

Ordinance No.22
Township of Tuscarora
Cheboygan County, Michigan

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 Tuscarora, County of Cheboygan, 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 TUSCARORA, COUNTY OF CHEBOYGAN, MICHIGAN
ORDAINS:

Section 1: Title

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

Section 2: Definitions of cemetery lots and burial spaces

A cemetery lot shall consist of burial spaces sufficient to accommodate more than one burial space.

A burial space shall consist of an area at least thirty-eight (38) inches wide and ninety-six (96) inches in length.

Section 3: Sale of lots or burial spaces

No sale shall be made to funeral directors or others than as heretofore set forth. The township clerk and cemetery sexton have the authority to sell the cemetery lots.

The cemetery burial spaces grant a right of burial only and do not convey any other title to the lot or burial space sold. The clerk will issue a deed to the cemetery burial space.

All sales and transfers of cemetery lots or burial spaces 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 lot or burial space sold. Such forms shall be signed by the Township Clerk or Sexton, and shall constitute a permit when approved. The Township may charge reasonable fees for transfers of ownership. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.

The Township Board shall have the authority to place a limit on the number of cemetery lots or burial spaces 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 lot or burial space will be sold to a specific person and where such cemetery lot or burial spaces 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 lots or burial spaces available and whether

family or relatives of the person seeking to purchase a cemetery lot or burial spaces are buried adjacent or nearby the cemetery lot or burial spaces requested.

The Township shall have the right to correct any errors that may be made concerning interments, disinterment, or in the description, transfer or conveyance of any cemetery lot or burial space, either by canceling the deed for a particular vacant cemetery lot or burial spaces and substituting and conveying in lieu thereof another vacant cemetery lot or burial spaces in a similar location within the cemetery at issue or by refunding the money paid for the cemetery lot or burial space 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 lot or burial space in a similar location in the same Township cemetery in accordance with law.

The owner of every cemetery lot or burial space shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 4: Purchase price and transfer fees

Burial space pricing shall be listed in the Cemetery Cost section of the Township fees schedule.

Any cost to transfer one or more burial spaces from an original purchaser to a qualified assignee shall be listed in the Cemetery Cost section of the Township Fee schedule.

The foregoing charges shall be paid to the township treasurer and shall be deposited in the general fund.

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.

The township board, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 5: Grave opening charges

The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the township board, payable to the township. No burial spaces shall be opened and closed except under the direction and control of the cemetery sexton. This provision shall not apply to proceedings for the removal and re-internment of bodies and remains, which matters are under the supervision of the local health department.

Section 6: Markers or memorials

All markers or memorials must be of stone or other equally durable composition.

Any large upright monuments must be located upon a suitable foundation to maintain the same in an erect position.

Only one monument, marker or memorial shall be permitted per burial space.

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.

Should any monument or memorial (including any monument or memorial that was in place before the 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 lot or burial space, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the cemetery lot or burial space prior to any such work beginning.

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 7: Interment regulations

Only one body shall be interred in a burial space. The exceptions being: a mother or father and an infant, infants of a multiple birth, two young children or two cremains.

Only human remains can be buried in a burial space.

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 burial spaces shall be done only by the Township or such person or persons as are designated by the Township.

The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery sexton or the township clerk prior to interment. Where such permit has been lost or destroyed, the township clerk shall be satisfied, from his or 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.

All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

Section 8: Winter Burials

The Township may charge additional fees for winter burials.

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.

No winter burials shall occur without the prior consent of the Township Sexton.

Section 9: Cremains

Cremains may be buried in a container approved by the Township in a burial space.

No cremains shall be scattered or dispersed with a Township cemetery.

Section 10: Ground maintenance

No grading, leveling, or excavating upon burial space shall be allowed without the permission of the cemetery sexton or township clerk.

No flowers, shrubs, trees, or vegetation of any type shall be planted without the approval of the cemetery sexton or the township clerk. Any of the foregoing items planted without such approval may be removed by the township or the cemetery sexton.

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.

Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.

The cemetery sexton 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. Surfaces other than earth or sod are prohibited.

All refuse of any kind or nature including, among others, dried flowers, wreaths, and flower containers must be removed by October 1. Grave blankets and winter wreaths must be removed by May 1. If not the township will dispose of them when spring and fall clean-ups take place. The township is not responsible for lost or stolen merchandise that has been left on the graves. No newspapers or articles are permitted.

Section 11: 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 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 or near a burial space or anywhere in a Township cemetery. The purchaser or transferee of any cemetery

lot or burial space or the equivalent (and all subsequent transferees, assigns, heir, 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 lot 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 the Township Sexton and any Township employee, officer, official or agent.

Section 12: Forfeiture of vacant cemetery lots or burial spaces

Cemetery lots or burial spaces sold after the effective date of the ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the township upon occurrence of the following events:

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 of the expiration of the 40 year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the township clerk within 60 days from the date of mailing of the within notice his desire to retain said burial rights.

No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the township clerk from the last owner or record of said lots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of said notice.

Section 13: Repurchase of lots or burial spaces

The Township may repurchase any cemetery lot or burial space 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 14: Records

The township clerk and the cemetery sexton shall maintain records concerning all burials, and purchasing of graves.

Section 15: Vault

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

Cremains shall be in a container approved by the Township.

Section 16: Cemetery hours

The cemetery shall be open to the general public from the hours of day light to dark each day.

No person shall be permitted in the township cemeteries at any time other than the foregoing hours, except upon permission of the township board or the sexton of the cemetery.

Section 17: Penalties

Any person, firm or corporation who violates any of the provisions of the within ordinance shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars (\$100) for the first offense and not less than two hundred (\$200) for subsequent offenses and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

Section 18: 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.

Section 19: All bodies in the storage vault must be out by May 1.

The only exception will be if there is still snow on the ground or the graves cannot be dug due to a hard winter. Our township sexton will make the determination if the weather is good enough or not.

Section 20: Severability

The provisions of the within 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.

Section 21: Effective Date

This ordinance shall become effective thirty (30) days after publication as required by law. This Ordinance is hereby declared to have been adopted by the Township Board of Trustees of the Township of Tuscarora in a meeting duly called and held on the 6th day of July, 2010, and was duly recorded, posted and authenticated by the Supervisor and Township Clerk.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Michael Ridley, Supervisor
Susan Fisher, Clerk

The original signed copy of this document is available at the Tuscarora Township Municipal Building

CERTIFICATION

The above Ordinance No.22 was adopted at a meeting of the Tuscarora Township Board on the 6th day of July, 2010, and published in the Straitsland Resorter, a newspaper of general circulation in the Township of Tuscarora the 15th day of July, 2010.
