

Wacousta Cemetery Regulations

Chapter 8

CEMETERIES*

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***State law references**—Authority to acquire and maintain cemeteries, MCL 128.1 et seq.; permit for disposition of body, MCL 333.2850; cemetery regulations act, MCL 456.521 et seq.

Sec. 8-1. Cemetery board.

(a) The township board, as the legislative body owning and controlling a cemetery or burial grounds, may by resolution or ordinance provide for the perpetual care and maintenance of a cemetery or burial lot upon payment by the owner of the lot or another person of the agreed upon sum, and in consideration may bind itself to perpetually care for and maintain the lot.

(b) The township board has assigned the advisory duties of oversight and management of their cemetery to the cemetery board.

(Ord. No. 13.2(1), § 1.1, 4-19-2004)

Sec. 8-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the cemetery board.

Cemetery means a burial ground for earth interments.

Cemetery services means all services offered to the public, including grave opening, closings, and foundation installation.

Cremains means the container and incinerated body of the deceased person.

Grave/lot owner means the owner of burial rights. Such rights are limited to a burial privilege as evidenced by a burial rights certificate. The interest created by purchase or transfer of any plot is a personal contract right and not an interest or estate in real property. Spouses or no more than two unrelated persons may be joint owners with rights of survivorship to any burial space.

Immediate family means as follows: spouse, parent, stepparent, grandparent, child, stepchild, grandchild and spouse of the aforementioned, of the owner, and shall include "great-" to the above where applicable.

Interment means the disposition of the remains of a deceased human by earth interment.

Lot means a lot consisting of numbered divisions as shown on the recorded plat sufficient to accommodate from two to ten burial plots.

Lot marker means any method used by the cemetery to locate and mark corners of the lot.

Management means the person or persons duly designated by the township board for the purpose of managing the cemetery.

Marker or monument means a stone or plaque either flush or above the ground indicating the given and/or family name and must be located on the west side (head) of the plot. Only one marker is allowed per burial space or may be centered over two spaces.

Plot means a burial space consisting of a land area 42 inches wide and nine feet in length, sufficient in size to accommodate one adult interment.

Resident means any person who has legal or official ownership, individually or jointly with another, of any real property which is subject to assessment by the township for ad valorem property taxes.

Trustees means the township board of trustees.
(Ord. No. 13.2(1), § 2, 4-19-2004; Ord. No. 13.2(2), § 2, 10-16-2006)

Sec. 8-3. Rights of residents and nonresidents of township; transactions regarding plots.

(a) *Purchase of burial rights.* Residents and nonresidents of the township may purchase burial rights at a cost to be determined from time to time by resolution of the township board of trustees. All such sales shall be recorded on a form approved by the township board of trustees, 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 clerk.

(b) *Transfer of burial rights.* Burial rights may be transferred to those persons defined as an immediate family member or a resident upon payment to the township of a transfer fee as provided in section 8-4(b). Burial rights may be transferred to a nonresident upon payment to the township of the transfer fee as provided in section 8-4(b) plus the difference, at the time of the transfer, between the current cost of a resident plot and the current cost of a nonresident plot. A transfer of burial rights must be endorsed by and filed with the township clerk. Upon such transfer, the clerk shall issue a new burial certificate to the assignee and shall cancel the original certificate thus issued. In addition, all transfers of burial rights are subject to the applicable transfer fee as stated in section 8-4(b). Burial rights may not be sold between private individuals or for speculative purposes.

(c) *Methods of payment.* Single gravesites must be paid in full at the time of purchase. Two or more plots may be purchased, either for cash or on an installment basis. If purchased on an installment basis, ownership of said burial rights will not vest until the entire cost has been paid and no burial may take place on any burial space that is not paid in full. The board reserves the right to limit the sale to five burial spaces. Any variation from the five-space limit must be approved by action of the board.

(d) *Contract purchases.* Plots purchased on an installment basis will be evidenced by a contract form furnished by the township with the following stipulations:

- (1) Two burial sites or more will require 50 percent of the cost thereof to be paid at the time of the contract, and the balance shall be paid within one year from the date thereof.
- (2) Any burial site which has not been paid-in-full within the time provided in subsection (d)(1) of this section shall automatically revert to the township, and any sums so paid thereon shall be forfeited by the purchaser of said "burial rights" to the township as liquidated damages. (Ord. No. 13.2(1), § 3, 4-19-2004; Ord. No. 13.2(2), § 3, 10-16-2006)

Sec. 8-4. Purchase price and transfer fees.

(a) *Resident and nonresident fees.* The township board of trustees shall establish the fee for the purchase of a burial space by a resident and a separate fee for the purchase of a burial space by a nonresident. These fees may be revised from time to time by resolution of the township board of trustees.

(b) *Transfer fees.* The transfer of one or more burial rights from the original purchaser to a qualified resident or family assignee shall require payment of a per-plot transfer fee to the township. The transfer of one or more burial rights from an original purchaser to a nonresident assignee shall require payment of a nonresident per-plot transfer fee plus payment of the difference in costs as required in section 8-3(b). These transfer fees may be revised from time to time by resolution of the township board of trustees.

(c) *Deposit of cemetery revenue.* The cemetery fees and charges shall be submitted to the township treasurer and shall be deposited in the cemetery fund as determined by the township board of trustees.

(d) *Authority to increase fees.* The township board of trustees, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

(Ord. No. 13.2(1), § 4, 4-19-2004)

Sec. 8-5. Grave opening charges.

(a) *Authority to establish grave opening/closing fees.* 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 of trustees, payable to the township.

(b) *Authority of sexton to open/close graves.*

(1) *Sexton to control.* No burial spaces shall be opened and closed except under the direction and control of the cemetery sexton.

(2) *Exceptions; control over removal, reinterment.* 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 other properly constituted public authorities.

(Ord. No. 13.2(1), § 5, 4-19-2004)

Sec. 8-6. Markers, memorials and monument regulations.

(a) *Permitted materials and styles.* All markers, memorials and monuments must be of quality granite or standard bronze. Marble may be permitted if it is of durable quality and finish. All other grades of marble, sandstone, slate, artificial stone, fieldstone, terra cotta, wood, iron or glass, in any form, shall not be permitted. Unsightly and ill-proportioned monuments or stone work are prohibited. Appendages such as books, photos, or glasswork are prohibited unless cast in bronze and used as a plate in the die of a marker, memorial, or monument. The board may cause a marker, memorial, or monument to be removed, rebuilt, or remodeled, at the owner's expense, where and when such is desirable for the proper and orderly development of the cemetery and to preserve the aesthetic value thereof. In the event that a marker, memorial, or monument must be removed, rebuilt, or remodeled, the township will not be responsible for any loss thereof either to the lot owner or dealer.

(b) *Township's liability.* The township assumes no responsibility for ensuring that ordered markers, memorials, or monuments are proper for the area and for name placement on the marker.

(c) *Monument companies liable for damage.* Monument companies are responsible for all damages to cemetery grounds and surrounding markers, memorials, or monuments that occurs during their installation of a marker, memorial, or monument.

(d) *Marker, monument, and memorial regulations.*

- (1) Only one marker, monument, or memorial shall be permitted per burial space. All markers, monuments, and memorials shall be located on the west side of the space.
- (2) The marker or monument foundation may not be more than 42 inches long, the width of a single burial space, and 20 inches in depth. The marker or monument foundation for multiple spaces may not be more than 60 inches long and 20 inches wide. All monuments must face the east or west direction. The cemetery board must approve any variations in size and/or location.

(e) *Foundations.* The foundation upon which any marker, memorial, or monument must be placed, shall be constructed by the sexton of the cemetery, per specifications from the clerk's office, and shall be billed to the plot owner or the deceased member's family at the rate set by resolution of the board of trustees. Orders for foundations shall be placed a minimum of 30 days in advance of delivery of the marker/memorial or monument. Foundations shall not be poured during the winter months nor for a period of 60 days from the date of the burial to allow sufficient time for the ground to settle.

(f) *Payment of foundation fees.* No marker, memorial, or monument may be placed upon any foundation for which there is a balance due nor may any marker, memorial, or monument be placed upon a gravesite for which payment has not been made.

(g) *Variations from requirements.* Any variance from the preceding requirements must be approved by the board.

(Ord. No. 13.2(1), § 6, 4-19-2004; Ord. No. 13.2(2), § 6, 10-16-2006)

Sec. 8-7. Interment regulations.

(a) *Interments per grave site.* Only one person may be buried in a burial space except for a mother and infant or two children buried at the same time. The ash remains of one person may be interred in a grave wherein lie the remains of only one other person who was an immediate family member or joint owner at the time of initial purchase.

(b) *Advance notice required.* Not less than 36 hours' notice shall be given in advance of the time of a funeral to allow for the opening of the burial space.

(c) *Burial transit permit and fee required.* No burial shall proceed until a burial transit permit has been issued, and the sexton has received payment of the interment fee.

(d) *Method of ordering grave opening.* The township will not assume responsibility for errors in opening graves when orders are given by any means of communication other than in writing or in person. Orders submitted by funeral directors for the opening of graves will be considered as if coming from the plot owner.

(e) *Removal of flowers and emblems.* Following an interment, all flowers or emblems used at the interment that have become unsightly will be removed and the management assumes no responsibility for their return to the owners.

(f) *Interments not permitted on Sundays and holidays.* Interments shall not be permitted on Sundays or holidays, except as ordered by the county or state health department.

(Ord. No. 13.2(1), § 7, 4-19-2004)

Sec. 8-8. Ground maintenance.

(a) *Unauthorized groundwork.* No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the cemetery sexton or the township clerk.

(b) *Plantings.* The board reserves the right to direct the planting of trees and shrubs in the cemetery. Plot owners may obtain permission to plant dwarf evergreens on a plot and must be planted in line on either side of a marker, memorial, or monument. All requests must be submitted to the township clerk.

(c) *Board authority regarding plantings.* The board reserves the right to direct the removal or trimming of any tree, plant, or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery. The sexton has the discretionary authority to trim and/or remove all trees, shrubs, and plantings, which have become unsightly or overgrown. No unauthorized trimming, pruning, or removing of a branch from any tree or shrub in the cemetery is permitted except under the supervision of the sexton.

(d) *Mounds are prohibited.* Mounds, which hinder the free use of a lawn mower or other gardening apparatus, are prohibited.

(e) *Cemetery sexton authority.* The cemetery sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, or containers therefor that through decay, deterioration, damage, or otherwise become unsightly, a source of litter or a maintenance problem.

(f) *Required surface.* Surfaces other than earth or sod are prohibited.

(g) *Proper disposal of refuse.* All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

(h) *Urn regulations.* An urn, defined as an open top, concrete or stone container for planting flowers, is permitted on lots which consist of two plots (63 square feet). An urn must be set in line with the marker, memorial, or monument on a lot. Urns not in use by June 1 may be marked and removed.

(i) *Location of flower beds.* Flower beds must be located directly in front of and adjacent to the marker, memorial, or monument and extend not more than eight inches from the base of the marker, memorial, or monument. Potted flowers placed above the ground are not allowed. Beds or urns set contrary to this chapter may be removed without notice.

(j) *Cut flower regulations.* Cut flowers may be placed in a depressed metal vase set adjacent to and/or in line with a marker, memorial, or monument and extend not more than eight inches from the base of the marker, memorial, or monument.

(k) *Artificial flowers and wreath regulations.* Artificial flowers, grave blankets, and artificial wreaths are permitted at ground level on lots only during fall and winter from November 1 to April 1. They may be placed adjacent to the marker, memorial, or monument or in urns or they may be placed in lieu of a marker, memorial, or monument. The sexton shall remove all artificial flowers,

wreaths, and blankets remaining on the grave after April 1. During the summer season (April 2 to October 31) artificial flowers and/or wreaths are permitted only if placed in urns or affixed to the marker in such manner so as not to interfere with general maintenance practices.

(1) *Items not permitted.* Only a marker, memorial, or monument shall be permitted on the gravesite. The following items shall not be permitted: chairs, settees, benches, hanging baskets, glass containers, glass covered boxes, photos, and boxes for the preservation of flowers, wreaths, statues, ornaments and flowerpots. Other questionable items are subject to the discretion of the sexton and/or the board.

(Ord. No. 13.2(1), § 8, 4-19-2004; Ord. No. 13.2(2), § 8, 10-16-2006)

Sec. 8-9. Forfeiture of vacant cemetery lots or burial spaces.

Cemetery lots or burial spaces sold after the effective date of the ordinance from which this chapter is derived and remaining vacant 40 years from the date of their sale or last transfer 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 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 the notice, his or her desire to retain said burial rights.
- (2) 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.

(Ord. No. 13.2(1), § 9, 4-19-2004)

Sec. 8-10. Repurchase of lots or burial spaces.

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

(Ord. No. 13.2(1), § 10, 4-19-2004)

Sec. 8-11. Records.

The township clerk shall maintain records concerning sales of all burial rights, all burials, issuance of burial permits, and transfers of burial rights, and shall have access to all cemetery funds, separate and apart from any other records of the township, and the same shall be open to public inspection at all reasonable business hours.

(Ord. No. 13.2(1), § 11, 4-19-2004)

Sec. 8-12. Vaults.

(a) All burials shall be contained within a standard concrete or steel vault (or vaults made of other materials when standardized and accepted) constructed in each burial space before interment with the exception of infant burials and cremains. Burial vaults over four feet in length shall be considered as adult size.

(b) The cemetery requires that all burials shall be contained within a standard concrete or steel vault (or vaults made of other materials when standardized and accepted) constructed in each burial space before interment with the exception of infant burials and cremains.

(Ord. No. 13.2(1), § 12, 4-19-2004)

Sec. 8-13. Burial vaults or receptacles.

(a) The purchase of a vault or similar receptacle designed or intended to enclose or receive a casket, coffin, or other similar container from a particular individual, partnership, association, or corporation shall not be required as a condition to burial in a cemetery in this state. There shall not be a discrimination by price, burial fee, or otherwise by reason of a failure to purchase the vault or similar receptacle from or under the direction of the cemetery or the owner of the cemetery.

(b) This section shall not limit the right of a cemetery to require the use of a vault in a burial in the cemetery.

(Ord. No. 13.2(1), § 12.1, 4-19-2004)

Sec. 8-14. Cemetery hours.

(a) *Public visitation hours.* The cemetery shall be open between 8:00 a.m. to 5:00 p.m. between November 1 and April 30. Between May 1 and October 31 the cemetery shall be open the same hours as the township parks, from 8:00 a.m. until dusk except when inclement weather conditions necessitate an earlier closing time.

(b) *Visitation during nonvisitation hours.* No person shall be permitted in the township cemetery at any time other than the foregoing hours, except upon permission of the trustees, the board, or the sexton of the cemetery.

(Ord. No. 13.2(1), § 13, 4-19-2004)

Sec. 8-15. Perpetual care and maintenance.

The purchase price of every plot includes perpetual care and maintenance and such care is made a part and condition of each sale in order to provide for the essential services and requirements of a cemetery without further expense to the owner. Perpetual care and maintenance shall consist of mowing, reseeded, and leveling all sunken graves at reasonable intervals. Anything other than the essential features of lot maintenance as herein outlined is not included, such as the repair, maintenance, or replacement of any marker, memorial, monument, or urn. Nor does it include the watering of plants, flower beds or cut flowers, except as such work is done on the normal care incidental to regular maintenance.

(Ord. No. 13.2(1), § 17, 4-19-2004)

Sec. 8-16. Disinterments and reinterments.

(a) *Disinterment regulations.* Disinterment of a body once properly interred shall not be made without approval of the board and is subject to the orders and laws of the properly constituted public authorities. Graves shall not be opened for inspection except for official investigation.

- (1) A permit for disinterment and reinterment is required before disinterment of a dead body. The local health department in whose jurisdiction the body is interred shall issue the permit.
- (2) The department shall prepare and furnish to the local health department the forms for permits and applications therefor, which shall be used in the procedures prescribed by this section. The local health department shall retain an application for a disinterment and reinterment permit for not less than five years. A duplicate copy of the permit shall be maintained in permanent records of the cemetery from which the body was disinterred.
- (3) If a required consent cannot be obtained, a person may petition the circuit court of the county in which the cemetery is located for a disinterment order.

(b) *Notice and fees required.* At least one week's notice is required prior to any disinterment or removal. All fees for disinterment and reinterment shall be prepaid.

(c) *Fees for resetting markers.* Any marker or monument designating the location of an interment shall be removed at the time a disinterment is made. If the body is reinterred, there will be a charge for resetting the marker or monument, the same as for a newly placed marker, memorial, or monument and must be prepaid.

(Ord. No. 13.2(1), § 18, 4-19-2004)

Sec. 8-17. Damage to cemetery properties.

The township shall not be responsible for any kinds of damage by the elements, vandals, and thieves or by other causes beyond its control. The defacement of markers, memorials, monuments, graves, or cemetery appurtenances, whether intentional or otherwise, and the removal of flowers, urns or any of the cemetery equipment without proper authority will be considered a misdemeanor and the individual will be liable for the damages. The operator of any vehicle will be liable for any damage caused by said vehicle, whether intentional or unintentional. The speed limit established on cemetery roads is ten miles per hour.

(Ord. No. 13.2(1), § 19, 4-19-2004)

State law reference—Malicious mischief generally, MCL 750.377a et seq.