

# BARTON TOWNSHIP- NEWAYGO COUNTY MICHIGAN

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## DAVENPORT CEMETERY

### ORDINANCE

2018-01

An ordinance to protect the public health, safety and general welfare by establishing regulations relation to the operation, control and management of cemeteries owned by the Township of Barton, Newaygo County, Michigan; to provide penalties for the violations of said ordinance; and to repeal all ordinances/resolutions or parts of ordinances/resolution in conflict thereof.

The Township of Barton, County of Newaygo, Michigan Ordains:

Section 1: Title This ordinance shall be known and cited as the Barton Township cemetery Ordinance.

Section 2: Definitions of cemetery lots and burial spaces

- A. A cemetery lot shall consist of burial spaces sufficient to accommodate from one to 4 burial spaces.
- B. An adult burial space shall consist of a land area with a minimum (4) four feet wide and (8) feet in length.
- C. An infant grave shall consider an area of land three (3) feet wide by three and a half (3 1/2) feet in length.

Section 3: Sale of Lots or Burial Spaces

- A. Hereafter, cemetery lots or burial spaces shall be sold only to residents or taxpayers of the Townships for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore set forth. The Township Clerk, however is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the township or relationship to persons interred therein.
- B. 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 Clerk.
- C. Transfer of Burial Rights; Change of Designated Persons: only the following person are entitled to direct transfer of a burial right or change a designated person (1) the burial right owner; (2) the person who was the surviving spouse of the burial right owner; or (3) the duly appointed and serving personal representative of the burial right owner.
- D. Burial rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces, and only individuals who would qualify for burial may be designated persons. Request for transfer of burial rights shall be by a written request to the Township Clerk, who may require a notarized statement, and shall be effective upon approval of the township board and issuance of a new burial certificate to the new owner.
- E. In the case of an indigent who dies in the Township without resources for burial, the Township will assign a burial space, the right to which will remain with the Township. The Township may choose to

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erect a simple marker made from concrete or other durable material on the space to assist with future record keeping.

## Section 4: Purchase price and Transfer Fees

See Appendix A - Prices and Fees

## Section 5: Grave Opening Charges

- A. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of cremains, shall be at a cost to be determined from time to time by resolution of the Barton Township Board, payable to Barton Township.
- B. No burial spaces shall be opened and closed except under the direction and control of the Township Sexton or such other designated Township individual. This provision shall not apply to proceedings for the disinterment and reinternment of bodies and remains, which matters are under the supervision of the local health department. Cremains you must have Township approval upon Township permit.

## Section 6: Markers and Memorials

- A. All markers or memorials must be of stone or other equally durable composition.
- B. Any large upright monuments must be located upon a suitable foundation to maintain the monument in an upright erect position for the foreseeable future.
- C. Only one monument, marker or memorial shall be permitted per burial space.
- D. The footing or foundation upon which a monument, marker or memorial must be placed shall be flush with the ground and installed and constructed by the Township Cemetery Sexton at a cost to the owner of the burial right.
- E. Family monuments shall be permitted only when the holder of the certificate of burial rights owns adjacent graves in a row. Said family monument shall not exceed three (3) feet in width and shall be set in the middle lot and shall be in line with previously set memorial markers.

## Section 7: Interment Regulations

- A. Only one person may be buried in a burial space except for a parent and infant or two children buried at the same time.
- B. One person and the cremains of a second person or the cremains of (4) persons may be buried in one single burial space.
- C. Not less than 36 hours' notice shall be given in advance of the time of any funeral to allow for the opening of the burial spaces.
- D. The appropriate permit or burial-transit of the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the Sexton or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from the township records, that the person to be buried in the burial space is an authorized and appropriate one before an interment is commenced or completed.
- E. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space provided.

## Section 8: Vault

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All burials shall be within an approved vault installed or constructed in each burial space before interment. All cremains shall be in an approved box. Deviations from this requirement must have prior approval of the Township Board and Cemetery Sexton.

## Section 9: Ground Maintenance

- A. No grading, leveling, or excavating upon any burial space shall be allowed without the permission and direction of the Cemetery Sexton, or Township Board.
- B. No flowers, shrubs, trees or vegetation of any type shall be planted without the approval of the Sexton or Township Board. Any of the foregoing items planted without such approval may be removed by the Township or Cemetery Sexton.
- C. 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, and safe use of the cemetery.
- D. Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- E. 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. Surfaces other than earth or sod are prohibited.
- G. All refuse of any kind or nature including, among others; dried flowers, wreaths, papers, and flower containers must be removed and disposed of properly.
- H. General care of Davenport Cemetery is assumed by the Township Board, such as lawn care and general maintenance. The Township is not responsible for repair or replacement of any memorial placed upon a burial site due to weathering, theft, vandalism, acts of God or other unpredictable incidents.

## Section 10: Forfeiture of Vacant Cemetery lots or Burial Spaces

Cemetery lots of burial spaces sold after the effective date of the ordinance and remaining vacant 40 years 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 them of the expiration of the 40 year period and that all rights with respect to said lots or spaces will be forfeited if the owner of the burial right or their duly appointed and acting legal successor respond in writing to the Township Clerk within 60 days from the date of mailing of the notice of his desire to retain said burial rights. In the case of designated persons, if an address has not be designated by the owner of the burial right, notice shall be published one time in a newspaper of general circulation in the Township, giving notice to those designated persons that their burial rights will be forfeited if they do not respond to the Township.
2. If no written response to said notice is received by the Township Clerk from the burial right owner, or its heirs or legal representative, then 90 days from the date of the mailing of said notice, the burial right shall terminate.
3. Burial rights may also be declared forfeited by the Township if the burial right owner or designated person are deceased and are buried elsewhere.
4. Any burial space unused for 90 years after purchase of the burial right shall be vacated and forfeited to the Township without the requirement of notification.

## Section 11: Repurchase of Lots or Burial Spaces

In the event that a lot owner decides that they no longer wish to retain ownership of said burial lot, the owner must surrender to the township clerk the original cemetery lot Certificate and/or complete a form that they have the legal ownership of said lots or burial spaces. The Township will repurchase any cemetery lots or burial spaces from the owner at the original price paid the township or at a minimum of \$15 for each burial space in the event the original Certificate is not produced.

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## Section 12: Records

The Township Clerk shall maintain records concerning all burials, issuances of burial permits. The Township Clerk shall issue Cemetery Lot Certificates, and any perpetual care fund if established. All cemetery records shall be open to public inspection by request.

## Section 13: Cemetery Hours

Davenport Cemetery shall be open to the general public from daylight to dusk each day. No person shall be permitted in the township cemetery after dark except upon permission of the Township Board or Cemetery Sexton.

## Section 14: Penalties (**Updated**)

Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of a Civil Infraction. Any person found guilty of such violation shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) and/or by imprisonment in county jail not to exceed (90) days. Each incident shall constitute a separate offense.

## Section 15: Severability

The provision of this 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 16: Effective Date

This ordinance shall take effect on January 1<sup>ST</sup> 2018. All ordinances or parts of ordinance in conflict herewith are hereby repealed.

Adopted: December 14<sup>TH</sup>, 2017

*Pam Rosendall* 12-14-2017

Pam Rosendall, Township Clerk

Kyle Luce 12-14-17

Kyle Luce, Township Supervisor

Posted in Pioneer