

**TOWNSHIP OF CLIMAX
COUNTY OF KALAMAZOO, STATE OF MICHIGAN**

CLIMAX TOWNSHIP ORDINANCE NO. 140

ADOPTED: March 9, 2010

EFFECTIVE: April 18, 2010

CEMETERY ORDINANCE

An Ordinance to protect the public health, safety and general welfare by establishing rules and regulations for the operation, control, management and use of cemeteries owned by the Township of Climax; to provide sanctions for violations of the Ordinance; and to repeal conflicting ordinances or parts of ordinances.

**THE TOWNSHIP OF CLIMAX
KALAMAZOO COUNTY, MICHIGAN**

ORDAINS:

SECTION 1

TITLE

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

SECTION 2

CEMETERY MANAGEMENT AND ADMINISTRATION RESPONSIBILITY

- A. Township Board responsibility. The Township Board shall have responsibility for and control of all cemeteries owned and operated by the Township. All rules and regulations concerning the operation and maintenance of the Township's cemeteries, burial therein, and the management of cemetery funds shall be made by the Township Board pursuant to this Ordinance and any applicable law.

- B. Designation of sexton/other personnel. The Township Board may designate a cemetery sexton and/or superintendent of grounds to be in charge of the periodic maintenance of township cemeteries, for such compensation as the Board may approve. The Township Board may also appoint/employ/contract with such other personnel as the Board considers advisable with respect to the operation and maintenance of township cemeteries.

- C. Township Clerk oversight responsibility. The Township Clerk, or such other person as the Township Board may appoint, shall act as the designee of the Board with respect to overseeing and administering the day-to-day functions required to properly operate and maintain the township cemeteries.
- D. Records maintained. All records concerning cemetery lay-out, burial rights, burials, and management of cemetery funds shall be maintained by the Township Clerk, and shall be subject to public disclosure pursuant to applicable law.

SECTION 3

SALE, REPURCHASE AND TRANSFER OF BURIAL RIGHTS

- A. Sale of burial rights, generally. The Township Clerk is hereby granted the authority to sell burial rights for the purpose of the burial of the remains of the purchaser or the heirs at law of the purchaser who at the time of purchase has a residential address within Climax Township. Burial rights shall not be sold to funeral homes/funeral directors.
- B. Burial right permits. All sales of burial rights shall be made on a burial right permit form approved by the Township Board, and executed for each sale by the Township Clerk. Such permit shall grant a right of burial only, in the specified burial space(s), and shall not convey title or property right of any kind to the purchaser or anyone else, other than a right of burial, subject in each instance to all applicable provisions of this Ordinance and such other supplementary rules and regulations as may be adopted by the Township Board. Any so-called "cemetery deed" previously issued by the Township shall be considered to grant only a right of burial pursuant to this Ordinance, and not convey title to any real property of the Township.
- C. Township repurchase of burial rights. Each sale of a burial right shall be deemed subject to the Township having an absolute right of first refusal to re-purchase an unused burial right at the original purchase price, upon written request of the purchaser or the heirs or other legal representatives of the purchaser, or the purchaser's lawful transferee.
- D. Transfer of burial rights. A right of burial in a Township cemetery is not transferable without the specific prior authorization of the Township Board; provided the Township Clerk is hereby authorized to approve a transfer of burial rights to a person who would at the time of such transfer request be eligible to purchase a burial right pursuant to Section 3.A. of this Ordinance, and pursuant to the following procedures:
 - 1. The Clerk shall evidence an approved transfer of burial rights by either endorsing such transfer on the original burial right permit issued by the Clerk, or by issuance of a new burial permit for the specified burial space.

2. The Township Clerk shall retain the original record of such transfer in the official cemetery records of the Township, and shall provide a copy of such record to the transferee.

SECTION 4

BURIAL RIGHT PURCHASE PRICE AND TRANSFER FEES; CHARGES FOR GRAVE OPENINGS/CLOSINGS, AND MARKER FOUNDATION INSTALLATIONS

- A. Ratification of present fees and charges. All presently applicable fees and charges previously established by the Township Board in whatever manner for the purchase of burial rights, transfer fees, grave opening/closing, and installation of marker foundations/footings, are hereby ratified.
- B. Revising fees and charges. The Township Board may hereafter by resolution or motion periodically revise any or all of the foregoing fees and charges as the Board considers appropriate to assure a proper level of funding for Township cemetery operation, maintenance, and acquisition.
- C. Payment required. No burial right shall be sold or transferred, unless and until payment of the specified fee is received by the Township Clerk. The specified charge for a grave opening/closing shall either be received by the Township Clerk before the grave opening/closing, or shall be delivered to the sexton no later than the time of the funeral, for remittance to the Township Clerk within a reasonable time thereafter. The specified charge for a marker foundation/footing installation shall be received by the Township Clerk before the installation.
- D. Cemetery fund. All revenues received by the Township with respect to the operation of the township cemeteries shall be deposited in a "cemetery fund" and/or in such other fund(s) as the Township Board may lawfully direct.

SECTION 5

CEMETERY LAYOUT AND INTERMENT REGULATIONS

- A. Cemetery layout. Except as otherwise developed before the effective date of this Ordinance, all township cemeteries shall be laid-out in an organized manner using a system of lots and burial spaces, and appropriately located access roads. A "burial space" shall be four feet wide by eight feet long and not less than six feet deep. A cemetery "lot" shall consist of an area sufficient to accommodate from four to eight burial spaces.
- B. Right of interment. A burial permit shall constitute a right of interment in the designated burial space to the permittee, or any of the following upon request of the permittee: spouse, parent, or child. If the permittee is deceased the specified burial space may be used by an heir of the deceased permittee as specified by the statutes of intestate descent.

C. Interment regulations. The following regulations shall apply to all interments:

1. All interments of a body shall require a standard concrete or steel vault installed in the designated burial space before interment. A vault is not required for cremated remains.
2. The Township shall be given at least 48 hours advance notice of the time of a funeral to allow for proper opening of the burial space.
3. The burial permit for the specified burial space must be presented to the cemetery sexton or other authorized personnel of the Township prior to grave opening and interment.

D. Single burial space limits. A single burial space shall be used for burial of only the following:

1. A single casket with any of the following:
 - a. the body of one person.
 - b. the bodies of a parent and infant child buried at the same time.
 - c. the bodies of two minor children buried at the same time.
2. A single casket and the cremated remains of not more than two additional persons.
3. The cremated remains of not more than three persons.

SECTION 6

REGULATIONS FOR MONUMENTS, MARKERS AND MEMORIALS

- A. One permanent marker. Each burial space may have only one above-grade permanent monument, marker, or other memorial, made of stone or other equally durable material (hereafter referred to as a “marker”); and one at-grade permanent plaque or marker made of bronze, stone, or other equally durable material.
- B. Marker foundation. All markers shall be located on a solid foundation/footing sufficient to indefinitely maintain the same in a stable and upright position. All such foundations/footings shall be installed by a designee of the Township authorized by the Township Clerk, and with prior approval of the foundation/footing size, material and location by the sexton.
- C. Marker appearance and approval. All markers shall be consistent with and conform to the general plan and appearance of the cemetery, and prior to installation shall be subject to approval by the sexton or by another person authorized by the Township Clerk.

- D. Marker removal. The Township Board may order the removal of a marker that has fallen into disrepair, upon recommendation of the sexton or Township Clerk, after giving 30 days written notice of same to the purchaser of the burial space at the last known address of the purchaser, or if the purchaser is deceased to the known next of kin.

SECTION 7

GROUND MAINTENANCE REGULATIONS

- A. Ground surface alterations. No sod removal, grading, leveling or excavating upon any burial space, or other general alteration of any cemetery grounds, shall take place without prior permission and supervision of the cemetery sexton or Township Clerk.
- B. Trees and shrubs. Trees or shrubs shall not be planted on any burial space or elsewhere in a township cemetery without prior written approval from the Township Clerk upon recommendation of the sexton.
- C. Plants and flowers. Plants and flowers may be ground-set in a space not exceeding 12" wide next to, in front of, and along the length of a marker on a burial space. Plants and flowers may also be ground-set on a burial space without a marker, in an area not exceeding 12" by 24". Urns and other above-ground containers for cut flowers or potted plants are permissible if placed in conformity with the above-described area rules for plants and flowers.
- D. Temporary decorations. All persons who place live or artificial plants, dried flowers, wreaths, papers, seasonal flower containers or other items of a temporary or seasonal nature shall remove and properly dispose of those items before they become unsightly.
- E. Remedial actions. The sexton and/or other designee(s) of the Township responsible for cemetery maintenance are authorized to take all of the following actions throughout any township cemetery:
1. Remove or trim any tree or shrub planted without prior approval.
 2. Remove or trim any item of vegetation of any kind not located in compliance with the foregoing regulations, or otherwise in the interest of maintaining the proper appearance of the cemetery.
 3. Remove and dispose of any item of any kind that has become unsightly through decay, deterioration, damage, or otherwise; or that has become a source of litter; or that is impeding proper maintenance of the cemetery or otherwise causing a maintenance problem.

- F. Township care and maintenance obligation limits. Such general legal obligation as the Township may have for the perpetual care and maintenance of the cemeteries of the Township and/or burial spaces therein shall not require the Township to do any of the following:
1. Repair or replace any private marker, flowers, or other decoration of any kind; except when damaged by Township personnel.
 2. Irrigate the grass, trees/shrubs, or any individual planting or flowers.
 3. Reconstruct, repair or replace any cemetery buildings or structures, or markers, due to any vandalism, natural disasters, or acts of war.

SECTION 8

CEMETERY VISITATION REGULATIONS

- A. Open to public. The cemeteries of Climax Township shall be open to the general public from sunrise to sunset of each day; subject to temporary closure of an area for public safety during the opening of a burial space, and as may otherwise be directed by the Township Board in special circumstances.
- B. Vehicular traffic. All vehicular traffic in a cemetery shall remain on the designated roadways, and shall travel at a slow and respectful speed not exceeding 10 mph.
- C. Respectful conduct. All persons visiting a grave or otherwise on cemetery property for any reason shall conduct themselves with proper decorum and respect for the deceased and other persons visiting graves.
- D. Alcohol/drugs prohibited. Consumption of alcoholic beverages or illegal drugs is strictly prohibited on township cemetery property.
- E. Animals prohibited. Dogs and other animals are prohibited on cemetery grounds at all times; except leashed service dogs accompanying a visually or hearing impaired person.

SECTION 9

TOWNSHIP BOARD APPROVAL OF ADDITIONAL RULES AND REGULATIONS

The Township Board is hereby authorized to approve by resolution such other/ supplementary rules and regulations pertaining to the operation, control, management, and use of the township cemeteries as the Board considers advisable and in the public interest, and give notice of any such rules and regulations by posted signage or other means of public notification.

SECTION 10

SANCTIONS FOR VIOLATIONS

- A. Municipal civil infraction violations. Except as otherwise provided below, any person who violates any provision of this Ordinance or any supplementary rule or regulation approved by the Township Board hereunder shall be responsible for a municipal civil infraction punishable by a minimum fine of \$250.00, court costs, and all expenses incurred by the Township in connection with the matter. Any violation of this Ordinance shall also provide cause for the Township to request a court of competent jurisdiction to issue and enforce any judgment, writ, or other order necessary to enforce the Ordinance.

- B. Misdemeanor violations. Notwithstanding the preceding paragraph, a violation of the cemetery visitation rules in Section 8.C and D of this Ordinance shall be a misdemeanor punishable by a fine of \$500.00 and/or imprisonment for 93 days. Note: this misdemeanor provision is included with the specific intent to provide the legal authority for a certified law enforcement officer with jurisdiction in Climax Township to either issue an appearance ticket or make a custodial arrest where the officer otherwise has legal grounds to proceed in that manner.

SECTION 11

SEVERABILITY

The provisions of this Ordinance are declared to be severable, so that if any part is declared invalid by a court of competent jurisdiction such decision shall not affect or invalidate the remainder of the Ordinance which shall continue in full force and effect.

SECTION 12

EFFECTIVE DATE AND REPEAL

This Ordinance shall take effect 30 days after publication as required by law. All conflicting ordinances/resolutions or parts of ordinances/resolutions are hereby repealed, including the existing Cemetery Ordinance (Ordinance No. 85 adopted 9-14-82, as amended by Ordinance No. 92, adopted 8-14-84).

Marcia Lewis, Clerk
Climax Township