

**Kearney Township
Cemetery Ordinance
Ordinance No. 3-14-2022**

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 by the Township of Kearney in Antrim County and to provide penalties for violations of this ordinance.

THE TOWNSHIP OF KEARNEY, ANTRIM COUNTY, MICHIGAN HEREBY ORDAINS:

SECTION 1. Title.

This Ordinance shall be known and cited as the “Kearney Township Cemetery Ordinance”.

SECTION 2. Definitions. As used in this Ordinance.

- (a) A “burial space” shall consist of an area sufficient to accommodate one deceased person.
- (b) A “Cemetery Lot Certificate” is a form issued by the Township to the purchaser of a burial space or spaces within a Township cemetery.
- (c) Burial Transit Permit" means the document issued by a funeral director that identifies the individual being buried and the cemetery and burial space information pertaining to that burial, a copy of which is provided to the Township Clerk for record keeping purposes.
- (d) “Infant” means someone who is two (2) years or younger at the time of death.
- (e) “Immediate Family” shall include spouse, children, step-children, and parents.
- (f) “Township Cemeteries” include the Eldred Cemetery on Schoolcraft Road, the Flewelling Cemetery on Ritt Road and the Brydon Cemetery on Shumaker Road.
- (g) “Cemetery Sexton” means the person charged with selling burial sites to the public, recordkeeping related to burials, receiving burial transit permits, transmitting purchaser information, and payments and burial transit permits to the Township Clerk, determining proper placement of markers and monuments, enforcement of the rules and overseeing the opening and closing of graves.

SECTION 3. Sale of Burial Spaces.

- (a) Burial spaces shall be sold only to residents of the township for the purpose of burying the purchaser or his or her immediate family. The Township Board may, at its sole discretion, grant exceptions to this sales restriction, when the Board finds the purchaser has sufficient personal reasons for burial in the township. In exercising the discretion granted in this section, the Township Board shall apply the following standards:
 - (1) whether the prospective purchaser was a previous resident within the township,
 - (2) the length of time the prospective purchaser was a resident within the township,
 - (3) the length of time that has elapsed from when the prospective purchaser was a resident of the township and the application to purchase a cemetery lot or burial space, and
 - (4) whether the prospective purchaser falls within the definition of immediate family of any person interred within the cemetery.
- (b) All such sales shall grant a right of burial only and shall not convey any title to the burial space(s), or any other rights in the burial space(s) sold. The sale of a burial space(s) shall be documented on a Cemetery Lot Certificate issued by the Township Clerk.

- (c) The burial rights provided in any Cemetery Lot Certificate are nontransferable. Provided, however, upon the death of the initial holder of the Cemetery Lot Certificate a member of the immediate family of the initial certificate holder may then act on behalf of the remaining family members concerning the remaining burial spaces.
- (d) Each burial space shall be assigned the name of the specific person who shall be interred in that burial space upon death. Each such person must either be a resident of the Township, or be a member of the immediate family of a purchaser. If the initial holder of the Cemetery Lot Certificate or any subsequent holder of the Certificate desires to make a name change regarding the assigned burial space, that person must request such change in writing to the Township Board.
- (e) Due to the limited number of burial spaces, no more than six (6) burial spaces shall be sold to a purchaser.
- (f) The initial holder of the Cemetery Lot Certificate or any subsequent holder of the certificate shall be responsible for notifying the Township whenever the owner's mailing address changes.

SECTION 4. Purchase Price.

The Township Board shall, by separate resolution, establish the purchase price for burial spaces which shall be paid to the Township Treasurer.

SECTION 5. Grave Openings.

No burial space shall be opened or closed, except under the direction and control of the Cemetery Sexton.

SECTION 6. Monuments and Memorials.

- (a) Only one (1) monument or memorial shall be permitted per burial space. All monuments and memorials shall face in the same direction as the surrounding monuments and memorials. A Veteran marker may be affixed to the back side of a monument or marker or placed at the foot of the vault, flush with the ground, not at the height of the grass.
- (b) Except for monuments and memorials placed prior to the effective date of this Ordinance, the width of monuments and memorials shall be limited to thirty-six inches for one (1) burial space and fifty-four inches (54") for two (2) adjoining burial spaces; an overall maximum height of thirty-six inches (36"); and a depth of sixteen inches (16").
- (c) All monuments and memorials shall have a four inch (4") cement foundation with a minimum four inch (4") border on all sides that are no higher than ground level.
- (d) All monuments and memorials shall be of durable granite, marble, fieldstone or bronze.
- (e) The maintenance, repair and upkeep of all monuments and memorials is the responsibility of the heirs or family of the person buried in the burial space(s). The Township has no responsibility or liability regarding the repair, maintenance or upkeep of monuments and memorials. The Township has no responsibility or liability for damage done to non-conforming monuments & memorials caused by maintenance equipment.
- (f) Should any monument or memorial, including any monument or memorial that was in place before this 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 heirs or family of the person buried in the burial space(s) to correct the

condition or remove the monument or memorial. The Township shall make reasonable attempts to contact the heirs or family of the person buried in the burial space(s) prior to any such work beginning.

- (g) The Township Board may, at its sole discretion, grant exceptions to the requirements of this section, when it finds that granting the exception will not have a significant adverse impact on surrounding burial spaces and on the overall operations and maintenance of the cemetery by the Township.

SECTION 7. Interment Regulations.

- (a) Only one (1) person may be buried in a burial space; except for a parent and infant child or two (2) children ages ten (10) years or less may be buried in the same burial space. In addition, no more than two (2) cremated remains may be interred in one (1) burial space and the cremated remains must be in a vault.
- (b) The Cemetery Sexton shall be given a minimum of thirty-six (36) hours advance notice to allow for the opening of the burial space or spaces.
- (c) Burial transit permits shall be provided to the Township Clerk for recording in the Township cemetery records.
- (d) The surface of all graves shall be kept in an orderly and neat appearing manner within the confines of the burial space involved.

SECTION 8. Ground Maintenance.

- (a) No grading, leveling, or excavating, upon a burial space is allowed.
- (b) No shrubs, trees or vegetation of any type shall be planted. Any of the foregoing items planted without such approval may be removed by the Township.
- (c) The Township reserves the right to remove or trim any tree, plant, shrub, or other vegetation, planted prior to the effective date of this Ordinance, that hinders the use of a lawn mower or other gardening apparatus.
- (d) No fencing, railing, coping, curb, wall, hedge, rocks, bricks, stones, or enclosure of any kind shall be placed or erected around any burial space.
- (e) No plastic or artificial flowers are permitted. No Glass is allowed. Maintenance of all vases, pots and urns are the responsibility of the heirs or family of the person buried in the burial space(s).
- (f) The Township shall have the right and authority to remove and dispose of any and all plantings, objects, emblems, displays or containers of any kind that through decay, deterioration, or damage has become a source of litter or a maintenance problem.
- (g) Ground surfaces, other than earth or sod, are prohibited. Landscaping materials are not allowed.
- (h) All refuse of any kind or nature, including, but not limited to, wreaths, papers and containers must be removed upon use and/or deterioration and deposited in proper waste disposal facilities.
- (i) All wreathes, displays, emblems, objects and flower containers at the burial space(s) must be removed by October 15th. This does not apply to Christmas wreaths or grave blankets.

SECTION 9. Forfeiture of Vacant Burial Spaces.

- (a) If a burial space or spaces remain vacant for more than forty (40) years after a Cemetery Lot Certificate is issued, the Township Clerk shall send by certified mail, to the initial

holder of the Cemetery Lot Certificate or any subsequent holder of the certificate, a written notice advising that the forty (40) year period has expired and all rights in the burial space(s) shall be forfeited to the Township if, within sixty (60) days of the date of mailing, the initial holder of the Cemetery Lot Certificate or any subsequent holder of the certificate, has not advised the Township Clerk, in writing, of his or her desire to retain the burial space(s).

- (b) If no written response is received pursuant to subsection (a) above, the burial space(s) identified in the notice shall revert to the Township free and clear from any claims of the original holder of the Cemetery Lot Certificate or any subsequent holder of the certificate. The Township Clerk shall then cancel, in the official cemetery records, the Cemetery Lot Certificate issued and indicate in those records that the burial space is eligible for resale under the terms and conditions of this Ordinance.

SECTION 10. Repurchase of Burial Spaces.

Upon the written request of the original purchaser of any burial space or spaces, or the legal heirs or representatives of the original purchaser or qualified assignee, the Township shall repurchase the cemetery lot or burial space from the owner at the original price paid to the Township for that cemetery lot or burial space.

SECTION 11. Cemetery Records.

The Township Clerk shall maintain records concerning all burials, retain a copy of the burial transit permit, and the Cemetery Lot Certificate, the original of which shall be sent to the purchaser of the burial space(s). These cemetery records shall be open to public inspection during reasonable business hours.

SECTION 12. Michigan Department of Health and Human Services Burials.

No person whose burial is paid by the Michigan Department of Health and Human Services shall be eligible for burial in any cemetery within Kearney Township, unless that person was a resident of the Township at the time of his or her death.

SECTION 13. Vault.

All burials shall be within a standard concrete vault installed or constructed in each burial space before interment.

SECTION 14. Cemetery Hours.

The Township cemeteries shall be open to the general public daily between the hours of sunrise and sunset.

SECTION 15. Municipal Civil Infractions.

Any person who violates any provision of this Ordinance, shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 – 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 Dollars (\$500.00). Each day this Ordinance is violated shall be considered as a separate violation. Any action taken under this Section shall not prevent civil proceedings for abatement or termination of the prohibited activity.

SECTION 16. Enforcement.

The Township Supervisor, and/or any other individual(s) that the Township Board may appoint, are hereby designated to issue municipal civil infraction citations directing alleged violators of this Ordinance to appear in court.

SECTION 17. 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 a 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 18. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

The Kearney Township Cemetery Ordinance was adopted on the 14th day of March, 2022, by the Kearney Township Board.

Kearney Township
Michelle D. Valuet, Clerk
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