

CHESHIRE TOWNSHIP
ALLEGAN COUNTY, MICHIGAN
ORDINANCE NO. 440
CEMETERY ORDINANCE
ADOPTED: APRIL 2, 2018
EFFECTIVE: MAY 12, 2018

An Ordinance to protect the public health, safety and general welfare by establishing rules and regulations for the operation, control, management and use of cemeteries owned by the Township of Cheshire; to provide sanctions for violations of the Ordinance; and to repeal conflicting ordinances or parts of ordinances and conflicting regulations.

THE TOWNSHIP OF CHESHIRE
ALLEGAN COUNTY, MICHIGAN

ORDAINS:

SECTION 1

TITLE

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

SECTION 2

CEMETERY MANAGEMENT AND ADMINISTRATION RESPONSIBILITY

- A. Township Board responsibility. Cheshire Township cemeteries are owned and operated by the Township of Cheshire. The Township Board shall have responsibility for and control of all cemeteries owned and operated by the Township. All rules and regulations concerning the operation and maintenance of the township's cemeteries, burial therein, and the management of cemetery funds shall be made by the Township Board pursuant to this Ordinance and any applicable law.
- B. Designation of Sexton/other personnel. The Township Board may designate a cemetery Sexton and/or superintendent of grounds to be in charge of the periodic maintenance of township cemeteries, for such compensation as the Board may approve. The Township Board may also appoint/employ/contract with such other personnel as the Board considers advisable with respect to the operation and maintenance of township cemeteries.
- C. Township Clerk oversight responsibility. The Township Clerk, or such other person as the Township Board may appoint, shall act as the designee of the Board with

respect to overseeing and administering the day-to-day functions required to properly operate and maintain the township cemeteries.

- D. Records maintained. The originals of all records concerning cemetery lay-out, burial rights, burials, and management of cemetery funds shall be maintained by the Township Clerk, and shall be subject to public disclosure pursuant to applicable law. The Sexton shall have copies of such records as may be needed to perform the duties of the Sexton.

SECTION 3

SALE, REPURCHASE, TRANSFER, AND REVERSION OF BURIAL RIGHTS

- A. Sale of burial rights, generally. The Township Clerk, and the Sexton as the designee of the Clerk, are hereby granted the authority to sell burial rights for the purpose of the burial of the remains of the purchaser or the heirs at law of the purchaser as determined pursuant to Section 5B of this Ordinance. The sale of burial rights shall not be restricted to residents of Cheshire Township. However, the burial right fee shall be \$500 (subject to change) for a purchaser who is not a bonafide resident of the Cheshire Township area as demonstrated by a documented mailing address with an Allegan, Bloomingdale, Gobles, Grand Junction, or Pullman postal zip code. Burial rights for more than six burial spaces shall not be sold to any one person. Burial rights shall not be sold to funeral homes/funeral directors.
- B. Burial right permits. All sales of burial rights shall be made on a burial right permit form approved by the Township Board, and executed for each sale by the Township Clerk, or the Sexton as the designee of the Clerk. Such permit shall grant a right of burial only, in the specified burial space(s), and shall not convey title or a property right or another right of any kind to the purchaser or anyone else, other than a right of burial, subject in each instance to all applicable provisions of this Ordinance and such other supplementary rules and regulations as may be adopted by the Township Board. Any so-called "cemetery deed" previously issued by the Township shall be considered to grant only a right of burial pursuant to this Ordinance, and not convey title to any real property of the Township.
- C. Township repurchase of burial rights. Each sale of a burial right shall be deemed subject to the Township having an absolute right of first refusal to re-purchase an unused burial right at the original purchase price, upon written request of the purchaser or the heirs or other legal representatives of the purchaser, or the purchaser's lawful transferee.
- D. Transfer of burial rights. A right of burial in a township cemetery is not transferable without the specific prior authorization of the Township Board; provided, the Township Clerk, and the Sexton as the designee of the Clerk, is hereby authorized to approve a transfer of burial rights to a person who would at the time of such transfer request be eligible to purchase a burial right pursuant to Section 3 A. of this Ordinance, and pursuant to the following procedures:

1. The Clerk or Sexton shall evidence an approved transfer of burial rights by either endorsing such transfer on the original burial right permit issued by the Clerk or Sexton, or by issuance of a new burial permit for the specified burial space.
2. The Township Clerk shall retain the original record of such transfer in the official cemetery records of the Township, and shall provide a copy of such record to the transferee.

E. Reversion of burial right. A burial right shall be considered abandoned and reverted to the Township in the following circumstance:

1. Where a burial right is issued on or after the effective date of this Ordinance, but is not thereafter used for purposes of interment for the subsequent period of 52 years.

Where the Township Clerk determines this circumstance to exist, the Clerk shall send written notice of the foregoing to the last known address of the purchaser of the burial right or their known next of kin, indicating a right of burial in the specified burial space shall revert to the Township unless within the subsequent 60 days sufficient arrangements are made with the Township Clerk to indicate the burial right shall be retained. Such burial right shall thereafter either be retained, transferred, or reverted as provided herein.

The Township Clerk shall audit unused burial spaces every 25 years, or such other shorter period as time as the Clerk may consider expedient to efficiently administer this provision and prudently account for unused burial spaces that may be reverted to the Township as provided herein.

SECTION 4

BURIAL RIGHT PURCHASE PRICE AND TRANSFER FEES; GRAVE OPENING/CLOSING CHARGES

- A. Ratification of present fees and charges. All presently applicable fees and charges previously established by the Township Board in whatever manner for the purchase of burial rights, transfer fees, grave opening/closing, and installation of marker foundations, are hereby ratified.
- B. Revising fees and charges. The Township Board may hereafter by resolution or motion periodically revise any or all of the foregoing fees and charges as the Board considers appropriate to assure a proper level of funding for township cemetery operation, maintenance, and acquisition.
- C. Payment required. No burial right shall be sold or transferred, and no grave opened/closed, unless and until payment of the specified charge/fee is received by the Township Clerk, or by the Sexton as the designee of the Clerk.

- D. Cemetery fund. All revenues received by the Township with respect to the operation of the township cemeteries shall be deposited in a “cemetery fund” and/or in such other fund(s) as the Township Board may lawfully direct.

SECTION 5

CEMETERY LAYOUT AND INTERMENT REGULATIONS

- A. Cemetery layout. Except as otherwise developed before the effective date of this Ordinance, all township cemeteries shall be laid-out in an organized manner using a system of lots and burial spaces, and appropriately located access roads. A cemetery “lot” shall consist of an area sufficient to accommodate from four to eight burial spaces. The area and depth of a “burial space” shall be determined by the Sexton and as may be required by any applicable law.
- B. Right of interment. A burial permit shall constitute a right of interment in the designated burial space to the permittee, or any of the following upon request of the permittee: spouse, parent, or child. If the permittee is deceased the specified burial space may be used by an heir of the deceased permittee as specified by the statutes of intestate descent.
- C. Interment regulations. The following regulations shall apply to all interments:
1. All interments of a body shall require a standard concrete or steel vault installed in the designated burial space before interment. A vault is not required for cremated remains.
 2. The Township Clerk, or the Sexton as the designee of the Clerk, shall be given at least 48 hours advance notice of the time of a funeral to allow for proper opening of the burial space; and the Clerk or Sexton are authorized to further extend this time of required advance notice during winter or other adverse conditions.
 3. The burial permit for the specified burial space must be presented to the Sexton or other authorized personnel of the Township prior to grave opening and interment. In the absence of a burial permit, or other satisfactory legal evidence of a right of interment predating Township issuance of burial permits, the Township reserves the right to refuse to open any burial space and allow interment therein.
 4. Winter full burials and cremation burials may be subject to additional weather-related conditions set by the Clerk or Sexton, and such additional fees as may be approved by the Township Board due to such conditions.
 5. If for any reason an opportunity for interment in a designated burial space cannot be provided by the Township, the Township shall designate an alternate burial space to prevent unreasonable delay in interment, after consultations between the family or executor and the Sexton and/or Clerk and a reasonable effort to come to an agreement with respect to a proper

alternate burial space. The Sexton shall make the final decision with respect to a suitable and proper alternate burial space, subject to timely appeal by the family or executor to the Township Board. The Township shall not be held liable for any actions associated with the selection of a necessary alternate burial space.

- D. Single burial space limits. A single burial space shall be used for burial of only the following:
1. A single casket with any of the following:
 - a. the body of one person.
 - b. the bodies of a parent and infant child buried at the same time.
 - c. the bodies of two minor children buried at the same time.
 2. A single casket and the cremated remains of not more than one additional person, with the casket being interred first.
 3. The cremated remains of not more than two persons.
- E. Disinterment/reminterment. Interred remains of a human body shall not be disinterred and/or reinterred unless a permit for such disinterment/reinterment issued by the Allegan County Health Department under applicable statutory requirements is presented to the Township Clerk, or the Sexton as the designee of the Clerk; or, the alternative, pursuant to issuance of a disinterment/reinterment order by the Allegan County Circuit Court. Any disinterment/reinterment for which the Allegan County Health Department has issued a permit shall thereafter take place in accordance with procedures required by the permit and as prescribed by applicable statutes.
- F. Improper placement of remains. The Township reserves the right to designate new lots and/or burial spaces in the event of past incorrect lot/burial space sales and/or improper burials in the cemeteries of Rowe, Lindsley, Baseline, or Pierson, and to otherwise make such changes as may be necessary to maintain the cemeteries in an organized manner, and shall not be held liable for any such necessary actions.

SECTION 6

REGULATIONS FOR MONUMENTS, MARKERS AND MEMORIALS

- A. One temporary marker. Prior to any interment (casket or cremated remains) it shall be the responsibility of the family of the deceased and/or funeral home to obtain and make available to the Sexton a non-perishable temporary marker which shall be placed thereon by the Sexton and which shall remain on the burial space until replaced by a foundation and permanent marker as provided herein.
- B. One permanent marker. Each burial space may have only one above-grade permanent monument, marker, or other memorial, made of stone or other equally

durable material (hereafter referred to as a “marker”); and one at-grade permanent plaque or marker made of bronze, stone, or other equally durable material.

- C. Marker foundation. All markers shall be located on a solid foundation sufficient to indefinitely maintain the same in a stable and upright position. All such foundations shall be either installed by the Sexton, or by another person authorized by the Township Clerk and with prior approval of the foundation size, material and location by the Sexton.
- D. Marker appearance and approval. All markers shall be consistent with and conform to the general plan and appearance of the cemetery, and prior to installation shall be subject to approval by the Sexton or by another person authorized by the Township Clerk.
- E. Marker removal. The Township Board may order the removal of a marker that has fallen into disrepair, upon recommendation of the Sexton or Township Clerk, after giving 30 days written notice of same to the purchaser of the burial space at the last known address of the purchaser, or if the purchaser is deceased to the known next of kin.

SECTION 7

GROUND MAINTENANCE REGULATIONS

- A. Ground surface alterations. No sod removal, grading, leveling or excavating upon any burial space, or other general alteration of any cemetery grounds, shall take place without prior permission and supervision of the Sexton or Township Clerk.
- B. Trees and shrubs. Trees or shrubs shall not be planted on any burial space or elsewhere in a township cemetery without prior written approval from the Township Clerk upon recommendation of the Sexton.
- C. Plants and flowers. Plants and flowers may be ground-set in a space not exceeding 12” wide next to, in front of, and along the length of a marker on a burial space. Plants and flowers may also be ground-set on a burial space without a marker, in an area not exceeding 12” by 24” and in-line with other markers. Urns and other above-ground containers for cut flowers or potted plants are permissible if placed alongside a marker or in place of a marker.
- D. Temporary decorations. All persons who place live or artificial plants, dried flowers, wreaths, papers, seasonal flower containers or other items of a temporary or seasonal nature shall remove and properly dispose of those items before they become unsightly. All such seasonal items not removed by the owner before the ensuing April 1 of each year shall be deemed abandoned and may be removed and disposed of by the Sexton or other cemetery maintenance personnel.
- E. Prohibited items. Vegetative and non-vegetative items are prohibited from being placed on or within a burial space and vicinity, except as expressly provided by this Ordinance. In addition, the following items are explicitly prohibited: any means of

encirclement of a burial space by plants, shrubs, trees, bark, stones, fencing, or any other means of encirclement; glass containers; mounds; curbs; dividers; benches; steps; and any structures made of wood or other degradable/perishable materials.

F. Remedial actions. The Sexton and/or other designee(s) of the Township responsible for cemetery maintenance is authorized to take all of the following actions throughout any township cemetery:

1. Remove or trim any tree or shrub planted without prior approval.
2. Remove or trim any item of vegetation of any kind not located in compliance with the foregoing regulations, or otherwise in the interest of maintaining the proper appearance of the cemetery.
3. Remove and dispose of any item of any kind that has become unsightly through decay, deterioration, damage, or otherwise; or that has become a source of litter; or that is impeding proper maintenance of the cemetery or otherwise causing a maintenance problem.
4. Remove and dispose of grave decorations or enhancements of any kind that in the judgment of the Sexton or Clerk are not compatible with the cemetery.
5. Remove and dispose of any prohibited items, or any other items that are dangerous, or cause additional work for cemetery maintenance personnel.

G. Township care and maintenance obligation limits. Such general legal obligation as the Township may have for the perpetual care and maintenance of the cemeteries of the Township and/or burial spaces therein shall not require the Township to do any of the following:

1. Repair or replace any private marker, flowers, or other decoration of any kind; except when an otherwise permissible and properly placed such private marker/flowers/other decoration was damaged by the negligence of Township personnel.
2. Irrigate the grass, trees/shrubs, or any individual planting or flowers.
3. Reconstruct, repair or replace any cemetery buildings or structures, or markers, due to any vandalism, natural disasters, or acts of war.
4. Implement any specific standard of care/maintenance, going beyond statutory requirements, if any.

H. No liability. Neither the Township, nor any official of the Township, including but not limited to the Clerk and Sexton, shall be held liable to any party or responsible in any manner for actions implementing the proper enforcement of the regulations in this Ordinance, or for any damage to markers resulting from cemetery maintenance, vandalism, or any acts not within the direct control of the Township (except such

limited liability as the Township has voluntarily accepted pursuant to preceding subsection G.1.).

SECTION 8

CEMETERY VISITATION REGULATIONS

- A. Open to public. The cemeteries of Cheshire Township shall be open to the general public from dawn to dusk of each and every day; subject to temporary closure of an area for public safety during the opening of a burial space, during adverse conditions, and as may otherwise be directed by the Township Board in special circumstances.
- B. Vehicular traffic. All vehicular traffic in a cemetery shall remain on the designated roadways, and shall travel at a slow and respectful speed not exceeding 10 mph.
- C. Respectful conduct. All persons visiting a grave or otherwise on cemetery property for any reason shall conduct themselves with proper decorum and respect for the deceased and other persons visiting graves.
- D. Alcohol/drugs prohibited. Consumption of alcoholic beverages or illegal drugs is strictly prohibited on township cemetery property.
- E. Animals prohibited. Dogs and other animals are prohibited on cemetery grounds at all times; except leashed service dogs accompanying a visually or hearing impaired person.

SECTION 9

TOWNSHIP BOARD APPROVAL OF ADDITIONAL RULES AND REGULATIONS

The Township Board is hereby authorized to approve by resolution such other and supplementary rules and regulations pertaining to the operation, control, management, and use of the township cemeteries as the Board considers advisable and in the public interest, and give notice of any such rules and regulations by posted signage or other means of public notification.

SECTION 10

SANCTIONS FOR VIOLATIONS

- A. Municipal civil infraction violations. Except as otherwise provided below, any person who violates any provision of this Ordinance or any supplementary rule or regulation approved by the Township Board hereunder shall be responsible for a municipal civil infraction punishable by a minimum fine of \$250.00, court costs, and all expenses incurred by the Township in connection with the matter. Any violation of this Ordinance shall also provide cause for the Township to request a court of competent jurisdiction to issue and enforce any judgment, writ, or other order necessary to enforce the Ordinance.

- B. Misdemeanor violations. Notwithstanding the preceding paragraph, a violation of the cemetery visitation rules in Section 8.C and D of this Ordinance shall be a misdemeanor punishable by a fine of \$500.00 and/or imprisonment for 93 days. Note: this misdemeanor provision is included with the specific intent to provide the legal authority for a certified law enforcement officer with jurisdiction in Cheshire Township to either issue an appearance ticket or make a custodial arrest where the officer otherwise has legal grounds to proceed in that manner.

SECTION 11

SEVERABILITY

The provisions of this Ordinance are declared to be severable, so that if any part is declared invalid by a court of competent jurisdiction such decision shall not affect or invalidate the remainder of the Ordinance which shall continue in full force and effect.

SECTION 12

EFFECTIVE DATE AND REPEAL

This Ordinance shall take effect 30 days after publication as required by law. All conflicting ordinances/resolutions or parts of ordinances/resolutions and conflicting regulations are hereby repealed.

Peter Hetzel, Clerk
Cheshire Township