

ORDINANCE NUMBER 3 of 2022

AN ORDINANCE UNDER THE AUTHORITY OF MCL 257.726 TO AMEND THE EMMETT CHARTER TOWNSHIP CODE OF ORDINANCES TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, AND MANAGEMENT OF CEMETERIES OWNED BY THE CHARTER TOWNSHIP OF EMMETT, CALHOUN COUNTY, MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE, AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

THE CHARTER TOWNSHIP OF EMMETT, CALHOUN COUNTY, MICHIGAN ORDAINS:

SECTION 1. Chapter 5 of the Emmett Charter Township Code is hereby created to read as follows:

CHAPTER 5. CEMETERIES

ARTICLE I. GENERAL REGULATIONS

Sec. 5-1. Management.

The Clerk of the Township shall act as overseer of the Township Cemeteries and shall direct the care and maintenance of the Township Cemeteries. The enforcement of this ordinance shall be the responsibility of the Township Clerk. All Cemetery fees shall be set by resolution of the Township Board.

Sec. 5-2. Financial Responsibility of the Township for Property Damage.

The Township shall not be financially responsible for any damage to lots and structures, markers or objects thereon, or for flowers or articles removed from any lot or grave.

Sec. 5-3. Ground Maintenance.

A. The grounds keeper for the Cemeteries shall be referred to as "Sexton" and shall establish the grade of all lots. No lot shall be filled or raised above the established grade.

B. No grading, leveling, or excavating upon burial space shall be allowed except by written permission of the Cemetery Sexton.

C. No flowers, shrubs, trees, or vegetation of any type shall be planted.

D. 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.

E. Surfaces other than earth or sod are prohibited.

F. Removal of season memorials are as follows; summer items need to be removed by October 1st; winter items need to be removed by April 1st. The Sexton may remove if necessary.

Sec. 5-4. Lots, Plots, & Lot Boundaries.

A. A Cemetery lot shall consist of 4-8 plots depending on location.

B. A plot shall consist of a land area four (4) feet wide and eight (8) feet in length.

C. All landmarks or corner stones shall be set by the Sexton or under the Sexton's supervision and shall not be altered or removed. No landmarks or corner stone's indicating boundaries of lots shall be set above the surface of the ground.

Sec. 5-5. Traffic Regulations.

A. The speed of cars or other vehicles driven in the Cemeteries shall not exceed ten (10) miles per hour.

B. No person in charge of a vehicle shall pass or attempt to pass another vehicle going the same direction, or turn around, or attempt to turn around on any of the roads, alleys, or drive upon or across any lot, or ornamental ground, or through any alley within said Cemetery. Nor shall any person in charge of a vehicle whatsoever enter or leave said Cemetery except by gates established for that purpose.

C. No vehicles shall be parked or permitted to stand as to infringe upon any lots or graves, nor to obstruct free passage along any roads or drives within the Cemeteries. No vehicle shall be parked in the Cemeteries for non-Cemetery business or overnight.

ARTICLE II. PURCHASE OF LOTS

Sec. 5-11. Condition of Lot Purchases.

A Cemetery lot is defined as any plot of ground within any platted section of any Township Cemetery containing four or more full-size grave spaces. All lots shall be sold subject to this ordinance and any amendments hereafter adopted, and the certificate shall so state. No lot shall be used for any purpose other than the burial of human remains and the placing of appropriate memorials. No internment of any deceased human shall be made in any place other than within Cemetery devoted to that purpose. Burial lots are exempt from ordinary taxes and cannot be seized on execution. The Township may impose specific charges against lots. No mortgage or other encumbrance shall be given on any lot.

Sec. 5-12. Purchase Procedures.

A. The purchase of any plot may be made by the payment of cash, check, or credit card (3% fee). **There will be no payment plan options.** When the plot is paid for in full, the Township Clerk

shall issue a certificate to the purchaser for only Cemetery purposes. Pricing is established by resolution of the Township Board.

B. Certificate of Burial Rights Form: 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 plots sold. Such form shall be executed by the Township Clerk or designated Township official.

C. Maximum Purchase: The Township shall limit sale of Cemetery plots to one lot or (8) plots. At the time of purchase, the purchaser must assign plots to individuals.

D. Reserving Burial Plots: No plots will be held or reserved without payment.

Sec. 5-13. Transfer of Lots/Plots.

A. The transfer of lots or plots to another party shall be recorded in the Office of the Township Clerk, which office shall notify the Sexton. No person shall be recognized as owner unless properly documented with the Clerk's Office. There is also a fee that is established by resolution of the Township Board to transfer ownership.

B. Proof of eligibility is the responsibility of person(s) seeking to be named the holder of the Certificate of Burial Rights.

ARTICLE III. TYPES OF LOTS, CONDITIONS OF USE, AND ARRANGEMENTS FOR CARE

Sec. 5-21. Arrangements of Lot Care.

The various arrangements for care and maintenance shall be as follows:

- a. General Maintenance. General Maintenance of the Cemeteries, which is designed to improve their overall appearance and condition, shall be the responsibility of the Township. It shall include such items as the upkeep of drives, buildings, and fences.
- b. Perpetual Care. Shall include the following items of basic lot care: annual spring clean-up, periodic cutting of grass, removal of leaves, trimming of trees and shrubs and re-leveling of sunken graves.

Sec. 5-22. Definition of Plot Decorations.

Plot decorations shall be deemed to include all structures, ornaments, plantings, or other embellishments, with the exception of monuments and markers or mausoleums, which are placed on Cemetery lots with the intention of improving their appearance. Because certain types of individual plot decorations are not in harmony with the development of the Cemetery as a whole or because they may intensify maintenance problems, the Township enforces certain rules regarding the decoration of Cemetery plots.

Sec. 5-23. Decoration of Plots.

The following rules shall be observed with regard to the decoration of Cemetery plots.

- a. Coping, fences, curbs, benches, and steps of any materials and structures of wood or other equally perishable material are prohibited. Those structures or enclosures established on any plot prior to the adoption of this ordinance that have, in the judgement of the Township Clerk, become unsightly due to neglect or age may be removed.
- b. No elevated mounds should be built over graves and no lot shall be filled above the grade established by the Township.
- c. Receptacles for cut flowers will be permitted if installed flush with the surface of the lawn.
- d. The use of glass jars or bottles as receptacles for cut flowers are strictly prohibited.
- e. Artificial flowers are permitted only in a suitable urn. All urns, vases, pots, baskets, and boxes more than 8' in diameter or in the largest dimension are desired to be placed on permanent foundations at the head of the grave and in-line with the stone.
- f. Winter decorations may be maintained on graves until April 1st. If Such decorations are not removed by April 1st, they shall be considered abandoned and may be disposed of under the direction of the Township Clerk.
- g. Summer decorations may be maintained on graves until October 1st. If such decorations are not removed by October 1st, they shall be considered abandoned and may be disposed of under the direction of the Township Clerk.
- h. Urns shall be permitted only if properly installed and maintained. All Urns shall be directly adjacent to a headstone.
- i. Arches for hanging baskets and urns are permitted only when they are in use and they must not be anchored.
- j. Toys or other unsightly objects are not permitted as grave decorations and when used, may be removed without notice.
- k. There shall be No Flowerbeds. There shall be no planting of trees or shrubs on plots. There shall be no planting of any type on the Cemetery grounds.
- l. The plantings of hedges are strictly prohibited. Existing hedges may be removed whenever they become unsightly or encroach upon an adjoining plot or path.
- m. The Township may remove without notice all flowers, trees, and shrubs that, in the determination of the Township Clerk, have become unsightly or dangerous.
- n. Cement covered graves or larger monuments above ground are not hereafter permitted. Graves may not be covered by any other material other than sod.
- o. One flag holder may be permitted for the grave of each Veteran whose last service was honorable and is interred in the Township owned Cemeteries.

ARTICLE IV. FUNERAL AND INTERMENTS

Sec. 5-31. Conditions to be fulfilled before Internment.

Interment shall not take place without a Burial permit, nor until the person arranging for the interment has complied with all laws, ordinances, and rules and regulations relative to burials. Funeral directors arranging for burials shall be responsible for all interment charges if not paid by the owner or their agent.

Sec. 5-32. Funerals.

A. All funerals within the Cemeteries shall be under the direction of the Township Clerk or other person as designated by the Township Clerk. All Interment Orders for burial shall be made to the Township Clerk in time to allow at least (2) two days or minimum of (48) forty-eight hours working order to prepare the grave. Weekend burials and Holidays are permitted (Burials for Friday, Saturday, Sunday, or Monday, must notify the Township Clerk before 1 p.m. on the Thursday before the burial, or an extra charge will be added for a weekend dig).

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

C. Memorials shall be placed only at the head of the gravesite.

Sec. 5-33. General Internment Restrictions.

A. All burials shall be made in concrete vaults or boxes.

B. Two (2) baby caskets (not to exceed 36”).

C. Up to two (2) cremations.

D. One (1) Standard Vault and one (1) cremation.

E. The Township Clerk shall not be responsible for errors in location of graves on lots arising from improper instructions of lot owners or funeral directors. Orders from funeral directors shall be construed as orders from owners.

F. Under no circumstances shall the Township assume responsibility for errors in opening graves when orders are given by telephone. No graves shall be opened except by workers employed by the Township. Funeral directors are to arrange the time of funerals so that Cemetery personnel can complete interment by 4:00 p.m. All burial certificates must have Cemetery name, lot number, and space number.

G. Cemetery Ordinance signature page will be pursued following the purchase of plots as well as during the burial request process, when transferring certificates and other necessary situations.

ARTICLE V. DISINTERNMENTS

Sec. 5-41. General Restrictions.

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 Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a Township disinterment permit for the same) 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.

ARTICLE VI. MONUMENTS AND MARKERS

Sec. 5-46. Monument and Marker Foundations.

All monuments and markers shall be placed on a foundation of a depth and size and of a material deemed adequate by the Township Clerk. Cemetery personnel shall install all foundations. The foundation MUST be 6” larger in all directions that the stone that is to support.

Sec. 5-47. Installation of Monuments and Markers.

A. Those persons engaged in placing monuments and markers shall provide planking adequate to protect turf and shall remove materials and equipment immediately upon completion of work. The site shall be left clean, neat, and orderly condition.

B. Markers and monuments shall not be delivered to lots until a proper order for a foundation installation has been placed with the Township Clerk. The sexton shall be allowed to move monuments for access to dig a grave to repair monuments without being liable for damages.

C. Only one (1) marker or monument per plot. (Exception for Veterans)

D. The Charter Township of Emmett is not responsible to replace any stone or decoration damaged due to natural phenomenon or acts of violence.

E. Foundations for single markers must reach the sand level, but no foundation shall be less than “30” inches in depth

F. It is desired in addition to this basic foundation, an extension, or wash, ten (10) inches in all dimensions and add 8” in depth be poured as part of the regular foundations for urns or potted plants.

G. All single markers shall be placed (rest) on inset foundations and within boundaries of the plot at the head of the grave.

H. When the ground is uneven, the foundation shall be level above the established grade.

ARTICLE VII. VETERANS

Sec. 5-51. Veterans.

A. Veteran Markers: Veteran markers are the responsibility of the family at www.va.org or by contacting the local V.A. office in the County of death, as are the fees for the foundation.

B. Marker placement: Unless otherwise directed, veteran's markers will be set at the head of the plot. In such cases where a monument is already in place, the veteran's marker may be placed flush with the ground at the foot of the grave or directly below to the headstone or monument.

C. Veteran's Flag & Flag Holder: Upon notification to the Township Clerk that the deceased is a Veteran, a flag holder will be placed on the plot. The sexton will place American flags each Memorial Day and upon the burial of a Veteran. Veteran flags will be removed by Cemetery staff after Labor Day to preserve condition and honor.

ARTICLE VIII. FORFEITURE OF VACANT LOT

Sec. 5-56. Forfeiture of Vacant Cemetery Lots or Burial Spaces.

A. Cemetery plots sold after the effective date of this ordinance and remaining vacant seven (7) years from the date of the sale shall automatically revert to the Township upon occurrence of the following events:

B. Notice shall be sent by the Township Clerk or designated Township Official by first class mail to the last known address (if there is one on file) of the last owner of record. This notice is intended to inform them of the expiration of the seven (7) year period and that all rights with respect to said plots will be forfeited back to the Township if they do not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of the mailing of the notice within his/her desire to retain said burial rights; and

C. No written response to said notice indicating a desire to retain the Cemetery plots in question is received by the Township Clerk from the last owner of record of said plots, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

ARTICLE IX. PROHIBITED USES AND ACTIVITIES

Sec. 5-61. Prohibited Uses and Activities.

The following prohibitions shall apply within Township Cemeteries:

- A. No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign or tree, no rubbing of monument or memorial stones, or other lawful item located within Township Cemeteries.
- 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. No vehicles shall be permitted to drive or park on lawns or Cemetery lots or in the middle of the road.
- D. There shall be no destruction of Cemetery property.
- E. There shall be no headstones, ornaments, glass vases, fences, benches, trellises, statues, signs of any other item placed, kept, installed or maintained in the Cemetery except expressly allowed by this Ordinance.
- F. There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- G. There shall be no digging, grading, or mounding unless expressly authorized by this Ordinance.
- H. There shall be no driving of an automobile, truck or any vehicle on any portion of the Cemetery except the designated roads or drives.
- I. There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- J. There shall be no gathering in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- K. There shall be no disinterment or grave openings unless approved by the Township.
- L. There shall be no possession or consumption of any alcoholic beverage.
- M. There shall be no picnicking or consumption of food without prior Township approval.
- N. 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.
- O. There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- P. There shall be no littering or dumping.
- Q. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- R. There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- S. There shall be no fires, candles or open flames.
- T. No children under 12 years of age shall be allowed in any Township Cemetery unless accompanied by an adult and are properly supervised by an adult.
- U. No firearms or archery arrows shall be discharged or shot except that military or other veteran organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- V. No person shall engage in any fight, quarrel or disturbance.
- W. There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- X. There shall be no entry upon the Cemetery premises after sunset or before dawn.

- Y. No person shall permit their dog, horse or other domestic animal to enter unless scheduled with the Township Clerk and Sexton.
- Z. No person shall enter the Cemetery except through an established entrance.

Sec. 5-62. Violations and Enforcement.

Municipal Civil Infractions. Except as otherwise provided in this section, a violation of any of the provisions of this Ordinance shall constitute a municipal civil infraction.

Upon determination of responsibility for a municipal civil infraction, the person or entity shall pay a fine according to the following schedule:

First offense not less than \$125.00 nor more than \$500

Second offense within three years of first offense not less than \$200.00 nor more than \$1,000

Third offense and each subsequent offense within three-year period are each not less than \$1,000 nor more than \$2,500

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township has incurred in connection with the municipal civil infraction.

Each violation which either continues or is repeated subsequent to a citation or warning being issued by an authorized enforcement officer shall be considered and may be prosecuted as a separate violation of this section. The imposition of a fine shall not exempt an offender from compliance with the provisions of this Ordinance.

Any violation of this Ordinance is hereby declared to constitute a public nuisance, and shall constitute a basis for such judgment, writ or order necessary to compel compliance with the Ordinance and/or to restrain and prohibit continuation of the violation, or other appropriate relief in any court of competent jurisdiction, in addition to any other relief or sanction herein set forth or allowed by law.

SECTION 2. REPEAL. All ordinances or parts of law in effect that are in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Charter Township of Emmett hereby declares that it would have passed this law, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its publication, or publication of a summary, which publication shall occur in a newspaper of general

circulation in the Township within thirty (30) days after adoption.

This Ordinance is hereby declared to have been passed and adopted by the Charter Township of Emmett, County of Calhoun, State of Michigan, at a regularly scheduled meeting thereof duly called and held on this 14th day of April, 2022.

Deb Belles
Debra Belles, Supervisor

ATTEST:

Tracy Myers
Tracy Myers, Clerk

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