan, do hereby certify that in pursuance of law and statute provided, at a regular meeting of the Hamilton Township Board held on May 9, 2017, at 7:00 p.m., at the Hamilton Township Hall, 52333 W. Territorial Road, Decatur, Michigan, at which the following members were present, the Board enacted and passed Ordinance No. 01/05-09-2017, hereinbefore recorded, to become effective on June 24, 2017, and that the members of said Board present at said meeting voted on the adoption of said Ordinance as follows:

Ayes: Carl Druskovich
Tina Leary
Sandra Hanson
Craig Rose
Charles Goodrich

Nays: None

I do further certify that a summary of Ordinance No. 01/05-09-2017, was published in the Decatur Republican, a newspaper printed in Van Buren County, Michigan, and circulated in Hamilton Township, on Thursday, May 25, 2017 and that Ordinance No. 01/05-09-2017 was duly recorded in the official Ordinance Book on July 18, 2017.

Dated: July 18


Tina Leary, Clerk

ATTEST:
