

*effective 8/24/12*

**CLEARWATER TOWNSHIP  
ORDINANCE NO. 25  
CEMETERY ORDINANCE**

An Ordinance to protect the public health, safety and general welfare by establishing regulations related to the operation, control, and management of cemeteries owned by the Township of Clearwater, Kalkaska County, Michigan; to provide penalties for the violation of said Ordinance; and to repeal all ordinances or parts of ordinances in conflict therewith.

**THE TOWNSHIP OF CLEARWATER, COUNTY OF KALKASKA, MICHIGAN, ORDAINS:**

**Section 1: TITLE**

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

**Section 2: DEFINITIONS OF CEMETERY LOTS AND BURIAL SPACES**

A **cemetery lot** shall consist of burial spaces sufficient to accommodate from one to four burial spaces.

An **adult burial space** shall consist of a land area five feet wide and ten feet in length.

**Section 3: SALE OF LOTS OR BURIAL SPACES**

Hereafter, cemetery lots or burial spaces shall be sold only to residents or taxpayers of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth. The Township Clerk, however, is granted the authority to vary the aforesaid restriction of sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred therein.

All such sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial spaces sold. Such form shall be executed by the Township Clerk.

Burial rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be effected only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Clerk, approved by said Clerk, and entered upon the official records of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit to the assignee and shall cancel and terminate upon such records, the original permit thus assigned.

Lot owners shall not allow interments in their lots in return for remuneration of any kind.

#### **Section 4: PURCHASE PRICE AND TRANSFER FEE**

The Township Board, by resolution, may periodically set and adjust the fee for burial spaces or transfer of burial spaces to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

The Township Board may waive all fees for the burial of cremated remains of indigent persons who have a connection with residents of the township. A burial site in the cemetery is set aside for the cremated remains of indigent persons.

#### **Section 5: GRAVE OPENING CHARGES**

The Township Board shall from time to time by separate resolution establish the fee for the opening and closing of a burial space, prior to and following a burial therein, including the interment of cremains.

The fee established pursuant to the subsection above shall be paid to the Township Treasurer and deposited in the cemetery fund for the particular cemetery involved. The Township Treasurer shall then pay from the cemetery fund any fees due the Cemetery Contractor for services rendered.

No burial space shall be opened and closed, except under the direction and control of the Township Clerk or Cemetery Contractor. However, this provision shall not apply to proceedings for the removal and re-interment of bodies and remains that are under the supervision of the local health department.

#### **Section 6: MARKERS OR MEMORIALS**

All markers or memorials must be of stone or other equally durable composition.

Any monument must be located upon a suitable solid foundation to maintain the same in an erect position.

Only one monument, marker or memorial shall be permitted per burial space. Monuments are to be placed at the west end of the grave site only except in the case of the single lots where the monument would be placed at the south end of grave site.

No more than four markers per grave site. In the event there are two or more cremains in one burial space, individual markers shall be flush with the ground.

Should any monument or memorial become unsightly, dilapidated or a safety hazard, the Board shall have the right, at the expense of owner, to correct the condition or remove the same.

#### **Section 7: INTERMENT REGULATIONS**

Burials are generally permitted from April 1 to December 1, however, this is dependent upon weather. The final decision will be left to the Cemetery Contractor.

Not less than 48 hours' notice shall be given in advance of any funeral to allow for the opening of the burial space.

Only one person may be buried in a burial space except for a mother and infant or two children buried at the same time. For interment of cremains, up to four cremains may be buried in one burial space. Use

of the Cemetery Contractor is not required for the burial of cremains. Cremains should be buried approximately 2' deep.

The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the Cemetery Contractor or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.

All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

No lot shall be used for any other purpose than the burial of the human dead.

### **Section 8: GROUND MAINTENANCE**

No grading, leveling, or excavating of a burial space shall be allowed without the permission of the Cemetery Contractor or the Township Clerk.

No shrubs or trees shall be planted without the approval of the Cemetery Contractor or the Township Clerk. Any of the foregoing items planted without such approval may be removed by the Township or the Cemetery contractor.

The Township board reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and use of the cemetery.

Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.

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 and deterioration have become unsightly, a source of litter, or a maintenance problem.

Surfaces other than earth or sod are prohibited.

All refuse of any kind or nature including, among other, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

### **Section 9: FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES**

Cemetery lots or burial spaces sold after the effective date of this Ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:

- A. 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 of the expiration of the 40 year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the notice his desire to retain such burial rights.
- B. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces or his heirs or legal representative within 60 days from the date of mailing of said notice.

It is the responsibility of the lot owner to notify the Board of any change of address.

**Section 10: REPURCHASE OF LOTS OR BURIAL SPACES**

The township will repurchase any cemetery lot or burial space from the owners for the original price paid the township upon the written request of said owner or his legal heirs or representative.

**Section 11: RECORDS**

The Township Clerk shall maintain records concerning all burials, issuance of burial permits, and any perpetual care fund, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

**Section 12: VAULTS**

All 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.

Cremains shall be in an approved container.

**Section 13: PENALTIES**

Any person, firm or corporation who violates any of the provisions of the within Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of up to \$100.00 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction.

**Section 14: VALIDITY**

If any section, provision or clause of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any remaining portions or application of this Ordinance, which can be given effect without the invalid portion or application.

**Section 15: EFFECTIVE DATE; REPEAL**

This Ordinance shall become effective the day following its publication in a newspaper of general circulation within the township. All ordinances or part of ordinance in conflict herewith are hereby repealed.

TOWNSHIP OF CLEARWATER

By: Larry Niederstadt Date 8-15-12  
Larry Niederstadt, Supervisor

By: Barbara L Crambell Date 8-15-12  
Barbara Crambell, Clerk