

## **ORDINANCE NO. 250 LARKIN TOWNSHIP CEMETERY ORDINANCE**

The Charter Township of Larkin, Midland County, Michigan ordains an ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, and management of cemeteries owned by the Township; to provide penalties for the violation of said ordinance and to repeal all ordinances or parts of ordinances in conflict therewith.

### **Section 1: Title**

This ordinance shall be known and cited as the Larkin Charter Township Cemetery Ordinance.

### **Section 2: Definitions of Cemetery Lot, Burial Spaces and Interest Conveyed**

- (1) A cemetery lot shall consist of burial spaces sufficient to accommodate four burial spaces.
- (2) A burial space shall consist of a land area four (4) feet wide and ten (10) feet in length.
- (3) Cemetery lots and burial spaces are sometimes referred in this Ordinance as Burial Rights.
- (4) Purchasers of cemetery lots and burial spaces acquire only the right to the burial of human remains and the erection of markers and monuments, subject to this ordinance, amendments to this ordinance and to rules and regulations as may be adopted by the Larkin Township Board of Trustees. Rights to cemetery lots or burial space do not grant or include any fee title.

### **Section 3: Sale of Lots or Burial Spaces**

- (1) All sales shall be made and evidenced by a certificate form, which may be identified as a cemetery deed, approved by the Township Board and executed by the Township Clerk.
- (2) Burial Rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be effected only by endorsement of an assignment upon the original certificate issued by the Township Clerk, approved by said Clerk, and entered upon the official records of the Clerk. Upon such assignment, approval and record, the Clerk shall issue a new certificate to the assignee and shall cancel and terminate upon such records, the original certificate thus assigned.
- (3) Upon the death of the owner or the last to die of joint or multiple owners of a cemetery lot or burial space, ownership of Burial Rights shall be governed by the testate or intestate disposition of the owner. It shall be the responsibility of anyone claiming ownership of Burial Rights under these provisions or as a result of any transfer of

ownership to provide the Township with such proof as shall be satisfactory to the Township of said person's legal ownership of the Burial Rights.

#### **Section 4: Purchase Price and Transfer Fees**

The price of cemetery lots and burial spaces shall be determined by a fee structure established by resolution of the Township Board. The charges shall be paid to the Township Treasurer. The Township Board, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

#### **Section 5: Grave Opening Charges**

- (1) The opening and closing of any burial space, prior to and following a burial therein, including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township.
- (2) No burial spaces shall be opened and closed except under the direction and control of the cemetery Sexton and after the Sexton has issued a written authorization for the burial. 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.

#### **Section 6: Markers or Memorials**

- (1) All markers or memorials must be of stone or other equally durable composition.
- (2) Any large upright monuments must be located upon a suitable foundation to maintain the same in an erect position.
- (3) Only one monument, marker or memorial shall be permitted per burial space. Veteran markers can be added above the one permitted.
- (4) The footing or foundation upon which any monument, marker or memorial must be placed shall be constructed by the Township at cost to the owner of the Burial Right. Cost to be determined by resolution of the Township Board.

#### **Section 7: Interment Regulations**

- (1) Only one person may be buried in a burial space except for a mother or father and infant or two children buried at the same time or four cremains.
- (2) If the deceased to be interred is not the owner, owner's spouse or child of the owner, written consent of the owner or owners must be filed with the Sexton before interment may be permitted.
- (3) A minimum of 36 hours notice shall be given in advance of any time of any funeral to allow for the opening of the burial spaces.

(4) 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 either the Sexton or the Township Clerk prior to interment. Where such certificate has been lost or destroyed, the Township Clerk 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 or completed.

(5) All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

### **Section 8: Ground Maintenance**

(1) No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the cemetery Sexton or the Township Clerk.

(2) No shrubs, trees, or evergreens of any type shall be planted without the approval of the cemetery Sexton and the Township Clerk. Any of the foregoing items planted without such approval may be removed by the Township cemetery Sexton.

(3) The Township Board reserves the right to authorize 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.

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

(5) The cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that are determined to be unsightly, a source of litter, or a maintenance problem.

(6) Copings, fences, curbs, hedges, structures of wood or other equally perishable materials are prohibited. Structures or enclosures on any lot which have, in the judgment of the cemetery Sexton, become unsightly by reason of neglect or age shall be removed.

(7) Receptacles for cut flowers will be permitted if installed flush with the surface of the lawn. Winter decorations may be maintained on graves until March 15. If such decorations are not removed by March 15, they shall be considered abandoned and may be disposed of by the cemetery Sexton. Summer decorations must be removed by October 30 or earlier.

### **Section 9: Forfeiture of Vacant Cemetery Lots or Burial Spaces**

(1) All cemetery lots or burial spaces remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:

(2) Notice shall be sent by the Township Clerk by first class mail to the last known address of the owner of record informing the owner 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 does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the notice of the owner's desire to retain burial rights.

(3) If no written response to the notice indicating a desire to retain the cemetery lots or burial spaces is received by the Township Clerk from the last owner of record of said lots or spaces, the owner's qualified assignee or legal representative, within 60 days from the date of mailing of the notice, all burial rights shall be forfeited and revert to the Township without further notice or accounting.

### **Section 10: Repurchase of Lots or Burial Spaces**

The Township may repurchase any cemetery lots or burial space from the owner for the original price paid the Township upon written request of said owner or his legal heirs or representatives.

### **Section 11: Records**

The Township Clerk shall maintain records concerning all certificates, burials and any perpetual care fund, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

### **Section 12: Vault**

All burials shall be within a standard concrete vault installed or constructed in each burial space before interment. Cremains shall be in a vault approved by the Township.

### **Section 13: Cemetery Hours**

The cemetery shall be open to the general public during the daylight hours. No person shall be permitted in the Township cemeteries at any time other than the foregoing hours, except upon permission of the Township Board or Cemetery Sexton.

### **Section 14: Penalties**

Any person or other entity who violates any provision of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine of not more than Five Hundred (\$500) dollars, plus costs, which may include all direct or indirect expenses to which the Township has been put in connection with the violation. In no case, however, shall costs of less than nine (\$9.00) dollars or more than five hundred (\$500.00) dollars be ordered. All violations of this Ordinance are declared nuisances per se. The Township specifically reserves the right and shall have the authority to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to abate said nuisance and to compel compliance with this Ordinance. Each day a violation of this ordinance continues to exist constitutes a separate violation.

**Section 15: Severability**

The provisions 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 this Ordinance which shall continue in full force and effect.

**Section 16: Effective Date**

This Ordinance shall take effect thirty (30) days after its publication. All ordinances or parts of ordinances in conflict herewith shall be repealed.

Adopted at a meeting of the Township Board, Charter Township of Larkin, Midland County, Michigan.

Ordinance No. 250, adopted July 10, 2007