

**ORDINANCE NO. 374**

**ZEELAND CHARTER TOWNSHIP RESTATED CEMETERY ORDINANCE**

An Ordinance to restate Ordinance No. 351 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 Zeeland, Ottawa County, Michigan; to provide penalties for the violation of the Ordinance; and to repeal all conflicting ordinances or parts of ordinances.

THE CHARTER TOWNSHIP OF ZEELAND, OTTAWA COUNTY, MICHIGAN, ORDAINS:

**Section 1: Title**

This Ordinance shall be known and cited as the Zeeland Charter Township Restated Cemetery Ordinance.

**Section 2: Definitions**

- A. A Burial Space shall consist of a land area four feet wide and 10 feet long.
- B. The Cemetery Sexton is appointed by the Township Board and responsible to perform the duties assigned by this Ordinance for all Township cemeteries, or such Township cemeteries as are assigned by the Township Board.
- C. A Marker is any memorial made of durable granite, marble, standard bronze or other material equivalent in durability approved by the Cemetery Sexton.
- D. A name shall be assigned to a Burial Space when it is sold by the Township. Each Burial Space sold shall be assigned to the individual who will be interred there. If a different person is then assigned, the Township shall first be paid any additional fee it is owed (i.e., if the original person was a Township resident but the different person is a nonresident).
- E. A Monument is a tombstone or memorial which exceeds 30 inches in height above normal ground level or which has a ground surface area of more than two square feet.

**Section 3: Sale and Assignment of Burial Spaces**

- A. Burial Spaces shall be sold to residents and nonresidents of the Township solely for the purpose of burying the purchasers or their assignees.
- B. No sale shall be made to funeral directors or others except as described in this Section.

- C. Sales shall be made on an instrument approved by the Township Board. The instrument shall grant a right of burial to the purchaser or assignee only and shall not convey any other title to the Burial Space sold. This instrument shall be executed by the Township Clerk or designated representative.
- D. No Burial Space may be assigned by the purchaser to another person or entity without the approval of the Township. No Burial Space may be purchased or sold or rights transferred for speculative purposes.

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

- A. Each Burial Space shall be sold at a price established by Township Board motion or resolution and set forth in a schedule of fees.
- B. The appropriate charges shall be paid to the Township Treasurer.
- C. The Township Board, by resolution, may periodically alter the fees to purchase Burial Spaces to accommodate increased costs and needed reserve funds for Township cemetery maintenance and acquisition.

**Section 5: Burial Space Opening Charges**

- A. The charge for opening and closing any Burial Space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost determined and payable to the funeral director in charge, unless the Township in the future decides to regulate those charges.
- B. No Burial Spaces shall be opened or closed except under the direction and control and with the approval of the Cemetery Sexton. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the Ottawa County Public Health Department, or other governmental agency with jurisdiction.
- C. No Sunday burials shall be allowed in any Township owned cemeteries.

**Section 6: Markers or Monuments**

- A. All Markers shall face the same direction as the Markers around them.
- B. Except for Monuments which existed in a Township cemetery before the effective date of this Ordinance, no Monument will be allowed or erected in a Township cemetery.
- C. Only one Marker is permitted per Burial Space (a "Single Marker"). One Marker may also be placed for two adjoining Burial Spaces (a "Double Marker").

- D. Single Markers shall be no more than 30 inches in width, and Double Markers shall be no more than 48 inches in width. The overall height shall be no more than 30 inches above normal ground level, including the foundation. Markers for cremains shall be flush with the ground. Markers which are flush with the ground shall be no more than two square feet in area.
- E. A Burial Space with cremains (the ashes of a cremated corpse) may have either one or two Markers. Each Marker shall be no more than 48 inches in width. The overall height shall be no more than 30 inches above normal ground level, including the foundation.
- F. The footing or foundation upon which any Marker is placed shall be constructed by the company placing the Marker. The Township shall have no responsibility for the expense of the footing or foundation.
- G. Should any Marker (or Monument which was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township shall have the right, at the expense of the owner or the owner's family or estate, to correct the condition or remove the Marker (or Monument). The Township shall make reasonable attempts to contact the owner, or the owner's family or estate, prior to any such work beginning.

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

- A. Not less than 36 hours notice shall be given to the Cemetery Sexton in advance of any funeral to allow for the opening of the necessary Burial Spaces.
- B. The appropriate permit for the Burial Space involved in a burial, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the Cemetery Sexton or the Township Clerk. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from relevant records, that the burial of the person in the Burial Space is authorized and appropriate before any interment is commenced.
- C. All Burial Spaces shall be located in an orderly and neat manner within the confines of the cemetery.

#### **Section 8: Cemetery Sexton**

The Cemetery Sexton is responsible for showing available Burial Spaces; marking Burial Spaces for interment purposes; selling and locating Burial Spaces; keeping current records and current maps for Township cemeteries; and performing other duties assigned by this Ordinance.

#### **Section 9: Ground Maintenance**

- A. No grading, leveling, or excavating upon a Burial Space shall be allowed without the specific permission of the Cemetery Sexton or the Township Clerk.
- B. No flowers, shrubs, trees or vegetation of any type shall be planted except by the Township in a Township cemetery. Any of the foregoing items planted may be removed by the Township.
- C. The Township reserves the right to remove or trim any flower, shrub, tree or vegetation of any type located within a Township cemetery in the interest of maintaining proper appearance and use of the cemetery.
- D. Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited in a Township cemetery, unless constructed by the Township.
- E. The Cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers or other items 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 in a Township cemetery, unless established by the Township.
- G. All refuse of any kind or nature, including, among others, dried flowers, wreaths, papers, and flower containers, shall be subject to removal from a Township cemetery by the Township.
- H. Permanent benches are prohibited in a Township cemetery, unless placed by the Township.
- I. The Township shall cut the grass in a Township cemetery and trim the grass around Markers and Monuments as often as the Township deems necessary to keep the cemetery looking neat. The Township need not give any notice before cutting or trimming grass.
- J. The Township shall level and seed all newly-used Burial Spaces, as well as previously used Burial Spaces which have settled, as the Township deems appropriate.
- K. The Township reserves the right to remove dead or dying flowers from Burial Spaces.
- L. The Township shall remove leaves and brush and fallen tree limbs as the Township deems necessary.
- M. The Township may, in its discretion, replace the foundations of Marker and Monuments as the Township deems necessary, at the expense of the owner or the owner's family or estate.
- N. No artificial flowers are permitted in a Township cemetery.

## Section 10: Forfeiture of Vacant Burial Spaces

- A. Burial Spaces sold after the effective date of this Ordinance and remaining vacant 40 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events.

For purposes of this Section, "vacant" shall mean:

- (1) no interment; and
- (2) no Marker or Monument.

Notice shall be sent by the Township Clerk by first class mail to the last known address of the last owner of record. The notice shall inform the owner of the expiration of the 40-year period and that all rights with respect to the Burial Spaces will be forfeited if the owner does not affirmatively indicate in writing to the Township Clerk within 90 days from the date of mailing of the notice the owner's desire to retain those rights.

If no written response to the notice indicating a desire to retain the Burial Spaces in question is received by the Township Clerk from the last owner of record of the Burial Spaces, or from the last owner's heirs or legal representatives, within 60 days from the date of mailing the notice, then the Township shall publish a final notice in a local newspaper indicating a need for written response within 30 days.

If no written response to the mailed or published notice indicating a desire to retain the Burial Spaces in question is received by the Township Clerk from the last owner of record of the Burial Spaces, or from the last owner's heirs or legal representatives, within 90 days from the mailing date of the first notice or within 30 days from the publication date of the final notice, then the Burial Spaces shall be forfeited to the Township. In the event of forfeiture, the owner(s) shall not be entitled to any payment or reimbursement.

If a timely response to the notice is received by the Township Clerk, indicating a desire to retain the Burial Spaces in question, this process shall be repeated every 10 years until the Burial Spaces are used or revert to the Township. Owners may also reset the 10 year timing by written notice affirming their desire to retain interment rights.

- B. Burial Spaces sold before the effective date of this Ordinance and remaining vacant 40 years from the date of their sale (or, if the date of sale is unknown, remaining vacant after January 1, 2009) shall revert to the Township only if the Township pursues the procedures in Section 9.A above and pursues other reasonable due process procedures if the owners are unknown to determine if the owners of the Burial Spaces wish to retain their ownership rights. Only if the Township does not receive a timely indication of continued interest in the ownership rights of the Burial Spaces shall the Burial Spaces

revert to the Township. As in Section 9.A above, the process shall be repeated every 10 years as necessary.

### **Section 11: Repurchase and Descent of Burial Spaces**

- A. The Township will repurchase any Burial Space from the owner for the original price paid the Township upon written request of the owner or the owner's legal heirs or representatives.
- B. Ownership of a Burial Space shall descend as directed by will or other suitable document signed by the assignor. In the absence of a will or other suitable document, the Burial Space shall descend as personal property under the applicable statutes of the State of Michigan.

### **Section 12: Records**

- A. The Township Clerk shall maintain records concerning all burials and issuance of burial permits, separate and apart from any other records of the Township.
- B. Those burial records shall be open to public inspection at all reasonable business hours, pursuant to applicable State and Federal law.

### **Section 13: Vault**

- A. To avoid sunken Burial Spaces, all burials shall be within a standard concrete vault installed or constructed in each Burial Space before interment. However, for burial of children less than three years of age fiberglass vaults may be used.
- B. Vaults are not required for interment of cremains.

### **Section 14: Cemetery Hours**

- A. Township cemeteries shall be open to the general public from dawn to dusk each day.
- B. No person shall be permitted in Township cemeteries at any time other than the foregoing hours, except upon permission of the Township Board or the Cemetery Sexton.

### **Section 15: Liability for Damage**

Neither the Cemetery Sexton nor Township employees working in a Township cemetery shall be liable for floral designs or any other type of decoration items used on Burial Spaces, for Monuments, or for Markers, other than to accept such items for use. The Township shall not be liable for damage of any kind that may occur to such items in the normal course of cemetery operations. No officer, agent or employee of the Township shall be liable for any damage which may occur to any persons as a result of any act, decision or other consequence or occurrence

arising out of the discharge of duties or responsibilities pursuant to this Ordinance. The Township shall not be held responsible for damages by the elements, acts of God, thieves, vandals, or unavoidable accidents, whether the damages may be direct or collateral.

**Section 16: Operation of Vehicles; Regulation of Roads, Drives and Walkways**

- A. No person may drive a vehicle in excess of 10 miles per hour in a Township cemetery.
- B. All persons within a Township cemetery shall use only the designated roads, drives, alleys, walks and aisle ways. However, a person may carefully walk upon or cross Burial Spaces or lawns when necessary to gain access to a Burial Space.
- C. Any vehicle parked on the grass may be ordered removed by the Cemetery Sexton, and the owner and/or operator shall be responsible for all costs.
- D. No person may operate a vehicle in a Township cemetery for recreational purposes.
- E. No person may park a vehicle in front of an open Burial Space unless the person is attending the funeral pertaining to that Burial Space and the parking area is not otherwise reserved.
- F. No person shall enter a Township cemetery except through a permitted point of entry.

**Section 17: Conduct of Persons**

- A. Within a Township cemetery, all persons are prohibited from picking flowers (wild or cultivated), breaking or injuring any tree, shrub or plant, or writing upon, defacing or destroying any Marker, Monument, fence or other structure. No person may destroy or otherwise disturb the birds or other animal life within a Township cemetery if not authorized by the Cemetery Sexton.
- B. Within a Township cemetery, no person may loiter, litter, use profane language, or bring in or consume alcoholic beverages. Further, no person may possess firearms without the approval of the Cemetery Sexton, unless the person is a duly authorized law enforcement officer or a duly authorized military escort for a veteran's funeral or memorial service.
- C. No person may walk or allow dogs or other animals in a Township cemetery.
- D. Peddling of flowers or plants or soliciting the sale of any commodity, other than Burial Spaces by authorized Township employees or representatives, is prohibited within a Township cemetery.
- E. No signs or notices or advertisements of any kind shall be allowed in a Township cemetery, unless placed by the Cemetery Sexton.

- F. Proper conduct must be observed on Township cemetery grounds at all times. A Township cemetery shall not be used as a place for recreational activity. The Cemetery Sexton shall have the authority to direct the removal from a Township cemetery of any person who acts in a disrespectful manner or without proper decorum.

**Section 18: Photographs and Messages on Monuments and Markers**

If the Township determines that any Monument or Marker in a Township cemetery is indecent, profane, pornographic or otherwise offensive to the Township community, the Monument or Marker may be removed from the cemetery five days after written notice is given to the person with burial rights in the Burial Space with that Monument or Marker, or to that person's heirs or representatives if known to the Township.

**Section 19: Interments per Burial Space**

- A. Except as provided in this Section, the remains of only one human body may be interred in a Burial Space. A parent and an infant child, or two children of less than three years of age, may be interred together if they are interred at the same time.
- B. If a Burial Space is used only for cremains, the cremains of up to four individuals may be interred in that Burial Space. Cremains may only be buried in a Burial Space if no other remains are interred in the Burial Space.

**Section 20: Exceptions**

Special cases may arise in which the literal enforcement of a provision of this Ordinance may impose an undue and unnecessary hardship. Notwithstanding any such provision to the contrary, the Cemetery Sexton, if approved by the Township Clerk, may make such exceptions, suspensions or modifications of any applicable provision of this Ordinance as the Cemetery Sexton and Township Clerk deem appropriate. Any such exception, suspension or modification shall not be construed as affecting the general application or intent of the provisions of this Ordinance. Any such exception and the reasons for it shall be noted in the Township cemetery records.

**Section 21: Existing Conditions**

Notwithstanding any provisions in this Ordinance to the contrary, no condition existing in a Township cemetery as of the date of adoption of this Ordinance shall be deemed a violation of this Ordinance, if the condition continues to exist without interruption, and if the Cemetery Sexton does not determine that the condition is a threat to public safety.

**Section 22: Penalties**



Any person, corporation or other entity which violates any of the provisions of this Ordinance shall be guilty of a misdemeanor and shall be subject to a fine of up to \$500.00, plus costs of prosecution, or imprisonment for up to 90 days in jail, or both, as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions under this Ordinance shall not prevent civil proceedings for abatement and termination of the complained of activity, for restitution, or for other remedies appropriate under the law.

**Section 23: Repeal**

All ordinances, parts of ordinances or amendments to ordinances, any of which are in conflict with the provisions of this Ordinance, are repealed to the extent of such conflict. This Ordinance restates and supersedes Ordinance No. 351.

**Section 24: Administrative Liability**

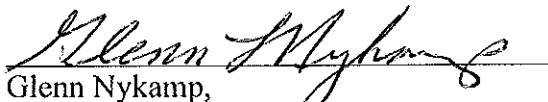
No officers, agents or employees of the Township, or members of the Township Board, shall be personally liable for any damage which may occur as a result of any act, decision or other consequence or occurrence arising out of the discharge of their duties and responsibilities pursuant to this Ordinance.

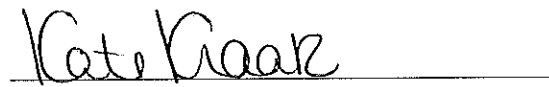
**Section 25: Severability**

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

**Section 26: Effective Date**

This Ordinance is ordered to take effect on the 31<sup>st</sup> day after publication of a Notice of Adoption in the Zeeland Record, a newspaper having general circulation in the Township. This Ordinance was given a first reading on December 15, 2015, and it was published after that first reading. All of this was accomplished pursuant to the provisions of Act No. 359 of the Public Acts of 1945, as amended.


  
Glenn Nykamp,  
Township Supervisor

  
Kate Kraak,  
Township Clerk

**CERTIFICATE**

I, Kate Kraak, the Clerk for the Charter Township of Zeeland, Ottawa County, Michigan, certify that the foregoing Zeeland Charter Township Restated Cemetery Ordinance was adopted at a regular meeting of the Township Board held on December 15, 2015. The following members of the Township Board were present at that meeting: Nykamp, Myaard, Kraak, Barkel, Oonk, Overweg. The following members of the Township Board were absent: Brink.

The Ordinance was adopted by the Township Board with members of the Board Nykamp, Myaard, Kraak, Barkel, Oonk and Overweg voting in favor, and members of the Board none voting in opposition. Notice of Adoption and Posting of the Ordinance was published in Zeeland Record on December 24, 2015. An attested copy of the Ordinance was sent to the Ottawa County Clerk by first class mail, postage prepaid on \_\_\_\_\_, 20\_\_ (within seven days of the publication after adoption).

  
\_\_\_\_\_  
Kate Kraak, Clerk  
Zeeland Charter Township