

TOWNSHIP OF WELLS

Tuscola County, Michigan

CEMETERY ORDINANCE

Ordinance No. 2022-03

The Township of Wells ordains:

SECTION 1: TITLE

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

SECTION 2: PURPOSE AND INTENT

The Wells 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 interest of the property owners and residents of the Township.

SECTION 3: DEFINITIONS

- A. Cemetery Lot-shall consist of an area sufficient to accommodate six (6) burial spaces.
- B. Adult Burial Space-shall consist of a land area approximately forty (40) inches wide and eight (8) feet in length.
- C. Infant or Stillborn Burial Space-shall consist of a land area approximately fourteen (14) inches wide and twenty (20) inches in length in areas set aside specifically for such burials.
- D. Cremation Burial Space-shall consist of a land area approximately three (3) feet by three (3) feet in areas set aside specifically for such burials.
- E. Resident/Taxpayer-a person who claims a “homestead” exemption (as defined by State of Michigan) on property in the Township or a person who pays Township property taxes (tax payer) or an individual who resides in Wells Township for a minimum of 200 days per calendar year.
- F. Non-Resident-a person who does not live in the Township or does not pay taxes in Wells Township.
- G. Owner -shall be the person who purchased the lot or spaces.
- H. Beneficiary- shall be the person the owner assigned to the burial space.
- I. Next of Kin-spouse, children, parents, siblings, grandchildren, grandparents, aunt, uncle, niece or nephew.
- J. Memorials-headstone, monument, bench, or marker to be placed at the head of a burial space.
- K. Sexton-the person or persons duly appointed by the Wells Township Board for purpose of conducting and administering the Township cemetery.
- L. Designated Agent-a person appointed by the Wells Township Board to act as the Sexton in the absence of the Sexton or for sale of spaces/lots in the absence of the Township Supervisor.

SECTION 4: SALE OF BURIAL SPACES AND LOTS

- A. Cemetery lots or burial spaces shall be sold to residents, taxpayers of the Township and non-residents for the purpose of the burial of such purchaser or his or her next of kin at a fee set by Township board resolution.
- B. No sale shall be made to funeral directors or others than as heretofore set forth.
- C. 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. Such form shall be executed by the Township Supervisor or designated agent.
- D. Each burial space purchased, past, present and future shall be assigned the name of the specific person who shall be interred in that space upon death. Original purchaser is the "owner" of the burial right(s). Assigned names are the beneficiaries.
- E. The Township Board shall have the authority to place a limit on the number of lots and/or burial spaces sold. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery lot or space will be sold to a specific person and where such lot or space will be located. Such decisions shall be based on reasonable factors, including, but not limited to, the number of vacant spaces available and whether family or relatives of the person seeking to purchase a lot or space are buried adjacent or nearby the lot or spaces requested.
- F. When a buyer desires to purchase two (2) or more spaces, the Supervisor reserves the right to require that the selection of spaces be made in such a location and manner so as not to leave any isolated single burial spaces alongside those purchased.
- G. The Township shall have the right to correct any errors that may be made concerning internments, disinterment, the description or conveyance of any cemetery lot or space, either by canceling the certificate for a particular vacant lot or spaces and substituting and conveying in lieu thereof another vacant lot or spaces in a similar location within the cemetery at issue or by refunding the money paid for the cemetery lot or spaces to the owner or beneficiary in event the owner has deceased. 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 to interred to another space in a similar location in the cemetery in accordance with the law. The Township will make reasonable attempts to notify the owner/beneficiary of any corrections/changes in need.
- H. Spaces and/or lots are non-transferable.
- I. **The owner of any space or lot shall be responsible for notifying the Township Supervisor whenever that person's mailing address/telephone number changes. In the event the owner has deceased, the beneficiary must notify the Township of their mailing address and telephone number.**

SECTION 5: INTERMENT REGULATIONS

- A. No burial spaces shall be opened and closed, including the interment of cremains except under the direction and control of the sexton or designated agent. This provision shall not apply to proceedings for the removal and re-interment of bodies, which matters are under the supervision of the local health department. Removal of cremains is done by the Cemetery Sexton or designated agent.

- B. No Opening and Closing on Holidays.
- C. Only one (1) person may be buried in an adult burial space except for a mother or father and an infant or two (2) children buried at the same time or one (1) person and one (1) cremation, all of which. Adult spaces purchased before April 9, 1998 may have four (4)) cremains in one (1) adult burial space.
- D. Two (2) cremains allowed per cremation burial space.
- E. One infant/stillborn allowed per infant/stillborn space.
- F. All adult and infant burials shall be within a standard concrete vault installed or constructed in each burial space before interment.
- G. Cremains shall be interred in a non-biodegradable container. No ashes shall be scattered or dispersed within the cemetery.
- H. Cremain burials are only permitted between May 1st and November 1st of each year. The Sexton is authorized to decide if weather permits a cremation burial before or after these dates.
- I. No less than forty eight (48) hours notice shall be given in advance of any funeral to allow for the opening of the burial space. Such notice shall be given to the Sexton.
- J. The appropriate certificate for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to the sexton, prior to interment. Where such permit has been lost or destroyed, the Supervisor 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.
- K. A burial-transit permit is required for transportation and any manner of disposition of a deceased person including interment and cremation. It is unlawful for any Sexton, or other person to permit burial before a burial-transit permit is deposited with the Sexton. The permit must be endorsed by the Sexton and the lot, block and space number of gravesite noted on such permit before forwarding on to the Township Supervisor.
- L. All graves shall be located in an orderly and neat appearing manner.

SECTION 6: MEMORIALS AND FOUNDATIONS

- A. All memorials must be made of granite, marble, bronze, or other material of equivalent durability approved by the Township and shall be placed at the head (west end) of the burial space with the front side (side with engraving) facing the West and shall not encroach upon adjoining lots/spaces belonging to others. No foundations will be installed until memorial marker layout is approved by the Township and the foundation fees are paid in full. Footstones are not permitted.
- B. Only one (1) memorial shall be permitted per burial space except for:
 - 1) Double memorial shall be placed at the head of two (2) contiguous graves or gravesites.
 - 2) The addition of a plaque denoting military service. A bronze (or similar) plaque denoting a veteran's military service may only be affixed to the back side of the memorial or affixed to a foundation placed directly over the grave so that the plaque is level with the turf.
- C. Up to two (2) memorials or one double memorial allowed per cremation burial space as long as it does not encroach adjoining lots/spaces.

- D. The foundation upon which memorial's must be placed on shall be constructed by the Sexton or a contractor designated by the Township Board at a cost to the owner of the burial right or their next of kin. The foundation upon which any memorial must be placed shall extend a minimum of four (4) inches in all directions from the memorial and a maximum of the burial space width size.
- E. Installing foundations is only permitted between May 1st and November 1st of each year. The Sexton is authorized to decide if weather permits installing a foundation before or after these dates. In addition, foundations shall not be poured for a period of 60 days from the date of burial to allow sufficient time for the ground to settle.
- F. Only flush/flat memorials are allowed in Block 3, Block B and Block C from the date of this ordinance. Flush memorials are level with the turf and shall be affixed to an appropriate base.
- G. It is the responsibility of the purchaser of the memorial to either personally, or through the auspices of a Monument Company to inform the Sexton of the size of the memorial or monument in order to determine the cost and the size of foundation needed.
- H. Wells Township Cemetery is a non-perpetual care cemetery, should any memorial (including any memorial that was in place before the date of this Ordinance) becomes unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township shall have the right, at the expense of the owner/beneficiary/next of kin of the space, to correct the condition or remove the same. The Township shall make reasonable attempt to contact the owner of the lot or space at the last address on file, prior to such work beginning.
- I. Monument companies are responsible for all damage to cemetery grounds and surrounding markers, memorials or monuments that occurred during the installation of a memorial.

SECTION 7: GROUND MAINTENANCE

- A. No more than three (3) memorabilia of any kind or nature including, among others, urn, potted plant, flower container, vase, basket, statue, light, emblem, is allowed per adult burial space. All items shall be placed on a permanent foundation (constructed by the Township) at the head of the burial space and in line with the memorial. Besides the three (3) items on the foundation, one (1) flower basket, hanging on a Sheppard's hook directly behind and over the memorial is allowed.
- B. Winter blankets and wreathes may be placed on the gravesite no earlier than November 1 and must be removed no later than April 1 of the following year to allow time for ground maintenance.
- C. There are trash containers located within the cemetery for disposal of wreaths, grave blankets, memorabilia and all other refuse. No sod or like material in trash containers.
- D. Veteran's flags and flag holders shall be governed by the Veterans Administration rules and guidelines.
- E. No grading, leveling, or excavation within the cemetery shall be allowed. All mowing in the cemetery is to be done by the cemetery staff. Furthermore, no roundup or other chemicals shall be applied in cemetery except by authorized personnel.
- F. Surfaces other than earth or sod are prohibited.
- G. No glass containers or glass items are allowed.
- H. Planting of flowers, shrubs, trees, or other plants is prohibited. 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, maintenance and the use of the cemetery.

- I. Wooden flower boxes, wooden grave borders, trellises or a fence of any kind is prohibited. Further, no new railing, coping, hedge, embankment or cement curbs allowed. The Township reserves the right to remove existing cement skim tops, curbing and loose stones. Anyone wishing to have any damaged or unsightly tops or coping removed should contact the sexton.
- J. Mounds, bricks, blocks, stones and any border that hinder the free use of a lawn mower, trimmer or other gardening apparatus are prohibited.
- K. The Sexton and maintenance personnel shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem.
- L. Any special work desired on a lot and/or space must be approved by the Wells Township Board.

SECTION 8: PROHIBITED USES AND ACTIVITIES

- A. No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item 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.
- 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 destruction of cemetery property.
- E. There shall be no items placed, kept, installed or maintained in the cemetery except those expressly allowed by this Ordinance.
- F. There shall be no disturbing of the peace or engaging in any loud or boisterous conducts.
- G. There shall be no fires, candles or open flames.
- H. There shall be no driving an automobile, truck or any vehicle on any portion of cemetery except the designed roads or drives. The sexton is authorized to park vehicles on lawn for funerals and Memorial Day Ceremony.
- I. There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- J. There shall be no possession or consumption of any alcoholic beverage.
- K. There shall be no music, playing of any radio, or the use of any amplification device or similar items, except pursuant to a military ceremony or a funeral.
- L. There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- M. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- N. There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- O. No firearms or archery arrows shall be discharged or shot except that of military or other veterans organizations may carry arms for the purpose of firing over the grave for the burial of a member or during Memorial Day Ceremony.
- P. There shall be no littering, dumping, vandalizing or tipping over any lawful garbage container or receptacle.
- Q. There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.

SECTION 9: FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES

- A. Cemetery lots or burial spaces sold after the effective date of this ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon occurrence of the following events.
- 1) 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 forty (40) 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 with in sixty (60) days from the date of mailing of the within notice his or her desire to retain the burial rights.
 - 2) No written response to said notice indicating a desire to retain the lot or burial spaces in question is received by the Township clerk from the last owner of record or beneficiary when owner has deceased, of said lots or spaces within thirty (30) days from the date of mailing of said notice then said lots or spaces shall revert back to the Township.
 - 3) The Township shall not sell these lots or burial spaces for a period of six (6) months.

SECTION 10: REPURCHASE OF LOTS OR BURIAL SPACES

The Township will repurchase any lot or burial spaces from the owner of the original price paid the Township upon written request and proof of purchase of said owner or their power of attorney, legal personal representative, or estate executor of their trust with proper documentation. If no proof of original price paid the township shall pay according to price set by Township Board fee resolution. The Township has full authority to resell lots or spaces that has been repurchased by the Township.

SECTION 11: PROPERTY RULES

All property in Wells Township cemetery will continue to be subject to any future Rules and Regulations promulgated by the Township Board regardless of date of purchase of burial rights.

SECTION 12: PURCHASE PRICE AND FEES

The Township board shall have the authority to set fees pursuant to the Ordinance from time to time by resolution. Such fees can include, but are not limited to lots, burial spaces, grave opening and closing, setting of foundations and other matters. All payments shall be made payable to Wells Township and collected by a person authorized by the Township board.

SECTION 13: RECORDS

The Sexton and Township Supervisor shall maintain records concerning all burials and issuance of burial permits and shall be open to public inspection at reasonable business hours.

SECTION 14: CEMETERY HOURS

The cemetery shall be open to the general public from sunrise to sunset each day. However, from November 1-March 15 of each year, the Township reserves the right not to snowplow except for funerals.

SECTION 15: DISCLAIMER OF TOWNSHIP LIABILITY AND RESPONSIBILITY

Every person who enters, remains in and travels within the 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 the Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, memorial, marker, flower urn or other item placed at or near a lot or burial space or anywhere in the Township cemetery. The purchaser of any cemetery lot or space (and all subsequent, beneficiary, representative or next of kin) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associate with, related to and/or involving the cemetery space or similar right, any memorial, monument, marker or similar items, and any matter related to the Wells Township Cemetery(s). Such waiver, release and hold harmless provision shall apply not only to the Township, but also to the Township Sexton and any Township employee, officer, official or agent.

SECTION 16: ENFORCEMENT AND PENALTIES

The Township Sexton, Supervisor, Clerk, Ordinance Enforcement Officer, or Officer of Law is authorized to enforce the within Ordinance. Any person, firm or corporation who violates any provisions of the within Ordinance is responsible for a municipal civil infraction, subject to payments of a civil fine of not less than two hundred (\$200), plus costs and other sanctions, for each infraction. Repeat offenses under this Ordinance shall be subject to increased fines as provided for in the Wells Township Civil Infraction Ordinance.

SECTION 17: 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 in full force and effect.

SECTION 18: ENACTMENT, EFFECTIVE DATE AND REPEAL

This Ordinance was adopted by the Wells Township Board at a meeting duly held on the 10th day of March, 2022 and was published in the Tuscola County Advertiser on the 16th day of March, 2022 and shall become effective 30 days after said publication date. Cemetery Ordinance 2019-03 adopted October 10, 2019 is hereby repealed.

Bonnie Hergenreder, Clerk

Karen Varney, Supervisor