

TOWNSHIP OF BENZONIA

COUNTY OF BENZIE, MICHIGAN

ORDINANCE #1-97

BENZONIA TOWNSHIP CEMETERY ORDINANCE

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control and management of a cemetery owned by the Township of Benzonia, Benzie County, Michigan to provide penalties for the violation of said Ordinance; and to repeal all ordinances or parts of the ordinances in conflict herewith. This Ordinance shall be known and cited as the "Benzonia Township Cemetery Ordinance".

SECTION I

GENERAL PROVISIONS & DEFINITIONS

- A. Municipal cemeteries are hereby declared to be Public Burial grounds for the remains of human bodies only. The ownership of lots will remain with the Township and the Township reserves the right to enter upon any such lots to provide for its care and upkeep.
- B. Vehicular Traffic shall not exceed 5 miles per hour.
- C. Gates to the cemetery will be open from 7:00 am to dusk. Back gate will be open during burial services and Memorial Day weekend. All vehicular traffic shall be excluded from the cemetery from dusk to 7:00 am.
- D. Owner means any person or persons owning the privilege, license or right of interment in any burial space.
- E. A cemetery lot shall consist of a sufficient area to accommodate four burial spaces.

- F. A resident for the purposes of this Ordinance is defined as a person who resided in the Township of Benzonia for one year continuously, before making application for assignment of a burial space.
- G. An adult burial space shall consist of a land area five feet wide and ten feet in length. An infant or still born burial space shall consist of a land area five feet wide and five feet in length.
- H. Cremains is the cremated ashes of a human body. Two cremains per adult burial space.

SECTION II

MANAGEMENT

- A. A Cemetery Board shall consist of the Township Clerk, the Sexton and a member of the Township Board. The term of the board member shall be for a period of two years. The board member shall be appointed by the Township Supervisor.
- B. The Cemetery Sexton shall be appointed by the Township Board and shall be responsible for carrying out the policies and procedures established herein.
- C. All grave openings and closures shall be under the Sexton's direction. Disinterment of a body once property interred shall not be made without a properly executed disinterment/re-interment permit. Graves to be opened for inspection for official investigation shall require an order signed by a court of competent jurisdiction. Any markers or monuments designating the location of an interment shall be removed at the time a disinterment is made, unless the body is to be returned to the same burial space. After re-interment, the graveside shall be returned to its original state.
- D. Funeral Directors shall give to the Sexton or Clerk, a 36 hour advance notice for the Cemetery Sexton to prepare the gravesite.
- E. A burial permit for the burial space involved, together with appropriate identification of the person to be buried there, where necessary, shall be presented to either the Sexton or the person conducting burial prior to interment.
- F. The fees are set forth in Section XI, but they may be altered by resolution of the Township Board from time to time. Fees will be paid to the Township Treasurer or Sexton.
- G. The burial of two or more persons in one burial space is prohibited, except for the mother or father of an infant if buried at the same time, or two babies may be buried in the same burial space.

- H. The ashes from human cremation, appropriately contained, may be placed in a burial space if they are those of the owner of the lot or his assigns. Burial of two cremations in a single container must have the container approved by the Sexton.
- I. A certificate of lot assignment shall be prepared for the lot and burial space(s) assigned to the owner by the Township Clerk. The burial rights of lots or burial space(s) shall not be transferred to another without the approval of the Township Clerk, by executing the Transfer of Assignment document, upon the payment of a transfer fee. All assignments from one owner to another, of a lot or burial space(s), must be signed by the owner of the lot or burial space. In the event the owner is deceased, an Order must be received from the Probate Court.
- J. During the lifetime of a resident owner, the owner may allow anyone to be buried in their assigned burial space, up to a total of four per resident family. However, if the person is a non-resident, such will be completed only upon the payment of the non-resident cost for a non-resident burial space as set forth in Section XI. Additionally, if a resident, during their lifetime, wishes to transfer all owner rights to a non-resident, such will be completed only upon the payment of the non-resident cost for a non-resident burial space and the transfer fee, as set forth in Section XI.
- K. Burial spaces may be returned to the Township by mutual consent by transferring the burial space to the Township upon the execution of the Transfer of Assignment. If the burial space or lot has been purchased, the Township shall refund the price for which they were purchased.
- L. Lost or destroyed certificates may be replaced by the Township Clerk if Township records indicate that the claimant is indeed the owner of the burial space or spaces in question.
- M. A copy of this Ordinance shall accompany all issued Certificates of Lot Assignment and Transfers.
- N. All residents, as defined herein, of Benzonia Township may apply for and be assigned one burial space without fee, up to a maximum of four per family. In the event of a simultaneous multiple family death, or similar event, the Township Board may authorize additional burial spaces.
 - 1. A person in the service shall be eligible for a resident lot provided he/she shall have resided in Benzonia Township at least one year continuously before entering the service, and shall not have registered as an elector of any other governmental unit.
 - 2. A non-resident may purchase, for the fee established in Section XI, up to a maximum of four burial spaces per family.
 - 3. Burial Spaces shall be paid in full at the time of purchase by non-residents of Benzonia Township.
 - 4. There shall also be an interment fee charged, as set forth in Section XI.
- O. A resident of Benzonia Township, making application for a burial space, shall attest to having resided in Benzonia Township for one year continuously, by executing the Benzonia Township notarized affidavit.

- P. Any complaints shall be directed first to the Sexton before they are addressed to the Cemetery Board or the Township Board.

SECTION III

UNLAWFUL ACTS

- A. It shall be unlawful for the owner of any burial lot or burial space to allow interment to be made in the cemetery for remuneration.
- B. It shall be unlawful for any person to deface, injure, disturb, mark or write on any marker, monument or headstone, except when the work is done by the Sexton or the authorized representative of the owner.
- C. No person shall create any loud noise, engage in disorderly conduct, or any other activity which tends to destroy the peace, tranquility and attractiveness of the cemetery and its sacred devotion to the interment and respect of the dead.
- D. There shall be no parking of any vehicles except for cemetery visitation.
- E. There shall be no hunting at any time, except to control animal damage, by consent of the Cemetery Board.
- F. There shall be no skiing, rollerblading, sledding, snowmobiling, skateboarding, the use of off road vehicles or any other recreational activity in the cemetery.
- G. No pets shall be allowed in the cemetery except within the confines of a vehicle. Dog walking is strictly prohibited.
- H. Scattered remains over a family lot or anywhere in the cemetery is prohibited.

SECTION IV

FUNERAL AND INTERMENTS

- A. Conditions to be fulfilled before interment: No interment shall take place without a burial permit, nor until the person making arrangements for the interment has complied with all laws, ordinances, rules , fees and regulations relative to burials.

- B. Funeral directors making arrangements for burials shall be responsible for all interment charges if not paid by the owner or their agents. All interments will be made on lots where a Certificate of Lot Assignment has been issued by the Township Clerk.
- C. All funerals within the cemetery shall be under the direction of the Sexton or an authorized assistant.
- D. When there is a change in time of burial, the Sexton must receive a two hour notice. Due to weather or other hazardous conditions, the Sexton shall have the sole right and authority to designate the conduction of the funeral procession and hearse use. Open graveside services will not be allowed when the cemetery is closed for the winter.

SECTION V

DECORATION OF LOTS

The following rules shall be observed:

- A. Cappings, fences, curbs, benches, steps, structures of wood or other materials used as grave lot borders or covering shall be prohibited in cemetery Sections G & H. These structures or enclosures established on any lot previous to the adoption of these regulations which have, in the judgment of the Cemetery Board, become unsightly by reason of neglect or age shall be removed.
- B. No elevated mounds shall be built over burial spaces and no lot shall be filled above the level established by the Township.
- C. Receptacles for cut flowers will be permitted if installed flush with the surface of the lawn. The use of glass jars or bottles as receptacles for cut flowers is strictly prohibited. Statues or urns must be within 12 inches from the monuments.
- D. There shall be one urn allowed per burial space, and it shall be to the side of the monument and shall be permitted only if properly installed and maintained.
- E. Winter decorations may be maintained on graves from November 1st until May 1st. If such decorations are not removed by May 1st, they shall be considered abandoned and shall be disposed of by the cemetery management. No decorations shall be placed on graves from April 15th to May 15th.
- F. There shall be no arches for hanging baskets allowed; however, those erected before this ordinance, shall be permitted only when they are in use and they must not be anchored. Any not in use by June 1st will be removed.

- G. No more than two decorations shall be allowed on a grave at one time or the excess shall be removed at the discretion of the Township Board.
- H. All grass shall be cut by the cemetery maintenance crew on a regular basis during the growing season to provide for a uniform appearance. All flowers, trees, hedges or shrubs which have, as determined by the Sexton, become unsightly, hazardous, encroach on an adjoining lot or path, will be removed by the cemetery maintenance staff. A planted unit that requires regular trimming or pruning, if not properly maintained by the lot owners, shall be removed. Plants at side of markers shall be annuals of non-spreading types. Bushes and shrubs shall be limited in height and diameter to 18 inches.
- I. No trees or evergreens shall be planted or removed, except under the direction and with the direction of the Sexton.
- J. Real or artificial flowers may not be placed more than 12 inches from the monument or marker.
- K. The Cemetery Board reserves the right to request the Sexton to remove funeral designs and floral pieces as soon as they become unsightly.
- L. No grading, leveling, or excavating upon a burial space shall be allowed without permission from the Cemetery Sexton or the Cemetery Board.

SECTION VI

VAULTS, MONUMENTS AND MARKERS

- A. Definitions:
 - 1. Monument – A raised stone usually identifying a family lot. Allowable only in Sections A through F generally known as the “Old Section” of the cemetery.
 - 2. Headstone – A raised stone identifying an individual burial space.
 - 3. Marker – A plaque made of bronze or stone installed flush with the ground. These markers are permitted throughout the cemetery but are required in Sections G & H.
- B. Location of monuments or markers on lot:
 - 1. No monument or marker shall be placed less than 2 inches from the lot line.
 - 2. No headstone or marker shall embrace more than two burial spaces unless specifically approved by the Sexton.

3. No monument, headstone or marker shall be set until location is approved by the Sexton and evidence is presented that the burial space is paid in full or otherwise unencumbered, and the Certificate of Lot Assignment is presented.

C. Foundations:

1. All monuments, headstones and markers shall be set on a concrete foundation which extends a minimum of 2 inches beyond the base of monument on all sides, be at least 4 inches thick or contain a steel reinforcement and shall be level and edged.
2. As a protection to all lot owners, and for the general welfare of the Benzonia Township Cemetery, the Township reserves the right to excavate for, and build all foundations, also determine the grade and location of monuments. All expenses incurred in setting or repairing such markers shall be borne by the lot owner. (Effective May 1, 2010)
3. Foundations shall only be installed when the ground is frost free, generally between the following dates of April 15 and November 1st.

D. Materials:

1. All material used in the construction of monuments, headstones and markers must be granite, marble or standard bronze.
2. The use of sandstone, terra cotta, slate, artificial stone, wood or ferrow material is not permitted.
3. Should a marker, monument, or other memorial become unsafe or unsightly, in the opinion of the Cemetery Sexton and the Cemetery Board, notice of the condition will be sent to the last known address of the owner and the structure will be removed or repaired at the owner's expense.

- E. All burials (except cremains) shall be made in a sealable concrete vault or other acceptable material approved by the Sexton or Cemetery Board.

F. Prohibitions:

1. No mausoleum shall be erected without the specific approval of the Township Board.
2. Inscriptions on monuments, markers or other memorial must not be offensive or improper, as judged by the Township Board. The owner of any such memorial will be responsible for all expenses of removal.
3. The Township Board has the authority to deem a marker, monument or other memorial to be inappropriate and thus prohibit it from being placed in the cemetery.

SECTION VII

FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES

Cemetery lots or burial spaces which remain vacant for 40 years since the last activity, shall automatically revert to Benzonia Township upon the occurrence of the following events:

1. Benzonia Township shall, at their discretion, cause to be published in a newspaper of general circulation within the Township, a list of all such cemetery lots or burial spaces which have remained vacant for 40 years or more, and which are subject to the automatic reverter. The published notice shall include the lot number, the name of person(s) of record, instructions as to what steps to take to retain said cemetery lot of burial space, and the deadline for doing so.
2. If **NO** written response to said 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 burial spaces, or the owner's heirs or legal representatives, within 60 days of the publishing of said notice.

SECTION VIII

RECORDS

The Township Clerk shall maintain records concerning all burials, issuance of Certificates of Lot Assignment, Burial Permits and transfer of burial spaces, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable hours.

SECTION IX

ENFORCEMENT

Any person, firm or corporation violating any of the provisions of this ordinance shall be subject to a fine of not to exceed FIVE HUNDRED (\$500.00) DOLLARS and costs of prosecution, or by imprisonment for not more than 90 days, or may be punished by such fine, costs and imprisonment at the discretion of the Court. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

SECTION X

SEVERABILITY

The provisions of the within 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.

Revised Cemetery Ordinance Benzonia Township Board Meeting, March 5, 1997.

Published: Record Patriot: Wednesday, March 19, 1997.

SECTION XI

FEES

Costs of non-resident burial space \$300.00 (per burial space)

Interment:

- | | |
|----------------------------------|----------|
| 1. Urns (Ashes) | \$175.00 |
| 2. Babies (up to 2 foot grave) | \$175.00 |
| 3. Children (up to 5 foot grave) | \$275.00 |
| 4. Adult (up to 8 foot grave) | \$450.00 |

Transfer fee: \$ 10.00

Lost or destroyed Certificate of Assignment \$ 10.00

Disinterment: The fees will be double for any interment costs.

The Township Board, by resolution, may periodically alter these fees to accommodate increased costs and needed reserve funds for cemetery management and land acquisition.

SECTION XII

TOWNSHIP LIMITATION OF LIABILITY

- A.
- B. The Township assumes no responsibility for errors in opening graves when such errors are caused by others.
- C. The Township is not responsible for loss, theft or vandalism within the cemetery.

SECTION XIII

EFFECTIVE DATE

This Ordinance shall take effect 30 days after its publication of either a true copy or a summary of the Ordinance.

All ordinances or parts of ordinances in conflict of this Ordinance are hereby repealed.

- Fee schedule changes per resolution, Township Board Meeting, April 4, 2001.
- Fee schedule changes per motion, Township Board Meeting, May 11, 2005.
- Fee schedule changes per motion, Township Board Meeting, June 13, 2007. Increases to take effect as of June 13, 2007.
- Fee schedule changes per motion, Township Board Meeting, April 8, 2009. Increases to take effect as of April 8, 2009.
- Section VII changes per motion, Township Board Meeting, May 13, 2009.
- Section VI: C. Foundations; Paragraph 2. Changed by Township motion April 14, 2010 to take effect 5/1/2010.
- Fee schedule changes per resolution, Township Board meeting March 12, 2013. Increases to take effect as of April 1, 2013.