

**CHARTER TOWNSHIP OF JAMESTOWN
COUNTY OF OTTAWA, MICHIGAN**

**NOTICE OF INTRODUCTION AND FIRST READING
OF THE TOWNSHIP CEMETERY ORDINANCE**

At a regular meeting of the Township Board of the Charter Township of Jamestown, County of Ottawa, Michigan, held on February 19, 2018, the following ordinance was introduced and read for the first time:

ORDINANCE #18-001

**CHARTER TOWNSHIP OF JAMESTOWN
COUNTY OF OTTAWA, MICHIGAN**

At a regular meeting of the Township Board of the Charter Township of Jamestown, held at the Township Hall, on the ___ day of _____, 201_, at 7:00 p.m.

PRESENT: Members: _____

ABSENT: Members: _____

The following Ordinance was offered by Member _____ and supported by Member _____:

ORDINANCE NO. 18-001

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 JAMESTOWN; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; TO REPEAL ALL PRIOR ORDINANCES; AND MATTERS RELATED THERETO.

THE CHARTER TOWNSHIP OF JAMESTOWN ORDAINS:

Section 1. Title; Purpose and Intent.

(a) This Ordinance shall be known and cited as the “Jamestown Charter Township Cemetery Ordinance” or the “Cemetery Ordinance.”

(b) The Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemeteries owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments 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 2. Definitions. For purposes of this Ordinance, the following words, terms and phrases shall have the meanings as set forth herein:

(a) A “Grave” shall consist of an area in a Township Cemetery sufficient to accommodate the burial of one deceased person. It shall consist of land area measuring at least thirty-eight (38) inches wide and ninety-six (96) inches in length.

(b) “Township” is defined as the Charter Township of Jamestown.

(c) “Township Cemetery” or “Cemetery” is defined as any cemetery owned by the Township.

(d) “Marker” is defined as any grave site identification, including monument or memorial that was in place before this Ordinance.

(e) “Fee Schedule” is defined as the Jamestown Charter Township Fee Schedule adopted by the Township and setting forth applicable Township rates, charges and fees including rates, charges and fees authorized by this Ordinance.

Section 3. Sale of Graves; Non-transferability of Graves.

(a) After the effective date of this Ordinance, cemetery graves shall be sold by the Township for the purpose of burial for the purchaser of a grave, or his or her immediate family. Grave purchase grants a right of burial only and does not convey any other title or right to the grave sold.

(b) All sales and transfers of graves shall be made and signed by the Township Clerk or Deputy Township Clerk, and shall constitute a permit when approved.

(c) Graves may be sold by the Township to any resident of the Township. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser. The Township Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence or relationship. Non-binding examples of residency exceptions are:

- (1) Long term resident (or spouse of) moved away, but has significant ties to the area.
- (2) Immediate family is already buried here (parents, siblings, grandparents)

(3) Resident may have any person's cremains and theirs buried in the same grave.

(d) At the time of purchase from the Township, each grave must be assigned the name of the specific person(s) who shall be interred in that grave upon death. Graves are nontransferable. If the owner of a grave desires to re-assign the grave, that person must (1) sell the grave back to the Township at the original price at which the grave was purchased, and (2) repurchase that grave in the name of another eligible person at the then-current price for a Township grave.

(e) Graves, once assigned in accordance with Section 3(d) above, are nontransferable (which includes a prohibition on donating a grave to another person), but may be sold back to the Township at the original purchase price paid to the Township (for resale by the Township).

(f) Any graves purchased prior to the date of adoption of this ordinance may be assigned upon payment of a fee for assignment of the grave. Unassigned graves cannot be sold or transferred, unless sold back to the Township in accordance with Section 3(e) above.

(g) Additional names may be assigned to a grave, subject to payment of an assignment fee.

(h) A person assigned to a grave may not be buried elsewhere in a Township cemetery.

(i) The Township Board shall have the authority to: determine whether a particular grave or graves will be sold to a specific person; place a limit on the number of graves sold to a particular person, as well as such person's family and relatives; and determine where such grave or graves will be located within a Township Cemetery. Any such decision by the Township in accordance with this subsection (i) shall be based upon reasonable factors, including, but not limited to, the number of vacant graves available and whether family or relatives of the person seeking to purchase a grave or graves are buried adjacent or nearby the grave or graves requested.

(j) 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 grave, either by cancelling the certificate for a particular vacant grave or graves and substituting and conveying in lieu thereof another vacant grave or graves in a similar location within the cemetery at issue or by refunding the amount of money paid for the cemetery grave 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 grave in a similar location in the same Township Cemetery in accordance with law.

(k) The owner of every grave shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 4. Applicable Fees and Charges for Grave Purchases, Grave Openings and Closings.

(a) The Township Board is hereby authorized to establish, by resolution of the Township Board, a Fee Schedule for the purchase of a grave, fees for the opening and closing of any grave (including the interment of cremains), prior to and following a burial therein. The Township Board may establish a higher fee for grave openings on weekends, holidays and for winter burials.

(b) The fees and charges set forth in the Fee Schedule may be revised from time to time by resolution and in the discretion of the Township Board.

(c) All fees and charges shall be paid to the Township Treasurer.

(d) The full purchase price of a grave site and the charge for grave opening shall be paid prior to any interment in the grave site.

(e) The charge for any disinterment shall be paid, in advance, to the Township Treasurer.

(f) No Township employee may solicit or accept any form of payment or gratuity for work or services rendered in or associated with a Township Cemetery or any grave site therein.

(g) Township Cemetery employees shall not perform work for grave site owners or other parties other than the Township, except as specifically permitted by the Township Board.

Section 5. Opening and Closing of Graves.

(a) No grave shall be opened or closed except under the direction and control of the Township Sexton/or designee.

(b) Section 5(a) above 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 Township Sexton shall be given at least forty-eight (48) hours' prior notice of when such grave opening or closing will occur.

(c) Winter burials may be permitted, subject to weather conditions affecting the location, opening and closing of the grave, as determined by the Sexton.

Section 6. Grave Marker or Headstone.

(a) All markers must be comprised of stone or other equally durable composition and shall face the same direction and line up with existing markers around them.

(b) Except for markers that existed in a Township Cemetery before the effective date of this Ordinance, all markers must not exceed:

- (1) Thirty (30) inches in height above footing;
- (2) Thirty (30) inches in width or forty-eight (48) inches in width for a double marker;
- (3) Twenty (20) inches in depth; and
- (4) One (1) marker per grave.

(c) The footing or foundation upon which any marker must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township Board. A grave marker must be placed on and be supported by a footing or foundation that is at or below ground level.

(d) Fees for such work shall be set forth in the Fee Schedule, as determined from time to time by resolution of the Township Board, and shall be payable to the Township.

(e) Should any marker, including ones in place before this Ordinance became effective, become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township shall have the right, at the expense of the owner of the grave, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the grave prior to any such work beginning.

(f) The maintenance, repair and upkeep of a 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 or similar item.

Section 7. Interment Regulations.

(a) Graves may be used for any one of following:

- One (1) full body shall be buried in a grave;
- One (1) full body with up to two (2) cremains on top of full body;
- One (1) infant child with up to two (2) cremains; or
- Up to four (4) cremains.

(b) The Sexton shall be given not less than 48 hours' prior notice in advance of any funeral to allow for the opening of the grave. The opening and closing of graves shall be done only by the Sexton.

(c) Grave ownership shall be verified by the Sexton.

Section 8. 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.

(b) Verification of grave must be made by Sexton. The Sexton shall be given not less than 48 hours' prior notice in advance of disinterment.

Section 9. Vaults and Cremains.

(a) Full body burials shall be placed within a standard concrete vault (which meets all applicable laws).

(b) Cremains shall be in a container.

(c) No cremains shall be scattered or dispersed within a Township Cemetery.

Section 10. Grave Decorations.

(a) Only one of the following approved containers may be used per grave and it must be located next to the marker:

- Metal handled basket;
- Cement Urn; or
- Single pole with a single Shepherd Hook (i.e., to hold a hanging flower basket).

The intent of this restriction is to allow for maintenance of the Cemetery and create a clean safe environment. (Paper, glass, plastic, etc. break, blow around, and create maintenance issues.)

(b) Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.

(c) All decorations shall be placed no earlier than May 1 and must be removed no later than October 1 of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday.

(d) All other items are prohibited and will be removed and disposed of by the Sexton.

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 marker, urn or other item placed at or near a grave, burial site or anywhere in a Township Cemetery. The purchaser or transferee of any grave 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 grave or similar right, any marker, and any matter related to the cemetery involved. Such waiver releases and holds harmless the Township and its agents.

Section 12. Forfeiture of Vacant Graves.

(a) Any graves vacant after fifty (50) years from the date of their sale, shall automatically revert back to the Township upon the occurrence of the following events:

- (1) 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/her of the expiration of the 50-year period and that all rights with respect to said graves will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (2) No response to said notice indicating a desire to retain the graves in question is received by the Township Clerk from the last owner of record of said graves his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

(b) The Township shall not provide, nor be liable for, refunds for forfeited graves.

Section 13. Repurchases of Graves. Graves can be sold back to the Township at original purchase price upon the written request of said owner or his or her legal heirs or representatives.

Section 14. Records. The Township Clerk shall maintain records concerning all burials, graves, 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 Township business hours.

Section 15. Cemetery Hours. All Township Cemeteries shall be closed during the hours from 10 p.m. until 6 a.m. 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 Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 16. Prohibited Uses and Activities. In addition to any other provisions of this Ordinance, the following prohibitions shall apply within any Township Cemetery:

(a) No person shall destroy, deface, apply graffiti to or otherwise injure any marker, sign, tree or other lawful item located within a Township Cemetery.

(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.

(c) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.

(d) There shall be no driving of a vehicle on any portion of a cemetery except the designated roads or drives.

(e) There shall be no exceeding of posted speed limits.

(f) There shall be no motorized off-road vehicles, snowmobiles, four-wheelers, go-carts or similar vehicles allowed.

(g) There shall be no possession or consumption of any alcoholic beverage.

(h) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except during a funeral service.

(i) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.

(j) There shall be no littering or dumping.

(k) There shall be no private signs, lighting, moving displays or changeable copy on a sign.

(l) There shall be no fires, candles or open flames, except during funeral service.

(m) No children under twelve (12) years of age shall be allowed in any Township Cemetery unless accompanied and supervised by an adult.

(n) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to service dogs assisting persons. Written exceptions may be granted by the Township Sexton.

(o) No firearms or archery arrows shall be discharged or shot except that military or other veterans' organizations may carry arms for the purpose of firing over the grave at the burial of a member.

(p) No person shall engage in any fight, quarrel or disturbance.

Section 17. Authority of the Township Sexton.

(a) The Township Board shall appoint a Sexton, who shall serve at the discretion of the Township Board.

(b) The Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.

(c) The Sexton shall have such duties and obligations with regard to Township Cemeteries per the Sexton's contract with the Township.

Section 18. 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 19. 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.

(b) Any party aggrieved by any interpretation or decision made by the Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township Cemetery, rights to a grave, 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 Board may set a fee or fees for any such appeal from time to time by resolution.

Section 20. Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery. Any monument, marker, 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 without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained or kept such item in the Township Cemetery. No such item (including, but not limited to, a monument, marker, 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 21. Penalties.

(a) 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 five hundred dollars (\$500) for the first offense and not less than one thousand dollars (\$1000) 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 provision of this Ordinance committed by the same person within twelve (12) months of 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.

(b) A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 22. 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 Sexton
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the Ottawa County Sheriff’s department
- Any Michigan State Police officer

Section 23. Severability and Captions. This Ordinance and its various parts, sections, subsections, sentences, phrases, and clauses are severable. If any part, section, subsection, sentence, phrase, or clause is adjudged unconstitutional or invalid, the remainder of this Ordinance shall not be affected. The captions included at the beginning of each Section are for convenience only and shall not be considered as part of this Ordinance.

Section 24. Repeal. All ordinances which are in conflict in whole or in part with any of the provisions of this Ordinance as of the date of this Ordinance are repealed to the extent of that conflict.

Section 25. Publication/Effective Date. This Ordinance shall become effective upon the publication of a summary of its provisions in a local newspaper of general circulation.

AYES: Members: _____

NAYS: Members: _____

ORDINANCE DECLARED ADOPTED.

Passed and adopted by the Township Board of the Charter Township of Jamestown, County of Ottawa, Michigan, on _____, 201__, and approved by me on _____, 201__.

Kenneth Bergwerff, Supervisor
Charter Township of Jamestown

Attest:

Candy DeHaan, Township Clerk

Ordinance #18-001

First Reading: February 19, 2018

Second Reading: _____

Ordinance becomes effective: _____

CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing is a true and complete copy of an Ordinance adopted by the Township Board of the Charter Township of Jamestown, County of Ottawa, State of Michigan, at a regular meeting held on _____, 201__, and that the public notice of said meeting was given pursuant to the Open Meetings Act, being Act No. 267 of Public Acts of Michigan of 1976, as amended including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township and such recording has been authenticated by the signatures of the Supervisor and the Township Clerk.

Candy DeHaan
Township Clerk

CERTIFICATE OF PUBLICATION

I, Candy DeHaan, Township Clerk of the Charter Township of Jamestown, County of Ottawa, State of Michigan, hereby certify pursuant to MCL 42.22 that Township Ordinance No. _____, or a summary thereof, was published in the *Grand Valley Advance* and the *Southwest Advance* on _____, 201__.

Candy DeHaan
Township Clerk

A copy of this ordinance is available at the offices of the Township Clerk, at the Jamestown Township Hall, 2380 Riley Street, Hudsonville, MI 49426, during Township office hours.

This ordinance as introduced was published on March 18, 2018, in accordance with Section 20 of Act 359 of the Public Acts of Michigan of 1947, as amended.

TOWNSHIP BOARD OF THE
CHARTER TOWNSHIP OF JAMESTOWN