

## CEMETERY ORDINANCE

### **Section 1: Title**

This Ordinance shall be known and cited as the “Laketon Township Cemetery Ordinance”.

### **Section 2. Purpose and Intent**

The Laketon Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or 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 3. Definitions**

- (a) A "cemetery plot" shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area as established by the Township. Exceptions may be made with Township permission to accommodate infant burial or the burial of cremains.
- (b) A “cremains plot” shall consist of an area in a Township cemetery for the burial of cremains only.
- (c) "Township" means Laketon Township.
- (d) "Township cemetery" or "cemetery" means any cemetery owned, operated and/or controlled by the Township.

### **Section 4. Sale of Cemetery Plots; Nontransferable**

- (a) After the effective date of this Ordinance, plots shall be sold by the Township for the purpose of burial for the purchaser of a plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of plots shall be made on a form approved by the Township Board and signed by the designated Township official, which grants a right of burial only and does not convey any other title or right to the plot or burial space sold. Such forms shall be signed by the Township Clerk or Deputy Township Clerk, and shall constitute a permit when approved.
- (c) Plots are nontransferable, but may be sold back for the original purchase price to the Township for resale by the Township. The Township may, but is not required to, repurchase plots.
- (d) The Township Board shall have the authority to place a limit on the number of plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular plot or plots will be sold to a specific person and

where such plot or plots will be located and within which Township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant plots available and whether family or relatives of the person seeking to purchase a plot or plots are buried adjacent or nearby the plot or plots requested.

- (e) The Township shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any plot, either by canceling the permit for a particular vacant plot or plots and substituting and conveying in lieu thereof another vacant plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the plot 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 plot in a similar location in the same Township cemetery in accordance with law.
- (f) The owner of every plot shall be responsible for notifying the Township whenever that person's mailing address changes.

#### **Section 5: Purchase Price and Fees**

- (a) The Township Board, by resolution, may periodically establish the cost of plots and establish other fees for the cemetery and for needed reserve funds for cemetery maintenance and acquisition.
- (b) All charges shall be paid to the Township Treasurer.
- (c) Costs and fees are listed on Schedule A attached to this ordinance.

#### **Section 6. Grave Opening Charges**

- (a) The Township may charge reasonable fees for the opening and closing of any plot, prior to and following a burial therein, and including the interment of cremains. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No plot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Board. This subsection B 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 shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.

#### **Section 7: 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 the same in an erect position.
- (c) Only one monument, marker or memorial shall be permitted per plot, with the

exception of a military marker or family marker for adjacent graves.

- (d) The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the township at cost to the owner of the burial right per Schedule A attached.
- (e) Should any monument or memorial (including any monument or memorial that was 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 plot, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the plot prior to any such work beginning.
- (f) The maintenance, repair and upkeep of a cemetery memorial, 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, memorial, urn or similar item.

### **Section 8. Interment Regulations**

- (a) Type of burials allowed in a Cemetery Plot:
  - One full burial
  - One full burial and infant
  - Two children buried at the same time in one vault
  - One full burial and up to four cremains
  - Six cremains
- (b) Type of burials allowed in a Cremains Plot:
  - One cremains or the number designated by the Township for a particular plot
- (c) The Township shall be given not less than 24 hours' prior notice in advance of any funeral to allow for the opening of the plot. The opening and closing of cemetery plots shall be done only by the Township or such person or persons as are designated by the Township.
- (d) The appropriate permit or form issued by the Township for the plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the Township Sexton or the Township Clerk (or designated Township official) prior to interment.
- (e) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the plot involved.

### **Section 9. Disinterments**

- (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) The Township shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave if the disinterment or digging up of an occupied grave is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.

#### **Section 10. Winter Burials**

- (a) The Township may charge additional fees for winter burials.
- (b) If a winter burial cannot occur due to inclement weather, frozen ground or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter burials shall occur without the prior consent of the Township.

#### **Section 11. Grounds Maintenance**

- (a) No flowers, decorations, shrubs, trees, or vegetation of any type shall be planted or placed outside of a permitted urn without the prior written permission of the Township. Any of the foregoing items planted or placed without Township approval will be removed by the Township.
- (b) One urn is permitted for each plot. The urn shall be placed within 14 inches of the side or the back of the grave marker. Urn liners may be placed no earlier than April 1 and must be removed no later than November 1 of each year, or will be removed by the Township. Decorations will be permitted in urns for holidays falling outside of these dates, but only for one (1) month prior and one (1) month following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (c) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township.
- (d) The Township reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) After 10 days written notice to the owner or responsible person, 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, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (g) Surfaces other than earth or sod are prohibited.
- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery

within 10 days after a burial.

- (i) No fences, shepherds hooks, glass containers or glass items are allowed.

### **Section 12. 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 burial monument, headstone, flower urn or other item placed at or near a plot, burial site or anywhere in a Township cemetery. The purchaser or transferee of any plot 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 plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Township, but also as to the Township Sexton and any Township employee, officer, official or agent.

### **Section 13. Forfeiture of vacant plots or burial spaces**

Plots or burial spaces remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon the 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/her of the expiration of the 40-year period and that all rights with respect to said plots or spaces 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
- (b) No written response to said notice indicating a desire to retain the plots or burial spaces in question is received by the Township Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

### **Section 14. Repurchase of Plots or Burial Spaces**

The Township may repurchase any plot from the owner for a price set by the Township Board, upon the written request of said owner or his or her legal heirs or representatives

### **Section 15. Records**

The Township Clerk shall maintain records concerning all burials, issuance of burial permits, 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 16. Vaults**

All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each plot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.

## **Section 17. Cemetery Hours**

- (a) The cemetery shall be open to the general public from the hours of dawn to dusk each day.
- (b) No person shall be permitted in the township cemeteries at any time other than the foregoing hours, except upon permission of the township board.

## **Section 18. Prohibited Uses and Activities**

The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item or property 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. There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (c) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (d) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (e) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (f) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (g) There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- (h) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (i) There shall be no disinterment or grave openings unless approved by the Township.
- (j) There shall be no possession or consumption of any alcoholic beverage.

- (k) There shall be no picnicking or consumption of food without prior Township approval.
- (l) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
- (m) There shall be no private signs, moving displays, no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (n) There shall be no littering, dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- (o) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (p) There shall be no fires, candles or open flames.
- (q) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (r) There shall be no exceeding of posted speed limits.
- (s) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds except those on a proper leash. However, this prohibition shall not apply to dogs assisting handicapped persons.
- (t) 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.
- (u) No person shall engage in any fight, quarrel or disturbance.
- (v) Cremains or ashes of a deceased person shall not be scattered or dispersed.

#### **Section 19. Authority of the Township Sexton**

- (a) The Township Board may appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Township Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.

- (c) The Township Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

## **Section 20. Fees**

The Township Board shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

## **Section 21. 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 22. 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. The Township Board (or its designee) is also authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.
- (b) Any party aggrieved by any interpretation or decision made by the Township 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 plot, 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 23. Penalties**

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. Each day during which any violation continues shall be deemed a separate offense. A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

### **Section 24. 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 county sheriff's department
- Any State Police officer

### **Section 25. Severability**

The provisions of this Ordinance are hereby declared to be severable and should any provision, section or part thereof be declared to be 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 26. Effective Date; Conflicts**

This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member Archer and was seconded by Township Board Member Achterhoff , the vote being as follows:

YEAS: Arter, Archer, Zaagman, Achterhoff

NAYS: None

ABSENT/ABSTAIN: Kane

ORDINANCE DECLARED ADOPTED.

#### **CERTIFICATION**

I hereby declare that the above is a true copy of an ordinance adopted by the Laketon Township Board at a Regular meeting held on June 20, 2013, at the Laketon Township Hall, pursuant to the required statutory procedures.

Dated: June 21, 2013

Respectfully submitted,

By Christina, Laketon Township Clerk

Adopted: June 20, 2013

Published: June 27, 2013

Effective: July 27, 2013