

RILEY TOWNSHIP CEMETERY ORDINANCE

RILEY TOWNSHIP CLINTON COUNTY, MICHIGAN

(Ordinance No. _____)

At a duly scheduled meeting of the Township Board of Riley Township, Clinton County, Michigan, held at the Riley Township Hall on _____, 2021, at ___ p.m., Township Board Member _____ moved to adopt the following Ordinance, which motion was seconded by Township Board Member _____:

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, maintenance and management of cemeteries owned, controlled or operated by Riley Township, in Clinton County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict with this Ordinance.

RILEY TOWNSHIP ("Township"), CLINTON COUNTY, MICHIGAN ORDAINS:

Section 1. Title. This Ordinance shall be known and cited as the Riley Township Cemetery Ordinance.

Section 2. Purpose and Intent. The Riley Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

- (a) A "burial space" shall consist of an area in a Township cemetery sufficient to accommodate one (1) deceased person, consisting of a human body or the cremains of a human body. Exceptions may be made with written permission from the Cemetery Sexton as provided in Section 8 of this Ordinance.
- (b) "Cemetery Sexton" means the person appointed to such position by the Township Board pursuant to this Ordinance.
- (c) "Disinterment" means the authorized digging up, disinterring, removing, or conveying away a human body, or the remains or cremains thereof, from the place where the body had been interred.
- (d) "Immediate family" includes a spouse, parent, grandparent, great-grandparents, children, sibling, grandchildren or great-grandchildren.
- (e) "Infant" means someone who is two (2) years of age or younger at the time of death.
- (f) "Interment" mean the burial of the remains or cremains of one (1) deceased person.
- (g) "Marker" includes a headstone, tombstone, gravestone, memorial, or bench used to mark a burial space.
- (h) "Monument" includes any marker, memorial, statue or similar item which exceeds thirty (30) inches in height above normal ground level or which has a ground surface area exceeding thirty-six (36) inches in

width (or seventy-two (72) inches in width for a double monument), with an overall height of no more than thirty (30) inches above ground level, including the foundation.

- (i) "Resident" means an individual owning property or residing within the Township
- (j) "Township" means Riley Township located in Clinton County, Michigan.
- (k) "Township cemetery" or "cemetery" means any cemetery owned, operated and/or controlled by the Township.
- (l) "Township Clerk" means the duly elected or acting Township Clerk and/or his or her designee(s).

Section 4. Sale and Transfer of Cemetery Burial Spaces; Related Fees. After the effective date of this Ordinance, cemetery burial spaces shall be sold or transferred in accordance with the following provisions:

- (a) Burial spaces may only be sold for the purpose of burial of the purchaser or his or her immediate family in the purchased burial space. The Township Clerk is authorized to waive this restriction on sales in writing if the purchaser shows a sufficient personal reason for burial within a Township cemetery through previous residence in the Township or a relationship to persons interred in the Township cemetery involved. Any decision by the Township Clerk (either granting or denying such waiver) may be reviewed by the Township Board pursuant to Section 20 of this Ordinance.
- (b) Burial spaces may be sold by the Township to any Township resident or property owner. No sale shall be made to funeral directors or others, except when acting as an agent for a specific Township resident or property owner.
- (c) The purchase price of a burial space shall be established from time to time by resolution of the Township Board pursuant to this Ordinance.
- (d) All sales and transfers of burial spaces shall be made on a form approved by the Township Board, which grants a right of burial, i.e. a right of interment only, and does not convey any other title or right to the burial space sold. Such forms shall be signed by the Township Clerk and shall then constitute a Permit for Interment. A copy of the Permit will be given to the purchaser and a copy will be retained in the Township's official cemetery records.
- (e) At the time of purchase from the Township and as reflected on the Permit for Interment, each burial space shall be assigned the name of the specific person to be interred in that burial space upon his or her death. Each such person must either be a Township resident or property owner or a member of the immediate family of the purchaser. If the purchaser later desires to change the person to whom the burial space is assigned, the purchaser must request such change to another Township resident or property owner or a member of the immediate family of the purchaser in writing to the Township Clerk and receive written approval of that change from the Township Clerk. Upon approving such change, the Township Clerk shall enter the change upon the Township's official cemetery records
- (f) The Township may repurchase any burial spaces from the purchaser according to a fee structure established by resolution of the Township Board as provided by this Ordinance. This subsection shall not be construed to require the Township to repurchase burial spaces.
- (g) The Township Clerk shall have the authority to place a limit on the number of burial spaces sold to a specific person and shall further have the authority and discretion to determine whether a particular burial space or spaces will be sold to a specific person and where such burial space or spaces will be located and within which Township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant burial spaces available and whether family or relatives of the person seeking to purchase a burial space or spaces are buried adjacent or nearby the burial space or spaces requested.

- (h) The Township shall have the right to correct any errors that may be made concerning interments, disinterments or in the description, transfer or conveyance of any burial space, either by canceling the Permit for Interment for a particular vacant burial space or spaces and substituting and conveying in lieu thereof another vacant burial space or spaces in a similar location within the cemetery at issue, or by refunding the money paid for the burial space or spaces to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the Township shall have the right to disinter, remove and reinter the remains so interred to another burial space in a similar location in the same Township cemetery in accordance with law.
- (i) The purchaser of the burial space or spaces shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5. Indigent Burials. The Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery or cemeteries for the burial of indigent persons. A person may be indigent if they receive Federal or State means-tested public assistance (including, but not limited to FAP, SNAP, WIC, SSI, etc.) or otherwise qualifies as determined by the Township Board.

Section 6. General Provisions Related to Burial Space Opening and Closings; Related Fees.

- (a) The Township may charge reasonable fees for any opening or closing of any burial space, prior to or following a burial therein, and including the interment of cremains. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No burial space shall be opened or closed, prior to or following a burial therein, except under the direction and control of the Cemetery Sexton or such other individual as is designated by the Township Board. This subsection (b) shall not apply to any opening or closing of a burial space done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Cemetery Sexton shall be given at least twenty-four (24) hours prior notice of when such opening or closing will occur.

Section 7. Markers; No Monuments.

- (a) Except for markers or monuments existing in a Township Cemetery before the effective date of this Ordinance, all markets and monuments must conform to the following provisions:
 - 1) All markers must be comprised of stone or other equally durable composition and shall face the same direction as the markers around them.
 - 2) The installation, relocation or erection of any monument is prohibited; monuments installed prior to the adoption of this Ordinance may remain in their present locations.
 - 3) Only one (1) marker shall be permitted per burial space, or one marker in total where two adjoining burial spaces share that one marker. Markers shall be no more than thirty-six (36) inches in width (or seventy-two (72) inches in width for a double marker), with a depth no greater than eighteen (18) inches and an overall height of no more than thirty (30) inches above ground level, including the foundation. Individual markers for cremains shall be flush with the ground and shall be no more than twelve (12) inches by twenty-four (24) inches in size. No marker shall be smaller than sixteen (16) inches in width and eight (8) inches in depth.
 - 4) No marker may be installed or erected unless a proper footing or foundation has been installed. The footing or foundation upon which any marker must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township Board. Fees for such work shall be set from time to time by resolution of the Township Board and shall be paid to the Township.
- (b) If any marker or monument (including any marker or monument in place before the effective date of this Ordinance) becomes unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the authority, but not the obligation, to correct the condition or remove the

same. The Township shall make reasonable attempts to contact the heirs or family of the person buried in the corresponding burial space prior to any such work beginning.

- (c) The maintenance, repair and upkeep of a cemetery memorial, marker, urn, or similar item is the responsibility of the heirs or family of the person buried at that location. The Township has no responsibility or liability regarding the repair, maintenance, or upkeep regarding any such marker, memorial, urn or similar item.

Section 8. Interment Regulations.

- (a) Only one (1) deceased person's body or cremains shall occupy a burial space unless a written exception is approved by the Cemetery Sexton. The Cemetery Sexton may approve one of the following exceptions per burial space so long as the burial space is designed to sufficiently accommodate the exception requested:

- 1) One deceased adult parent and an infant buried at the same time; or
- 2) One deceased adult and up to two (2) cremains; or
- 3) Up to six (6) cremains; or
- 4) Two (2) children buried at the same time.

- (b) The Cemetery Sexton shall be given not less than thirty-six (36) hours prior notice in advance of any funeral to allow for the opening of the burial space. The opening and closing of burial spaces shall be done only by the Cemetery Sexton or such person or persons as are designated by the Township.

- (c) The Permit for Interment issued by the Township for the burial space involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the Michigan department of health and human services, shall be presented to either the Cemetery Sexton or the Township Clerk prior to interment. Where such permit or form has been lost or destroyed, the Township Clerk must be satisfied, from his or her records, that the deceased person to be buried in the burial space is an authorized and appropriate person for that space before any interment is commenced or completed.

- (d) The ground surface shall be kept in an orderly and neat manner within the confines of each burial space.

Section 9. Disinterment

- (a) No disinterment or digging up of an occupied burial space shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or excavation of an occupied burial space have been obtained from any applicable state or county agency, governmental unit or official, or family member(s), 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 excavation of an occupied burial space if the disinterment or digging up of an occupied burial space is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.

Section 10. Winter Burials

- (a) The Township may charge additional fees for winter burials.
- (b) When weather conditions prevent an immediate interment, the deceased person may be kept in alternate storage until the weather conditions subside. Written permission by the next of kin or authorized agent must be obtained authorizing the delayed interment. The authorization shall specify the approximate hour and date of interment and place of temporary storage. Alternate

storage costs shall be paid by the estate of the deceased person or the deceased person's next of kin.

Section 11. Cremains

- (a) Cremains may be buried in a container approved by the Cemetery Sexton in a burial space or in a columbarium that has been installed by the Township within a Township cemetery.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.

Section 12. Grounds Maintenance

- (a) Flowerpots, urns, and grave blankets may be placed and maintained at markers or monuments no earlier than May 1 and must be removed no later than October 1 of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling, or excavating within a cemetery shall be allowed without the prior permission of the Cemetery Sexton or the Township Clerk. Furthermore, no tree, shrub, landscaping, or similar plantings shall occur without the prior permission of the Cemetery Sexton or the Township Clerk.
- (c) No flowers, shrubs, trees, or vegetation of any type shall be planted outside of an urn, except by the Township. Any of the foregoing items planted without Township approval will be removed by the Township or the Cemetery Sexton, or his or her designee.
- (d) The Township Board may remove, add or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks, and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The Cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (g) Surfaces other than earth or sod are prohibited.
- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers, and plastic flower containers must be removed from the cemetery within 10 days after being placed.
- (i) No glass containers or items are allowed.
- (j) Except for markers, memorials, flowers, grave blankets and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a Township cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the Township. Any item planted or placed in violation of any of the provisions of this Section may be removed and discarded by the Cemetery Sexton or any other Township designee.

Section 13. Disclaimer of Township Liability and Responsibility. Every person who enters, remains in and travels within a Township cemetery does so at their own risk. The Township is not responsible for any injury, accident or other casualty that might occur to any person present in a Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a burial space, burial site or anywhere

in a Township cemetery. The purchaser or transferee of any burial space or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the burial space or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Township, but also as to the Cemetery Sexton and any Township employee, officer, official or agent.

Section 14. Forfeiture of Vacant Burial Spaces. 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 the occurrence of the following events:

- (a) Notice shall be sent by the Township Clerk by first-class mail to the last known address of the purchaser of record informing him/her of the expiration of the 40-year period and that all rights with respect to said burial spaces will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (b) No written response to said notice indicating a desire to retain the burial spaces in question is received by the Township Clerk from the purchaser of record of said spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 15. Records. The Township Clerk shall maintain records concerning all interments, disinterments, or reinterments, all burial spaces, issuance of permits for interment and any other records related to Township cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 17. Vaults.

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each burial space before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.
- (b) Cremains shall be in a container approved by the Township.

Section 18. Cemetery Hours. Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed to the public during the hours from 9 p.m. until 7 a.m. the next morning. During those hours, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Cemetery Sexton, any Township official, a person accompanied by the Cemetery Sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 19. Prohibited Uses and Activities. The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree, plant or other lawful item or property located within a Township cemetery.
- (b) No person shall disturb the peace or unreasonably annoy, harass, or disturb any other person who is lawfully present on the grounds of any Township cemetery, such as but not limited to disturbing of the peace or engaging in loud or boisterous conduct
- (c) No vehicles shall be permitted to drive on lawns or burial spaces in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.

- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading, or mounding unless expressly authorized by this Ordinance.
- (j) There shall be no driving of an automobile, truck, or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts, or similar vehicles.
- (l) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (m) There shall be no disinterment or grave openings unless approved by the Township.
- (n) There shall be no possession or consumption of any alcoholic beverage.
- (o) There shall be no picnicking or consumption of food without prior Township approval.
- (p) 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.
- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (t) There shall be no private signs, private lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles, or open flames.
- (v) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (w) There shall be no exceeding of posted speed limits.
- (x) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to those animals expressly permitted under Michigan and federal law.
- (y) No firearms or archery arrows shall be discharged or shot except that military or other veterans' organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (z) No person shall engage in any fight, quarrel, or disturbance.
- (aa) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (bb) There shall be no dumping, vandalizing, or tipping over of any lawful garbage container or receptacle.

Section 20. Authority of the Cemetery Sexton

- (a) The Township Board shall appoint a Cemetery Sexton, who shall serve at the discretion of the Township Board. The Cemetery Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Cemetery Sexton shall assist other Township officials with the enforcement and administration of this Ordinance or any cemetery rules and regulations.
- (c) The Cemetery Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

Section 21. Fees. The Township Board shall set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for permits, grave openings, setting of foundations, grave closings, winter or holiday burials, the price for burial spaces, transfer fees for burial spaces, appeal requests, and other matters. Any check for fees pursuant to this Ordinance should be made out to the Township or the Township Treasurer and paid thereto, and not to the Cemetery Sexton or any other individual Township employee.

Section 22. Applicability of this Ordinance; Rules and Regulations.

- (a) This Ordinance shall apply only to cemeteries owned, controlled, or operated by the Township.
- (b) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.
- (c) The Township Board may adopt additional rules and regulations related to the use and maintenance of Township cemeteries.

Section 23. Interpretation/Appeals to the Township Board.

- (a) The Township Board shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Ordinance and any rule or regulation adopted pursuant to this Ordinance, as well as their applicability. The Township Board (or its designee) is also authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.
- (b) Any party aggrieved by any interpretation or decision made by the Cemetery Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a burial space, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Township shall give the aggrieved party who filed the written appeal with the Township at least ten (10) days' prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Township Board shall be final.
- (c) The Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 24. Penalties. A violation of this Ordinance or of any rule or regulation adopted pursuant to this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

Section 25. Township Officials Who Can Enforce this Ordinance. The following officials or officers shall have the authority to enforce this Ordinance and to issue municipal civil infraction citations pursuant to this Ordinance:

- (a) Township Supervisor.
- (b) Township Clerk.
- (c) Cemetery Sexton.
- (d) Any deputy of the county sheriff's department.
- (e) Any State Police office.
- (f) Any other individual authorized by resolution of the Township Board.

Section 26. Severability

The provisions of this Ordinance are hereby declared to be severable and if any provision, section or part of this Ordinance is declared to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section or part of this Ordinance involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 27. Effective Date; Conflicts

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

Section 28. Repeal. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Upon roll call vote, the Township Board voted on the adoption of the above Ordinance as follows:

YEAS: _____

NAYS: _____

ABSENT/ABSTAIN: _____

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Riley Township Board at a duly scheduled meeting held on _____, _____, at the Riley Township Hall, pursuant to the required statutory procedures.

_____, _____ Township Clerk