

**CHARTER TOWNSHIP OF CALEDONIA
COUNTY OF KENT, MICHIGAN**

PUBLIC NOTICE IS HEREBY GIVEN that on Wednesday, April 20, 2022, at 7:00 p.m., the Charter Township of Caledonia Board of Trustees will hold a Public Hearing at the Caledonia Township Building, 8196 Broadmoor Ave SE, Caledonia, Michigan, concerning obtaining public input on a proposed cemetery 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 Charter Township of Caledonia in Kent County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

All interested persons may attend the public hearing and be heard with regard to the proposed ordinance. Written comments concerning the proposed ordinance may be submitted to the Township Office, at the above-stated address, up to the time of the public hearing.

Dated: April 9, 2022

CHARTER TOWNSHIP OF CALEDONIA

COUNTY OF KENT, MICHIGAN

ORDINANCE NO. _____

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

THE CHARTER TOWNSHIP OF CALEDONIA, COUNTY OF KENT, MICHIGAN ORDAINS:

Section 1. Title

This Ordinance shall be known and cited as the “Charter Township of Caledonia Cemetery Ordinance.”

Section 2. Purpose and Intent

The Charter Township of Caledonia 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 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. “Burial Right” means a right of earth interment in a burial space within a cemetery lot.
- b. A “burial space” shall consist of an area in a Township cemetery sufficient to accommodate one burial space for two deceased person’s providing one is a full body burial and the other is a cremation burial. Or this can be two cremations.
- c. “Infant” means someone who is two years or younger at the time of death.
- d. “Township” means Charter Township of Caledonia.
- e. “Township cemetery” or “cemetery” means any cemetery owned, operated and/or controlled by the Township.
- f. “Township Clerk” means the elected Township Clerk and/or other designee(s) of the township board.
- g. “Monument or Marker” means any flush or upright structure of durable material designating the location of an interment.

Section 4. Sale of Cemetery Burial Spaces

- a. After the effective date of this Ordinance, cemetery burial spaces shall be sold by the Township for the purpose of burial for the purchaser of a burial space, 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 burial spaces shall be made on a form approved by the Township Clerk or designee, which grants a right of burial only and does not convey any other title or right to the burial space sold. Such forms shall be signed by the Township Clerk or designee, and shall then constitute a burial rights certificate.
- c. Burial spaces may be sold by the Township to any resident (taxpayer) of the Township or non-resident. An individual is limited to the purchase of four (4) burial spaces unless additional spaces are approved for purchase by the Township.

- d. At the time of purchase from the Township, the Clerk or designee may request from the purchaser who each burial space shall be assigned, the name of the specific person who shall be interred in that burial space upon death.
- e. Ownership of burial spaces is transferable with written approval requesting to do so by the owner, or next of kin (written approval must be signed by all immediate next of kin) and presented to the Township before ownership of burial spaces can be transferred.
- f. 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 burial space, either by canceling the burial rights certificate for a particular vacant burial space or spaces and substituting and conveying in lieu thereof another vacant burial space or spaces in a similar location within the cemetery at issue or by refunding the money paid for the 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 burial space in a similar location in the same Township cemetery in accordance with law.
- g. The owner of every burial space shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5. Purchase Price for Burial Spaces

- a. Persons desiring to purchase burial spaces should visit the Township Office where the Township designee will aid them in making a selection and will issue a burial right's certificate describing the lot purchased once payment is received.
- b. No burial space shall be used for any other purpose than for the burial of the human dead.
- c. No easement or right of interment is granted to any lot owner in any road, drive, alley or walk within the Cemetery but such road, drive, alley or walk may be used as a means of access to the Cemetery or buildings, as long as the Township devotes it to that purpose.
- d. Each burial space (rights) shall cost the sum of \$300 for residents; \$600 for non-residents. The lawful owner of the rights to the burial space within the Township shall promptly provide the Township Clerk or designee with any change in that owner's mailing address.
- e. All charges shall be paid to the Township. Before any burial is made in a plot or lot, complete payment for the lot must be made to the Township.
- f. The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6. Grave Opening and Closing

No burial space shall be opened or closed except under the direction and control of the designated Township Sexton or such other individual as is designated by the Township Board. This shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the designated Township Sexton shall be given at least forty-eight (48) hours' prior notice of when such grave opening or closing will occur.

Section 7. Care of lots

- a. The general care of the Cemetery is assumed by the Township and includes the maintenance of the grass at reasonable intervals, the raking and cleaning of the grounds, and the pruning/cutting of shrubs and trees that may be placed by the Township.
- b. The general care assumed by the Township shall in no case mean the maintenance, repair, replacement or reconstruction of any marble or granite work on any section or lot or any portion or portions thereof in the cemetery, caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or by the order of any military or civil authority, whether the damage be direct or collateral, other than as herein provided.

Section 8. Markers and Monuments

- a. All markers and monuments shall be made of stone or other material of equally durable composition. Markers and monuments shall not be "homemade".
- b. Each monument or marker shall be placed in line with other nearby monuments or markers.
- c. One marker or monument shall be permitted per burial space for each body or cremains placed in that space. In the case of a double monument only one will be permitted per two burial spaces. One additional military marker shall be allowed per burial space for each body or cremains placed in that space.
- d. All upright monuments shall be set on a suitable foundation. The foundation upon which any monument, marker or memorial is placed shall be 24 inches deep with a four-inch border on each side of the monument. The base of the monument shall not exceed the width of the burial space.
- e. A monument or marker that commemorates more than one person on contiguous graves may be centered on such graves within the tribute area.
- f. No foundation will be installed prior to payment being made for the applicable cemetery lot.
- g. A temporary marker indicating the name of the deceased person may be placed on a grave for up to six months following a burial.

Section 9. Interment Regulations

- a. Two cremains, or one cremains and one casket/vault, may be buried in the same burial plot.
- b. The Township shall be given not less than 48 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 appointed Township Sexton or such person or persons as are designated by the Township.
- c. The burial-transit permit shall be presented to the Sexton prior to interment. Further, proper ownership of the burial rights to the burial space must be verified prior to interment. If burial rights cannot be readily confirmed, the Clerk shall review his or her records to establish to his or her reasonable satisfaction that the person to be buried is authorized and appropriate before any interment is commenced.
- d. All interments, disinterment, and removals are made subject to the orders and laws of the properly constituted public authorities.

CORRECTION OF ERRORS

The cemetery reserves, and shall have, the right to correct any errors that may be made by it either in making interments, disinterment or removals, or the description, transfer or conveyance of any interment property, either by cancelling such conveyance and substituting any conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the Township, by refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Township reserves, and shall have the right to remove or transfer such remains as interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

Section 10. 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.

Section 11. Cremains

- a. No cremains shall be scattered or dispersed within a Township cemetery.

Section 12. Grounds Maintenance

- a. Flowerpots and urns may be placed and maintained at the head stones of graves.

- b. No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Township.
- c. No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Township approval will be removed by the Township or the Township Sexton.
- d. The Township 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.
- e. Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- f. The Township shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- g. Surfaces other than earth or sod are prohibited.
- h. No glass containers or items are allowed.

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 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, burial site or anywhere in a Township cemetery. The purchaser or transferee of any burial space 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 burial space 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 14. Records

The Township shall maintain records concerning all burials, burial spaces, 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 15. Vaults

- a. Full 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.
- b. Cremains shall be placed in a container and buried in the ground. No scattering of cremains is permitted.

Section 16. Cemetery Hours

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

Section 17. 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. Persons visiting the cemetery or attending funerals are prohibited from picking flowers, wild or cultivated.

- 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. Persons within the cemetery shall use only the avenues, roads, walks and alleys, and no one is permitted to walk upon or across lots or lawns unless it be necessary to do so to gain access to one's own lot.
- c. No vehicles shall be permitted to drive on lawns or burial spaces in a cemetery.
- d. There shall be no destruction of cemetery property.
- e. There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- f. There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance. The placing of boxes, shells, toys, metal designs, chairs, settees, and similar articles, upon lots will not be permitted and if so placed the Township reserves the right to remove them.
- g. There shall be no possession or consumption of any alcoholic beverage.
- h. There shall be no littering, dumping, vandalizing or tipping over of any lawful garbage container or receptacle. Receptacles for waste material are located at convenient places. The throwing of rubbish on the drives and paths, or any part of the grounds, or in the buildings is prohibited.
- i. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- j. There shall be no fires, candles or open flames.
- k. 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.
- l. There shall be no exceeding of posted speed limits.
- m. There shall be no domestic animals of any kind or pets allowed within the cemetery grounds, except for those visiting a loved one, or along pathways and roads. Any domestic animal or pet must be controlled and on a leash. The owners of said animal or pet take full responsibility to clean up after their domestic animal or pet.
- n. No person shall engage in any fight, quarrel or disturbance.

It is the duty of the Township to see that the Ordinance is complied with and it is the Townships duty to see that order is maintained and to protect and promote the best interests of the cemetery. To that end, the Township is authorized to make temporary additional prohibitions which may be needed, from time to time, to meet emergencies which are not covered by the Township Ordinance.

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, the price for a new burial space, transfer fees for burial spaces, and other matters.

Section 19. 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 20. Interpretation/Appeals to 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 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 official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights

to a burial space, 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 hereby expressly reserves the right to adopt additional rules and regulations or to amend, alter or repeal any rule, regulation, article, section, paragraph or sentence in this Ordinance, at any time. Sufficient notice will be given by the Township of any rule change that will create expense, hardship or inconvenience to lot owners or other individuals having business with the Cemetery.

Section 21. Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery

Any 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 by the Township with reasonable notice to decedent's next of kin (provided the Township has current contact information) or without any prior notice to the person or persons who left, installed, maintained or kept such item in the Township cemetery without current contact information. No such item (including, but not limited to, a 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 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 22. 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 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) 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 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 23. 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 Administrator/Manager
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the county sheriff's department
- Any State Police officer

Section 24. 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 25. 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:

YEAS:

NAYS:

ABSENT/ABSTAIN:

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

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

Dated: _____, 20____

 Joni Henry, Clerk
 Charter Township of Caledonia

