

ORDINANCE NO. 2020 - 1

CEMETERY ORDINANCE

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the ownership, operation, repair, maintenance, control and management of cemeteries for human remains which are owned by the Charter Township of Allendale, Ottawa County, Michigan, to provide penalties for the violation of this ordinance, and to repeal all ordinances or parts of ordinances in conflict herewith.

THE CHARTER TOWNSHIP OF ALLENDALE, COUNTY OF OTTAWA, MICHIGAN, ORDAINS.

SEC. 1 TITLE

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

SEC. 2 DEFINITIONS

- (a) Assignee - Any person to whom any Grave Lot or Grave Site has been assigned by the Township. Any and all rights of an Assignee shall be as defined in this Ordinance and by all laws, rules, regulations, ordinances and orders of any governmental agency having jurisdiction.
- (b) Cemetery - Any cemetery owned and operated by the Township. This definition shall also include the Township, the Township Board, the Registrar and all Township officers, employees and agents when referring to matters pertaining to the ownership, operation, repair, maintenance, control and management of a cemetery.
- (c) Foundation - A concrete slab used as a footing for a Monument.
- (d) Grave Lot - An area of four (4) to eight (8) Grave Sites.
- (e) Grave Site - An area for one (1) burial.
- (f) Immediate Family - Parents, spouse and children, including adopted children and stepchildren.
- (g) Interment - The permanent disposition of the remains of a deceased person by entombment or burial.
- (h) Memorial - A monument, marker, tablet, headstone, private mausoleum or tomb for family or individual use, tombstone, coping, enclosure, surface, burial vault, urn, crypt or niche plate.

- (i) Monument - A tombstone or memorial of granite, or other stone of equivalent durability approved by the Registrar, which shall extend above the surface of the ground. Any action required or allowed by the Registrar may also be accomplished by his/her duly authorized agent.
- (j) Registrar - The Township Clerk.
- (k) Removal - The removal of the remains of a deceased person.
- (l) Township - Allendale Charter Township, Ottawa County, Michigan.

SEC. 3 INTERMENTS AND REMOVALS

- (a) Subject to laws - In addition to the provisions of this Ordinance, all Interments and Removals shall be subject to all laws, rules, regulations, ordinances and orders of the Township and any other governmental agency having jurisdiction.
- (b) Holidays - No Interments, Removal or Interment service shall be permitted on Sundays or holidays (New Years Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day) or when the holidays mentioned fall or are legally observed on Saturday or Monday, except by prior approval of the Registrar.
- (c) Notice - The Registrar shall have the right to require at least thirty six (36) hours notice prior to any Interment and at least one (1) week notice prior to any Removal.
- (d) Burials - Only one (1) person may be buried in a Grave Site with the exception of
 - 1) a parent and an infant buried at the same time,
 - 2) two (2) children buried, each buried in burial boxes under four (4) feet in length,
 - 3) four (4) cremated remains.Any other combination must have prior written approval of the Registrar.
- (e) Lots previously given to Township Residents - Those Grave Lots and/or Grave Sites previously given to Township residents are identified in the Township records. These Grave Lots and Grave Sites are to be used only by the Assignee and/or his/her/their Immediate Family. The remaining unused Grave Lots and Grave Sites shall revert back to the Township.
- (f) Interment boxes - Earth Interments shall be enclosed in a concrete box or a box constructed with a metal of equivalent durability approved by the Registrar, provided, however, that a hard plastic box may be used for the Interment of infants.
- (g) Interment of cremated remains - Cremated remains sent or delivered to the Township shall be permanently interred within a period of four (4) weeks after receipt. If arrangements are not made for permanent Interment within this time period, the

Township shall in no way be liable or responsible for the damage or loss of cremated remains or the container holding the remains.

- (h) Authorization to use Assignee's Grave Sites - The Registrar shall have the right to make an Interment of any member of the Immediate Family in any one of the Assignee's Grave Sites. No other person may be interred in any Grave Site without written consent of all Assignees of the Grave Site who are recorded as such in the Cemetery records.
- (i) Location of Interment space - When specific instructions regarding the location of an Interment space in a Grave Lot cannot be obtained or are indefinite, or when for any reason the Interment space requested cannot be conveniently utilized, the Registrar may, in his/her discretion, select an Interment space in such location in the Grave Lot as he/she deems best and proper. The Cemetery shall not in any event be liable for Interment decisions made pursuant to this subsection.
- (j) Orders given by telephone - The Cemetery shall not be liable for any action taken in reliance upon instructions given by telephone, or for any mistakes occurring from the want of precise and proper instructions as to the particular space, size and location in a Grave Lot where Interment is desired. Orders given by the funeral director for the opening of a grave will be construed as orders from the Assignee or heir(s).
- (k) Correction of errors - The Registrar shall have the right to correct any errors made either in making Interments or Removals, or errors made in the description, transfer or assignment of any Grave Lot or Grave Site. Corrections may be made by cancelling the assignment and substituting and conveying in lieu thereof another Grave Lot or Grave Site in a similar location, insofar as reasonably possible, or in an alternate location selected by the Registrar or, in the sole discretion of the Registrar, by refunding the amount of money paid. In the event any such error shall involve the Interment of the remains, the Registrar shall have the right to remove and/or transfer such remains so interred to a new Grave Site in a similar location, insofar as reasonably possible, as may be substituted and conveyed in lieu thereof.
- (l) Delays of Interments - The Cemetery shall be in no way liable for any delay in the Interment of remains where a protest to the Interment has been made, or where there is a failure to comply with this Ordinance or any law, rule, regulation, ordinance or order of any governmental agency having jurisdiction. The Township reserves the right, under such circumstances, to place the remains in a receiving vault until all disputed matters have been resolved and there is compliance with this Ordinance and all other

applicable ordinances, laws, rules, regulations or orders. The Township shall be under no duty to recognize any protest of an Interment unless it is in writing and filed with the Registrar. Furthermore, the Cemetery shall be in no way liable for any delay in completing an Interment due to conditions beyond its reasonable control, such as weather conditions or illness of Cemetery staff.

- (m) Burial boxes - Burial boxes over four (4) feet in length will be classed as adult size; burial boxes under four (4) feet in length will be classed as child size.
- (n) Grave Sites - The number of Grave Sites assigned will be recorded on the deed when Grave Sites are assigned.
- (o) Care in removal - The Cemetery shall exercise due care in making a Removal, but it shall have no liability for damage caused to any casket, burial box or urn in making a Removal.
- (p) Funeral procession - No funeral procession shall enter the Cemetery unless authorized by the Registrar. Once in the Cemetery, a duly authorized funeral procession shall proceed according to and be under the direction of the Registrar until completion. Funeral directors must present the necessary burial or transit permit as required by state law.

SEC. 4 SALE AND PURCHASE OF GRAVE SITES

- (a) Grave Sites per family - A maximum of four (4) Grave Sites per family may be purchased in advance. Additional Grave Sites for a family shall be sold on an as needed and as available basis.
- (b) Charges and costs - The charges and costs for the purchase of Grave Lots, Grave Sites, grave openings/closings and all other Cemetery services shall be established from time to time by resolution by the Township Board. All charges and costs shall be payable to the Township. No other person is authorized to accept any monies in payment of any charge or cost. Any person tendering payment to any other person does so at his own risk. No Township employee may solicit or accept any form of payment or gratuity for work or services rendered. Township employees at the Cemetery are not permitted to do any work for Grave Lot or Grave Site owners or interested parties except upon the direct order of the Registrar.
- (c) Reserving Grave Sites - No Grave Site or Grave Lot may be reserved until it has been paid for in full.
- (d) Transfer of Grave Sites - No Grave Site or Grave Lot can be transferred to another person without prior written approval of the Registrar, after receiving a written request for

transfer from the Assignee. No Grave Site or Grave Lot shall be purchased or sold or rights transferred for speculative purposes. No Grave Site or Grave Lot shall be used for any other purpose than for the burial of the human dead.

- (e) Descent of Grave Sites and Grave Lots - Ownership of a Grave Site or a Grave Lot shall descend as directed by will or other suitable document signed by the Assignee or, in the absence of such will or other suitable document, the Grave Site or Grave Lot shall descend as personal property under the applicable statutes of the State of Michigan.

SEC. 5 GENERAL SUPERVISION OF TOWNSHIP PROPERTIES

- (a) Record keeping - The Registrar shall keep a record of all Grave Sites, alphabetically and numerically, and shall also maintain a complete record of all assignments, receipts, burial records and other matters affecting the Cemetery.

SEC. 6 CONTROL OF WORK AT THE CEMETERY

- (a) Work done in the Cemetery - All grading, foundation, installations, landscaping, fertilizing or improvements of any kind, the mowing of the grass, and the maintenance of all grass, trees, shrubs and herbage shall be done by the Cemetery staff. All Interments and Removals shall be made only by the Cemetery staff under the direction of the Registrar.
- (b) Maintenance of the turf - Cutting into or otherwise disturbing the turf by anyone except the Cemetery staff is prohibited. Any violation of this subsection shall release the Township from any obligation to re-sod or reseed the damaged area.
- (c) Construction - All Cemetery work of any description being conducted in the general area of a funeral shall cease while the funeral is being conducted. All trucks and workers shall withdraw a reasonable distance from the location of the funeral. The Registrar shall have the authority and discretion to enforce this section as he/she deems necessary.

SEC. 7 DECORATION OF GRAVE SITES

- (a) Floral regulations - Flowers from funeral services may remain on the Grave Site for one (1) week. All flowers must be planted in movable containers with handles. The Cemetery shall have the authority to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the Cemetery as soon as, in the judgment of the Registrar, they become unsightly, dangerous, detrimental or diseased, or when they do not conform to the general character or appearance of the landscaping within the Cemetery. The Cemetery shall not be liable for floral pieces, baskets or frames in which or to which such floral pieces are attached, beyond the acceptance of such floral

pieces for funeral services to be held in the Cemetery. The Cemetery shall not be liable for lost, misplaced or broken floral containers. The Cemetery shall not be liable for damage due to the elements, thieves, vandals, or by other causes beyond its reasonable control. The Cemetery reserves the right to regulate the method of decorating Grave Lots and/or Grave Sites so that a uniform appearance can be maintained.

- (b) Plantings on grave sites - All trees planted on or removed from any Grave Site shall be done by the Cemetery.
- (c) Objects on grave sites - No stones, colored stones, wire stems, glass containers, mausoleums, tombs, fences, railings, copings, walls, hedges, or enclosures of any kind or nature shall be placed or erected around or on any Grave Site.
- (d) Removals of offensive structures, etc. - If any monument, effigy or other structure placed upon any Grave Site shall be determined by the Registrar to be indecent, profane, pornographic or otherwise offensive to the Township community, it shall be removed by the Cemetery staff after five (5) days prior written notice by mail to the address of the Grave Site Assignee as shown on the Cemetery records.
- (e) Cemetery clean up - The Cemetery shall remove all wreaths and flowers in late fall and again in early spring.

SEC. 8 ROADWAYS AND REPLANTING

- (a) Right to replant, regrade and use property - The right to enlarge, reduce, replant and/or change the boundaries or grading of the Cemetery or any part thereof, including the right to modify and/or change the locations of or remove or regrade roads, drives and/or walks, or any part thereof, is expressly exclusively reserved to the Cemetery. The right to lay, maintain and operate, or alter or change pipe lines and/or gutters for sprinkling systems, drainage, lakes, etc., is also expressly exclusively reserved to the Cemetery, as well as is the right to use Cemetery property, not assigned to individual Grave Lot or Grave Site Assignees, for Cemetery purposes including the interring and preparing for Interment of remains, or for anything necessary, incidental or convenient thereto. The Cemetery reserves a perpetual right of ingress and egress over Grave Lots for the purpose of passage to and from other Grave Lots.
- (b) No right granted in alleyways - No easement or right of Interment is granted to any Grave Lot or Grave Site owner in any road 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 Cemetery devotes it to that purpose.

SEC. 9 CONDUCT OF PERSONS WITHIN THE CEMETERY

- (a) Road use - Persons within the Cemetery grounds shall travel within the Cemetery using only the established roads and walks except that a person may carefully walk upon or cross Grave Lots or Grave Sites or lawns when necessary to gain access to a Grave Site. No person shall enter the Cemetery except through a permitted point of entry.
- (b) Trespassers on Grave Sites - Only Assignees, their relatives and invited friends and guests shall be permitted on a Grave Site. Any other person thereon shall be considered as a trespasser. Loitering in the Cemetery is prohibited.
- (c) Children in the Cemetery - Children under eighteen (18) years of age shall not be permitted within the Cemetery unless they are either 1) accompanied by one or more adults who are responsible for them, or 2) have permission to visit the Cemetery from their parents or guardians.
- (d) Damaging plant life - Persons in the Cemetery are prohibited from picking flowers (wild or cultivated), damaging trees, shrubbery, grass or plants, or feeding or disturbing birds, fish or any other animal life. No person may write on, deface or destroy any Memorial or any other structure. No person may destroy or otherwise disturb the birds or other animal life within the Cemetery if not authorized by the Registrar.
- (e) Refreshments - No person shall consume food or beverages in the Cemetery, or carry the same into the Cemetery.
- (f) Lounging on Cemetery grounds - No person shall be permitted to sit or to lounge on any of the grounds, graves or monuments in the Cemetery, or in any Cemetery building.
- (g) Loud talking - Loud talking or any other noise disturbance shall not be permitted in the Cemetery within hearing distance of funeral services.
- (h) Rubbish - The throwing of rubbish or debris on the Cemetery grounds or otherwise littering in the Cemetery is prohibited.
- (i) Smoking - Smoking within any Cemetery building is prohibited.
- (j) Motor vehicles - Motor vehicles must always keep on the right hand side of a Cemetery road. Motor vehicles are not allowed to park or to come to a full stop in front of an open grave unless the occupants of the motor vehicle are in attendance at the funeral. Motor vehicles shall not:
- Drive off a Cemetery road unless permission is given by the Registrar;
 - Drive a motor vehicle in such a manner as to damage any grass, tree, shrubbery or plant in the Cemetery;
 - Make a U-turn on a Cemetery road;

- Park a motor vehicle or leave a motor vehicle in such a location as to prevent any other motor vehicle from passing. Any motor vehicle parked in such a manner may be ordered removed by the Registrar, and the owner and/or operator shall be responsible for all costs;
 - Operate a vehicle in the Cemetery for recreation purposes;
 - Use a Cemetery road as a public thorough-fare; or
 - Operate at a speed in excess of 10 MPH.
- (k) Peddling or soliciting - Peddling of flowers or plants or soliciting the sale of any commodity, other than by Cemetery staff, is prohibited within the Cemetery.
- (l) Firearms - No firearms shall be permitted within the Cemetery, except by permission of the Registrar, and except for a duly authorized law enforcement officer or a duly authorized military escort for a veteran's funeral or memorial service.
- (m) Notices and advertisements - No signs or notices or advertisements of any kind shall be allowed in the Cemetery, unless placed by the Cemetery.
- (n) Pets - Pets shall not be allowed on the Cemetery grounds or in any of the Cemetery buildings.
- (o) Proper conduct - It is of the utmost importance that proper conduct is observed on the Cemetery grounds. The Cemetery shall not be used as a place for recreational activity. The Registrar shall have the power to remove from the Cemetery any person who conducts himself or herself in a disrespectful manner or without proper decorum.
- (p) Enforcement - The Registrar shall have the authority to enforce this Ordinance and to exclude from the Cemetery any person who violates this Ordinance. The Registrar shall have charge of the grounds and buildings, and at all times shall have supervision and control of all persons in the Cemetery, including the conduct of funerals, traffic, employees, Assignees and visitors. The Registrar is authorized to make temporary rules and regulations which he or she deems necessary to meet emergencies not covered by this Ordinance.

SEC. 10 LIABILITY

- (a) The Cemetery shall not be held responsible for damages by the elements, acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or the order of any military or civil authority, whether the damages be direct or collateral.
- (b) All non-Township employees working in the Cemetery shall be fully responsible for any damage done by them or their agents. Upon completing their work, such non-Township

employees must immediately remove all tools, equipment and debris from the Cemetery, and they must repair any damage they do to the Cemetery grounds.

SEC. 11 RULES FOR MEMORIAL WORK

- (a) Memorials. - All permanent Memorials to be erected or placed in the Cemetery must be stone or other equally durable composition approved by the Registrar.
- (b) Foundations - Any large upright Memorials must be located upon a suitable foundation to maintain the Memorial in an upright position. All foundations for Memorials shall be erected by the Cemetery staff upon such type and size of foundation as shall be specified by the Registrar. The Cemetery charges for a foundation shall be paid by the Assignee. These charges shall be established from time to time by Township Board resolution.
- (c) Memorial specifications - No person shall erect or place a Memorial in the Cemetery unless the plans and specifications therefor shall have been submitted to and approved in writing by the Registrar.
- (d) Memorial - No more than one (1) upright Memorial shall be allowed above the ground or at ground level on any one (1) Grave Site.
- (e) Excavation, grading, etc. - All excavations, grading or removal of earth or rubbish shall be excavated, graded or removed in such a manner as the Registrar may direct. No Grave Site, Grave Lot or other area of the Cemetery drive shall be graded in shape, or in any manner altered from the general plan of the Cemetery.

SEC. 12 HOURS

The Cemeteries will be open daily from dawn to dusk. Any person who gains entrance or is found in the Cemetery between dusk and dawn shall be treated as a trespasser and prosecuted as such.

SEC. 13 EXCEPTIONS

Special cases may arise in which the literal enforcement of a provision of this Ordinance may impose an undue and unnecessary hardship. Notwithstanding any such provision to the contrary, the Registrar, after due consideration, may make such exceptions, suspensions or modifications of any applicable provision as he/ she shall deem appropriate. Any such exception, suspension or modification shall not be construed as affecting the general application or the intent of the provisions of this Ordinance.

SEC. 14 PENALTIES

In addition to any other charges, fines or penalties for which a person may be liable under other applicable law or local ordinances, any person who shall violate a provision of this

Ordinance, or who shall fail to comply with any of the requirements hereof, shall be responsible for a municipal civil infraction and be subject to the enforcement procedures set forth in the Municipal Civil Infraction Ordinance adopted by the Township, and a fine of fifty dollars (\$50.00), plus costs and other sanctions, for each infraction. Each day during which any violation continues after due notice has been served shall be deemed a separate and distinct offense. Increased civil fines may be imposed for repeated violations of this Ordinance; a repeat violation means a second or subsequent municipal civil infraction violation committed by a person within any twelve (12) month period and for which a person admits responsibility or is determined to be responsible. The increased civil fine for a repeat violation shall be as follows:

- (a) The fine for any offense which is a first repeat offense shall be \$250.00, plus costs and other sanctions; and
- (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be \$500.00, plus costs and other sanctions.

The Registrar, members of the Ottawa County Sheriff's Department assigned to the Township, members of the Ottawa County Sheriff's Department whose services are contracted by the Township and any other individuals who may from time to time be appointed by resolution of the Township Board, are hereby designated as the authorized Township officials to issue municipal civil infraction citations (directing alleged violators to appear in court) or municipal civil infraction notices (directing alleged violators to appear at the Allendale Charter Township Municipal Ordinance Violations Bureau) as provided in the Municipal Civil Infractions Ordinance adopted by the Township.

SEC. 15 SEVERABILITY AND CAPTIONS

This Ordinance and the various parts, sections, subsections, sentences, phrases and clauses thereof, are hereby declared to be severable. If any part section, subsection, sentence, phrase and clause is adjudged unconstitutional or invalid, the remainder of the Ordinance shall not be affected hereby. The captions included at the beginning of each section and subsection are for convenience only and shall not be considered a part of this Ordinance.

SEC. 16 ADMINISTRATIVE LIABILITY

No officer, agent or employee of the Charter Township of Allendale, or a member of the Charter Township of Allendale Board, shall be rendered liable for any damage that may occur to any person as a result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Ordinance.

SEC. 17 REPEAL

All resolutions, ordinances, orders or parts thereof in conflict or whole or in part with any provision of this Ordinance are, to the extent of such conflict, hereby repealed.

SEC. 18 EFFECTIVE DATE

This Ordinance was approved and adopted by the Township Board on January 27, 2020, after introduction and a first reading on January 13, 2020, and publication after such first reading as required by Michigan Act 359 of 1947, as amended. This Ordinance shall be effective on January 27, 2020.

Township Supervisor

Township Clerk

CERTIFICATE

We, Adam Elenbaas and Laurie Richards, the Supervisor and the Clerk respectively, for the Charter Township of Allendale, Ottawa County, Michigan, do hereby certify that the foregoing Allendale Charter Township Cemetery Ordinance was adopted at a regular meeting of the Allendale Charter Township Board held on January 27, 2020. The following members of the Township Board were present at that meeting: Elenbaas, Richards, VanderVeen, VanderWall, Kraker, Hoekstra . The Ordinance was adopted by the Township Board with members of the Board Elenbaas, Richards, VanderVeen, VanderWall, Kraker, Hoekstra voting in favor and _____ voting in opposition. The Ordinance was published in Sunday Edition of the Grand Rapids Press on January 26, 2019.

Adam Elenbaas, Supervisor

Laurie Richards, Clerk