

# WILLIAMSTOWN TOWNSHIP CEMETERY ORDINANCE

## Ordinance # 45

An ordinance to protect the public health, safety and general welfare by establishing rules and regulations relating to the operation, control, and management of cemeteries owned by Williamstown Township, Ingham County, State of Michigan; for the mutual protection of holders of rights of burial and the Township; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

The Williamstown Township, County of Ingham, State of Michigan Ordains:

### **Section 1: Title**

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

### **Section 2: Purpose**

The Williamstown Township cemetery grounds are intended to be used by the living as a place of respectful meditation and quiet visitation by family members and friends of the deceased. Traditional uses include the installation of flowers, flags and related items at the grave site, but does not include installation of any items on the columbaria walls, on the columbarium patio or landscaped area.

### **Section 3: Applicability**

This Ordinance shall only apply to cemeteries owned by Williamstown Township. Private cemeteries are excluded from the provisions of this Ordinance.

### **Section 4: Cemetery Board**

The Cemetery Board recommends policy for the Williamstown Township cemeteries to the Williamstown Township Board. This involves developing recommendations for the Cemetery Ordinance, cemetery procedures, maintenance, improvement and expansion of the cemetery resources, annual budgets and other areas specified by the Township Board.

The voting members of the Cemetery Board shall include a representative from the City of Williamston, a representative from the Williamstown Township Board and two residents of Williamstown Township appointed by the Williamstown Township Board. Currently the City of Williamston provides twelve thousand dollars (\$12,000.00) annually for the support of the cemeteries. As long as the City annually provides the monetary support recommended by the Cemetery Board and approved by the Williamstown Township Board, the City will be allowed

one representative. If the City's contribution to the Cemetery is less than the amount approved by the Williamstown Township Board, the City of Williamston representative will be immediately replaced on the Cemetery Board with a Williamstown Township resident by the Williamstown Township Board.

The staggered terms for the residents will be for four years. Initially one resident will be appointed for four years and the other for two years. Their terms may be renewed for four years. If a vacancy occurs a resident will be appointed by the Williamstown Township Board to complete the term.

The Cemetery Board will meet at least four times a year. More meetings may be held as needed.

## **Section 5: Definitions**

A **holder** or **space holder** is a person holding a right of burial in a particular space or columbarium niche. A **burial space** shall consist of land area forty- eight inches (48") wide and eight or ten feet (8' or 10') in length intended for the interment of human remains. Some older grave sites may vary in size. This does not include any walkways.

A **cremation burial** is the interment of ashes of cremated human remains.

## **Section 6: Sale, Transfer and Repurchase of Burial Rights**

Sale of burial rights 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 space. Said form shall be executed by the Sexton or Township Supervisor or his/her designee.

A space holder shall notify the Sexton and/or Township Supervisor, in writing, of any changes of address or sale, transfer, conveyance, or assignment of burial rights to another party. No such changes shall be effective unless acknowledged in writing by the Sexton or Township Supervisor and recorded in the official township records.

The township may, but shall not be obligated to, repurchase burial rights from a holder who desires to sell at 100% or less of the original purchase price.

The Township may, but shall not be obligated to, exchange burial rights for a space and/or niche for burial rights for another space and/or niche. If the value of the burial rights to a space and/or niche offered in exchange is equal to or more than the value of the burial rights for the requested space and/or niche, the exchange may be made by the Township with no further compensation to the burial rights holder. If the value of the burial rights to the requested space and/or niche exceed the value of the burial rights for the space and/or niche offered in exchange, the purchaser must pay the difference. The value of burial rights for a space and/or niche offered in exchange and the burial rights for the requested space and/or niche will be determined by the price list in effect at the time of the exchange as passed by the Williamstown Township Board.

**Section 7: Forfeiture of Vacant Cemetery Spaces or Burial Spaces Sold After Effective Date of this Ordinance**

After the effective date of this Ordinance, all rights of burial in cemetery burial spaces or columbarium niches that remain vacant for forty (40) years from the date of the sale shall automatically revert to the township upon occurrence of the following events:

When forty (40) years have lapsed from the date of the purchase, notice shall be sent by the Township Clerk by certified letter with return receipt to the last known address of the last holder of record informing them of the 40 year period and that all rights with respect to said spaces shall be forfeited if the holder or their heirs or legal representative does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of the notice from the Township, their desire to retain said burial rights for an additional 40 years.

If no written response to said notice is received by the Township Clerk from the last holder of record of said spaces, or their heirs or legal representative, within sixty (60) days from the date of mailing of said notice, all rights of burial in the space(s) will revert back to the Township. The Township may then sell the rights of burial.

If an owner of rights of burial deems that forfeiture was improper, the owner can appeal the decision to the Township Board.

**Section 8: Forfeiture of Vacant Cemetery Spaces or Burial Spaces Sold Before the Effective Date of this Ordinance**

All rights of burial sold before the effective date of this Ordinance shall not be subject to the forty (40) year forfeiture provision of this Ordinance.

**Section 9: Forfeiture for Neglect or Abandonment**

Pursuant to the Public Cemeteries Act, Act 46 of 1931 at MCL 128.11 *et. seq.*, if the owner of rights of burial in the Williamstown public cemeteries fails and/or neglects for a period of seven (7) years or more to care for and maintain the burial space in accordance with state laws and the provisions of this Ordinance and other Township ordinances and regulations, the Williamstown Township Board may institute proceedings for the termination and forfeiture of the owner's rights and interest in the burial space.

Pursuant to the procedures set forth in MCL 128.12, if the cemetery board determines that the owner of the burial rights has failed or neglected to care and maintain the burial space, the cemetery board shall adopt a resolution reciting this determination. A certified copy of the resolution shall be served on the owner personally by a competent person or shall be sent by first class mail to the owner's last known address.

If within thirty (30) days after the sending of the resolution the owner does not comply or make provisions for complying with the laws, rules, and regulations, the Williamstown Township Board may cause a petition to be filed in the circuit court for the county in which the cemetery is located. The petition shall set forth the facts relating to the sale and ownership of the

burial space, the owner's failure and neglect to comply with the laws, rules, and regulations for the care and maintenance of the burial space, and shall ask for the termination and forfeiture of the owner's rights to the burial space. The petition shall be noticed for a hearing, on a date not less than forty (40) days from the date of filing. Within fifteen (15) days after filing, a copy of the petition with the hearing notice shall be personally served on the owner or copies of the petition shall be sent by first class mail to the last known address of the owner. Notice of the hearing shall be published once each week for three successive weeks in a newspaper of general circulation in the county in which the cemetery is located. The first notice shall be published not less than thirty (30) days before the date of hearing.

After the petition and notice have been served or sent, it is the owner's duty to appear and answer to the allegations of the petition. If the owner fails to appear and answer on the day noticed for hearing, the owner's default may be entered in the manner provided for by law.

Pursuant to MCL 128.13, if the court finds that the owner has failed and neglected for a period of seven (7) years preceding the filing of the petition to comply with the rules and regulations relating to the maintenance and the care of the burial space or spaces, an order shall be entered accordingly, forfeiting and terminating the rights and interest of the owner in and to the burial space or spaces, subject to the provisions of state law and Township ordinances and regulations, and shall further provide that Williamstown Township, through and by its proper board or other officials shall have the right to re-sell such spaces and to use the proceeds derived from the sale as the cemetery board deems necessary for the future maintenance, care, and upkeep of the cemetery pursuant to state and local laws, rules, ordinances, and regulations.

A duly certified copy of the court order shall, within a period of ten (10) days after the entering thereof, be personally served on the owner or shall be sent by registered mail to the owner's last known place of address.

Following the entering of the order, the owner shall have a period of sixty (60) days in which to redeem the right or interest in and to such spaces by paying the costs incurred in the proceeding, not exceeding \$15.00 and by complying with the rules and regulations provided for the care and maintenance thereof, or by making provision for such compliance. If it shall be made to appear to the court at any time before the expiration of the sixty (60) day period that the owner has so redeemed, the right or interest, an order shall be made and entered, setting aside the previous order of termination and forfeiture.

Further, pursuant to MCL 128.15, if at any time during a period of two years from the entering of the order of termination and forfeiture, the owner of the right of burial in any Williamstown public cemetery shall be entitled to reconveyance to him by the Williamstown Township Board or their designee on the payment of the costs and expenses incurred in the termination proceeding, not exceeding \$15.00, and by providing care and maintenance of such spaces. After two years, the Williamstown Township Board or their designee is authorized to re-sell the space and use the proceeds derived from the sale as the Williamstown Township Board or their designee deems necessary for the future maintenance, care, and upkeep of the cemetery pursuant to state and local laws, rules, ordinances, and regulations.

## **Section 10: Records**

The Township Clerk shall maintain records concerning all burials, issuance of burial permits, and perpetual care finds. Records of other revenue and expenditures generated by cemetery operations shall remain separate and apart from any other records of the Township and shall be open to public inspection at all reasonable business hours.

## **Section 11: Correction of Errors**

The Township Board or their designee shall have the right to correct any errors which may be made, either in making interments or disinterment, or in the description, transfer or conveyance of any spaces; either by canceling such conveyance and substituting and conveying in lieu thereof other spaces of equal value and similar location as near as possible, or by refunding the amount of money paid on account of that purchase. In the event the error shall involve the reinterment of remains of any person, the Williamstown Township Board shall have the right to remove and reinter in such other spaces as may be substituted by the Board.

## **Section 12: Space Locations**

Locations of all spaces shall be in accordance with the Cemetery Map, which shall be kept on file in the Township Clerk's office.

The Township Board or their designee reserves the rights to enlarge, reduce, replot or change the boundaries or grading of the cemetery or spaces therein. The Williamstown Township Board reserves to itself and to its employees and contractors the rights of ingress and egress over spaces for the purpose of maintenance or of passing to and from other spaces.

The Cemetery Space Certificate or Rights of Burial (Formerly the Deed) issued by the Sexton or his/her designee and a copy of these rules and regulations shall constitute the agreement between the Board and the space holder.

## **Section 13: Purchase Price, Transfer Fees and Fees For Services**

Purchase prices, transfer fees, and fees for services shall be set by resolution of the Township Board. The Township Board may periodically alter by resolution the fees to accommodate increased costs and needed reserve funds for the cemetery maintenance and acquisition.

## **Section 14: Grave Opening/Closing Charges and Regulations**

The opening and closing of any niche in the columbarium or of any burial space including the interment of ashes of a cremated body, shall be at a cost determined by resolution of the Township Board, payable to the Williamstown Township for the Cemetery Fund.

No burial spaces and niches shall be opened or closed except under the direction and control of the Sexton or his/her designee. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which are under the supervision of the local health department.

Funeral directors making arrangements and collecting fees for interment shall be responsible for all interment charges. If the funeral directors do not collect fees for interment, the space holder or space holder's agent is responsible for all interment charges. Fees must be paid before interment.

When extreme weather conditions prevail, interment may be delayed, at the sole discretion of the Sexton or his/her designee.

### **Section 15: Markers or Monuments**

All markers or monuments shall be of stone, concrete or other equally durable composition. Coping, fences, curbs, benches, steps, structures of wood or other perishable material are prohibited. The materials used, and manner of erecting monuments, headstones, and markers shall be subject to the approval of the Williamstown Township Supervisor or his/her designee or the Sexton. Faceplate markers for the Columbarium must be obtained through the Sexton or Township Supervisor or his/her designee.

Any monument shall be located upon a suitable foundation to maintain the same in an erect position. The Township Sexton or his/her designee, at the expense of the holder of the burial rights or the monument company, shall construct the footing or foundation upon which any marker or monument shall be placed.

Should any monument, marker or urn with cremated human remains become unsightly, dilapidated or dangerous, or increase the difficulty of care required from the caretaking staff, or damage other cemetery foundations, monuments, markers, or urns with cremated human remains, the Township shall have the right, at the expense of the holder, to correct the condition or remove the same after giving 30 days written notice to the last holder of record.

Only one monument shall be permitted per burial space, with the exception of veteran markers. Only one monument shall be permitted on a family burial space. The marker cannot exceed the width of the burial space.

The Township Board reserves the right to make all final determinations on the appropriateness and conformity of individual monuments or markers.

### **Section 16: Interment Regulations**

Not more than one casket shall be buried in a burial space except for an adult casket and an infant casket, when buried at the same time and approved by the Sexton or Supervisor or his/her designee, or in the case of cremation burials.

In all interments, the casket shall be enclosed in a permanent outside container. The following are considered permanent outside containers: concrete, copper or steel burial vaults or concrete boxes. Only approved niches shall be installed in columbaria walls.

Not less than twenty-four (24) hours notice shall be given in advance of any funeral to allow for the opening of the burial space(s). The Sexton or Supervisor or his/her designee may allow an opening and closing in extenuating circumstances.

All burials shall be arranged through the Sexton and/or Township Supervisor or his/her designee. The appropriate permit for burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the Sexton or the Township Supervisor or his/her designee, prior to interment, as provided by State law. Where such permit has been lost or destroyed, no interment shall be commenced until the Township Supervisor or his/her designee is satisfied, from his or her records, that the person to be buried in the burial space is authorized and appropriate. Burial in any township cemetery is restricted to the holder with right of burial, unless written authorization is obtained from such holder or his/her heirs, personal representatives or authorized agent. A new Right of Burial will be issued. The Township reserves the right to refuse burial for good cause.

The Township assumes no responsibility for errors in opening graves when such errors are caused from improper instruction of a holder of the rights of burial or his/her designee. The Township may accept orders from funeral directors as orders from the holders. Under no circumstance shall the Township assume responsibility for error in opening when orders are given by telephone. No graves shall be opened except by the Township.

The Township reserves the right to remove funeral designs and floral pieces as soon as they become unsightly.

No space shall be used for any other purpose than the burial of the human remains and the placing of appropriate memorials. The interment of animals is prohibited.

### **Section 17: Cremation Burial and Columbarium**

A maximum of four (4) cremation burials shall be allowed to be placed in one cemetery burial space. A maximum of two (2) cremation burials shall be allowed on a space containing a previous full burial. All cremation burials shall contain a large metal washer or metal object so the container can be found, if needed, by metal detector. In the columbaria walls, a maximum of two urns shall be interred in each niche and each urn in a niche shall contain only the ashes of one cremated human remains, except when there are simultaneous interments. When there is simultaneous interment of two cremated human remains, the ashes may be commingled in the two urns or in a double urn. The columbarium urns and faceplate markers shall be obtained through the Sexton or Township Supervisor or his/her designee.

### **Section 18: Ground Maintenance/Grave Decoration**

The general care of the cemetery is assumed by the Township and includes the seeding, top-dressing, cutting of grass at reasonable intervals, the raking and/or cleaning of the grounds and the pruning shrubs and trees. It shall also include the upkeep of drives, buildings and fences. Cemetery care shall not include the maintenance of memorial markers or monuments or private plantings. Contractors and their workers engaged within the cemetery on any class of work

whatsoever shall be responsible for any damage done by them to any cemetery properties. The Township shall not be responsible for any kinds of individual planting damaged by the elements, vandals, thieves, or other causes beyond its control.

No grading, leveling, or excavating upon burial space shall be allowed without the permission of the Sexton or the Township Supervisor. No elevated mounds shall be built over graves and no space shall be filled above the grade.

No trees, shrubs, hedges, vines or other growing things shall be placed upon any space except by approval of the Sexton, Township Supervisor or Township Board. Only trees specifically designed for placement in a cemetery shall be allowed. Other plantings shall not exceed thirty-six (36) inches in height and may not encroach on other burial sites. Thorn bearing plants are prohibited. Plantings without permission may be removed without notice.

The Township assumes no responsibility for damages incurred to any marker, urn, shrub or plant that is unintentionally chipped, marred, marked, cut or damaged in the course of normal space care or opening/closing of a grave.

Restrictions on alterations, plantings and adornment of gravesites by persons not employed by the Township are specified in the Cemetery Rules and Regulations pamphlet in force as of the date this ordinance is passed, and as the pamphlet is amended.

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

The Township Board, Sexton or caretaker or their designee shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, neglect and damage or otherwise become unsightly, dangerous, neglected, detrimental, diseased, a source of litter or a maintenance problem, or when they do not conform to the standards maintained.

### **Section 19: Flags for Veterans**

The Township shall furnish a suitable flag holder and the United States flag for the grave of each veteran who served in the armed forces of the United States and who is buried within the limits of a cemetery belonging to the Township. The flag holder and the United States flag shall be placed on the grave of each veteran for the purpose of marking and designating the grave for memorial purposes.

### **Section 20: Cemetery Hours and General Regulations**

The cemetery shall be open to the general public from sunrise to sunset each day.

No person shall be permitted in the Township cemeteries at any time other than the foregoing hours, except upon permission of the Sexton or caretaker of the cemetery or the Supervisor or his/her designee.

No vehicles shall be driven on other than established drives except for maintenance purposes.

No person shall possess or use any alcoholic beverage, or illegal controlled substance, in the Township Cemeteries.

No person shall possess or use any firearm on cemetery property except in the cases of military funerals or ceremonies by official veteran's organizations.

No person shall use any form of advertising on cemetery premises.

No unleashed dog or other domestic animal is permitted in the cemetery. Owners shall clean up after their animals.

### **Section 21: Intentional Damage; Penalties**

No person shall intentionally damage or deface any marker, monument, vegetation or other ornamentation within any cemetery owned by the Township. Any person, firm or corporation who violates any of the provisions of this section shall be guilty of a misdemeanor and shall be subject to a fine of up to \$1,000 or the actual cost of damages whichever is greater and/or imprisonment for up to 90 days in jail and all costs of prosecution. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of. The impositions of any fees and costs shall not exempt the offense from compliance with the requirement of this ordinance.

### **Section 22: Civil Penalties**

Any person, firm or corporation who violates any of the provisions of this Ordinance other than Section 21 or who erects, causes, maintains, or having a responsibility to correct, allows to continue any monument, planting, structure or condition in violation of this Ordinance shall be guilty of a municipal civil infraction and shall be subject to a civil fine of up to \$500 and all costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense. The imposition of any fees and cost shall not exempt the offense from compliance with the requirement of this Ordinance.

### **Section 23: Perpetual Care Fund**

A perpetual care fund shall be established by Williamstown Township Board. A portion of the sale price of the grave spaces and services may be allocated to the perpetual care fund as recommended by the Cemetery Board and designated by resolution of the Township.

The interest earned by the fund shall be used for maintenance or capital improvement.

### **Section 24: Severability**

The provisions of the within 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 such Ordinance which shall continue to full force and effect.

**Section 25: Repealer**

All Ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 26: Effective Date**

The effective date of this ordinance is March 25, 2009.