

**LINCOLN TOWNSHIP
CEMETERY ORDINANCE
No. 03-01
Amended February 2007
Amended October 2021**

An ordinance to protect the public health safety and general welfare by establishing regulations relating to the operation, control, and management of the cemetery or cemeteries owned by the Township of Lincoln, Newaygo 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 LINCOLN (the "Township"), COUNTY OF NEWAYGO, MICHIGAN ORDAINS:

Section 1: Title

This ordinance shall be known and cited as the "Lincoln Township Cemetery Ordinance" (the "Ordinance"). This Ordinance shall apply to any and all cemeteries located within the Township, which are owned or controlled by the Township.

Section 2: Definitions of cemetery lots and burial spaces

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

- A. Description of all burial sites will be in accordance with the cemetery plot, which is kept on file in the Treasurer's office and the Sexton's office.
- B. The Township Board reserves the right to enlarge, reduce, replot, or change the boundaries or grading of the cemetery or a section thereof or of any unused burial site. The Township Board reserves to itself and to its employees the rights of ingress and egress over burial sites for the purpose of maintenance or of passing to and from other burial sites.
- C. Unless changed by the Township Board as specified above, a burial space shall consist of a land area four (4) feet wide and ten (10) feet in length.

Section 3: Lots or burial spaces

- A. Hereafter, cemetery lots or burial spaces shall be sold for the purpose of the burial of such purchaser or his or her eligible heirs at law or next of kin. No sale shall be made to funeral directors or others except as otherwise set forth in this Ordinance.
- B. 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 space sold. The Township Sexton shall execute such form.
- C. 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 effectuated only by endorsement of an assignment of such burial permit upon the original burial permit form issued by the Township Sexton, approved by said Sexton, and entered upon the official records of said Sexton. Upon such assignment, approval and record, said Sexton shall issue a new burial permit to the assignee and shall cancel and terminate upon such records, the original permit thus assigned. No transfer shall occur or be effective until and unless approved by the Township Sexton.
- D. Eligible purchasers of cemetery lots or burial spaces shall be any person who resides within the Township at the time of purchase or who owns any real property within the Township at the time of purchase. An eligible purchaser may also purchase cemetery lots or burial spaces for any of the following individuals related to that eligible purchaser-spouse, children, parent, or sibling. The township Board is hereby granted the authority to vary the aforesaid restrictions on sales where the purchaser discloses sufficient person reason for burial within the Township through previous residence in the Township or relationship to persons already interred in the Township cemetery involved.
- E. The Township Board shall have the right by resolution to limit the number of cemetery lots or burial spaces sold to any individual purchaser.

Section 4: Purchase price and transfer fees

- A. Unless changed by the Township Board as specified hereinafter, each burial space shall cost the sum of \$100.00 for township residents.
- B. Unless changed by the Township Board as specified hereinafter, each burial space shall cost the sum of \$500.00 for non-Township residents or anyone not owning land within the Township.
- C. Unless changed by the Township Board as specified hereinafter, any transfer of one or more burial spaces from an original purchaser to a qualified assignee shall cost \$50.00.
- D. The foregoing charges shall be paid to the Township Treasurer and shall be deposited for the cemetery care.

- E. The Township Board, by resolution, may periodically alter the foregoing fees to accommodate increased costs for cemetery maintenance and acquisition.
- F. The cemetery lot certificate issued by the Township Board and a copy of this Ordinance shall constitute the agreement between the Township Board and the certificate owner. The statement of any employee or agent, unless confirmed in writing by the Township Board, shall in no way bind the cemetery or the Township.
- G. It is the responsibility of the certificate owner to promptly notify the Township Board of any change of address.
- H. No burial site shall be used for any other purpose than the burial of the human dead.

Section 5: Grave opening charges

- A. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township.
- B. No burial spaces shall be opened and closed except under the direction and control of the cemetery Sexton. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the local health department or the courts.

Section 6: Markers or memorials

- A. All markers or memorials must be of stone or other equally durable composition.
- B. Any large upright monuments must be located upon a suitable foundation to maintain an erect position. Before removing or repairing a broken or decaying marker or memorial, the Township shall make reasonable efforts to notify the purchaser or his or her heirs at law or next of kin. *If no response in writing is received within 60 days from the date of mailing of a written notice the Township may at its own expense repair or remove the marker or memorial.*
- C. Only one monument shall be permitted per burial space.
- D. The footing or foundation upon which any monument, marker, or memorial must be placed shall be constructed by the Township at the cost to the owner of the burial right with the following specifications:
 1. Must be installed at the head (front) of grave.
 2. Must be four (4) inches larger, on all sides, than the monument, with edged sides. The footing shall be ground level. (Revised 4-19-07).
 3. Must extend 1 to 1 1/2 feet below ground level.
- E. No advertising is permitted in the cemetery.
- F. No marker or memorial shall be installed in the cemetery prior to approval of the Township Sexton.
- G. No marker or memorial shall exceed forty (40) inches in height. (Revised 4-19-07)

Section 7: Interment regulations

- A. No interment of two or more bodies shall be made in one grave except in the case of a parent and infant child or two infants buried in one casket. No more than two containers of cremated remains may be buried in one burial site.
- B. There shall be no more than one casket per burial site.
- C. Not less than 48 hours prior notice shall be given to the Township in advance of any time of any funeral to allow for the opening of the burial spaces.
- D. 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 Sexton or the Township Treasurer prior to interment. Where such permit has been lost or destroyed no interment shall occur until and unless the Sexton shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one.
- E. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.
- F. Once a casket containing a body is within the confines of the cemetery, no funeral director nor his or her embalmer, assistant, employee, or agents shall be permitted to open the casket or to touch the body without consent of the legal representative of the deceased or unless done pursuant to an order signed by a court of competent jurisdiction.

Section 8: Ground maintenance

- A. No grading, leveling, digging, or excavating at, on, or upon any burial space or anywhere within a cemetery shall occur or be allowed without the prior express permission of the cemetery Sexton or Township Treasurer.
- B. No flowers, shrubs, trees, or vegetation of any type shall be planted or installed without the prior express approval of the cemetery Sexton. The Township or the cemetery Sexton may remove any of the foregoing items planted without such approval.
- C. The Township Board or Sexton reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- D. All fresh or plastic flowers must be placed in a non-breakable container.
- E. Mounds, which hinder the free use of a lawn mower or other gardening apparatus, are prohibited.

- F. The cemetery Sexton shall have the right and authority to remove and dispose of all growth, emblems, displays, containers, benches or any other object that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem. (Revised 4-19-07)
- G. Surfaces other than earth or sod are prohibited.
- H. No fences, walls or copings are permitted and burial sites shall be maintained at grade level.
- I. All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in waste containers located within the cemetery. No more than a combination of two (2) flower containers or urns shall be placed on a single burial space. (Revised 4-19-07)
- J. Vehicles shall be driven or parked on established drives only, except for maintenance purposes by Township employees.
- K. No children are allowed in the cemetery without adult supervision.
- L. No person shall allow animals into the cemetery.
- M. Flowers, trees, or shrubs are not to be picked, disturbed or mutilated by visitors. The Township Board may give the Sexton the right to enter any lot or place within a cemetery and remove any trees, shrubs, or any objects as are detrimental, unsightly or inconvenient.
- N. Alcoholic beverages are not allowed on cemetery premises.
- O. No one is permitted to walk upon or across lots or lawns unless it is reasonably necessary to do so to gain access to one's own lot or to visit a specific gravesite. The cemetery expressly disclaims liability for any injuries by anyone violating this rule.
- P. No firearm shall be discharged on cemetery property. This prohibition shall not apply to authorized volleys at burial services. The liability rests upon the authorized party.
- Q. Employees of the cemetery are not permitted to do any work for lot owners except upon prior order of the Sexton, but are required to be courteous to all visitors.
- R. The placement of flowers or urns must be within one (1) foot of the headstone.
- S. All vases, containers, urns, trinkets, etc. must be removed by October 1st of each year for the purpose of fall cleaning.
- T. No benches, chairs or seating of any type shall be placed in the cemetery. (Revised 4-19-07)

Section 9: Forfeiture of vacant cemetery lots or burial spaces

Cemetery lots or burial spaces sold after the effective date of the ordinance and remaining vacant 50 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 or her of the expiration of the 50 year period and that all rights with respect to said lots or spaces will be forfeited if he or she does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the written notice his or her desire to retain said 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.

Notwithstanding the above, the Township may utilize any other procedure authorized by the law for forfeiture or reverter of vacant cemetery lots or burial spaces.

Section 10: Repurchase of lots or burial spaces

The Township may, at its option, repurchase any cemetery lots or burial space from the owner for the original price paid the township upon written request of said owner or his or her legal heirs or representatives.

Section 11: Records

The cemetery Sexton 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. Such records shall be maintained in compliance with the Michigan Freedom of Information Act, as amended. Furthermore, such records shall be kept at Township Hall or such other location as is designated by the Township Board.

Section 12: Cemetery hours

- A. The cemetery shall be open to the general public from the hours of 6:00 AM to 9:00 PM each day.
- B. No person shall be permitted in a Township cemetery at any time other than the foregoing hours, except upon the express prior permission of the Township Board or the Sexton of the cemetery.

Section 13: Prohibited Acts

- A. No person shall destroy, deface, apply graffiti to or otherwise harm any monument, sign, tree, or other lawful item located within a Township cemetery. This prohibition shall not apply to the Township or a Township employee when lawfully repairing or removing a monument, sign, tree or other item within a cemetery.
- B. No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully located on the grounds of any Township cemetery.

Section 14: Violations

A violation of the Ordinance constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinances, or any approval issued hereunder, or any amendment hereof, 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 fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) 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 provisions of this Ordinance committed by the same person within twelve (12) months of a 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.

Section 15: Severability

The provisions of this ordinance are hereby declared to be severable and should any provision, section or part thereof be declared invalid or unconstitutional by any 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 16: Effective Date

This ordinance shall take effect thirty (30) days after either this Ordinance or a Summary hereof is published in the newspaper as provided by law. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by the Township Board member Tom Worden, and was seconded by Township Board Member George Dickinson, the vote being as follows:

YEAS: Dennis Dickinson, Tom Worden, George Dickinson, Sharon Noggle, and Buck Geno.

NAYS: None

ABSENT: None

ORDINANCE DECLARED ADOPTED.

Sharon Noggle
Lincoln Township Clerk

CERTIFICATION

I hereby certify that the above is a true copy of an ordinance adopted by the Lincoln Township Board at a regular meeting held on February 22, 2007 at The Township hall, pursuant to the required statutory procedures.

Dated: _____

Sharon Noggle
Lincoln Township Clerk