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Cemetery Ordinance #20-2015

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**WEESAW TOWNSHIP
CEMETERY ORDINANCE #20-2015**

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

THE TOWNSHIP OF WEESAW, COUNTY OF BERRIEN, MICHIGAN,
ORDAINS:

Section 1: Title

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

Section 2: Guidelines/Definitions of Cemetery Ordinance Terms

Each burial space/lot sold shall be assigned the name of a particular person who will be buried in that space.

Up to two cremated remains may be buried in the ground (or placed in one memorial headstone especially constructed for cremains) within a single burial space confines.

An adult burial space shall consist of a land area four (4) feet wide and ten (10) feet in length more or less.

In cemetery sections plotted after 2015 A.D., there shall be a special reserved area consisting of smaller burial spaces set aside exclusively for cremains. In addition, markers or headstones for cemetery sections plotted after 2015 A.D. in any newly-established Township Cemeteries shall be surface markers which are flush with the ground.

Ownership of a lot consists in the right of interment only. The lot can be used for no other purposes and cannot be divided into smaller portions than originally laid out. Should a lot holder die without a devise or any known kindred, said lot shall revert back to the Township.

Other Definitions

Board: Weesaw Township Board of Trustees
Burial Space: Lot (these two terms are used interchangeably)
Cemetery Lot Certificate: The Document issued by the Clerk to purchaser of a burial space/cemetery lot (formerly entitled "Deed")
Clerk: Weesaw Township Clerk
Resident: One who has their primary residence in Weesaw Township and has voting rights in the Township, whether or not such rights are exercised.
Sexton: Weesaw Township Sexton
Township: Weesaw Township

Section 3: Sale of lots/burial spaces

Hereafter, cemetery lots/burial spaces shall be sold only to residents of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin who reside within the township. Such lot sales or burial spaces shall be sold at the Resident's rate to a resident at the time of purchase. However, the Clerk shall have the authority to vary the aforesaid restriction on sales where the purchaser is either a non-resident taxpayer or discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred therein; with such lots being sold at the higher Non-Resident rate. No sale shall be made to funeral directors or others than as heretofore set forth.

Anyone residing within Weesaw Township is prohibited from buying any lot/burial space with the purpose of transferring burial space to someone outside the Township.

Any person who wishes to purchase more than one burial space shall provide to the Clerk or Sexton the name(s) and address(es) of all parties indicating the name of the person who will be buried in each burial space. Any person(s) named who is not a resident of the Township shall pay the Non-Resident's price for said burial space(s). No person shall be recognized as owner or part owner of a lot/burial space unless his/her name appears upon the cemetery records of the Clerk.

All such sales shall be made on a form approved by the Board, which grants a right of burial only and does not convey any other title to the lot/burial space sold (purchaser will receive a "right of use", not a property ownership "Deed"). The Clerk shall execute such form. A burial space cannot be conveyed to another person other than those listed on the form, without approval of the Board. The Board is the ultimate arbiter of conflicting claims regarding burial spaces.

It shall be the responsibility of the owner of the burial space(s) to notify the township of any change in his/her mailing address.

Section 4: Transfer of Burial Spaces

With the approval of the Board, burial space rights may be transferred to only those persons eligible to be original purchasers of cemetery lots or burial spaces residing within the township and may be effected only by endorsement of an assignment of such burial permit upon the original Cemetery Lot Certificate form issued by the Clerk. Such transfers shall be approved by the Board, and entered upon the official records of the Clerk. Upon such assignment, approval and record, said Clerk shall issue a new Cemetery Lot Certificate to the assignee and shall cancel and terminate upon such records, the original certificate thus assigned. Any such Board-approved transfers shall be charged at the fee stated on the Cemetery Fee Schedule (see Addendum 1).

As with burial space sales, such transfers shall be subject to all township rules, regulations and ordinance requirements (now and as they may be amended in the future). Without the benefit of a probate court order or the authority of a bona fide personal representative of an estate, if an owner of said burial space is deceased, unable to be found or unable to speak for himself, the following documents shall be required to transfer or reassign a burial space: 1) Relevant affidavits signed under oath by the interested parties; 2) A copy of the will (where applicable); 3) A written release form signed by all interested parties.

Section 5: Purchase Prices for Burial Spaces and other Burial Costs are listed on Addendum 1 (Cemetery Fees) of this Ordinance. The Board, by resolution, may periodically increase the burial space fees to accommodate increased costs and other factors.

No burial spaces shall be opened and closed except under the direction

and control of the Sexton. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, as which matters are under the supervision of the local Health Department.

Section 6: Markers and Headstones

All markers or headstone must be made of stone or other equally durable composition. The Township (and its officials, officers, employees and contractors) is not responsible for and shall not be required to repair or replace any damaged, stolen, vandalized or missing headstone, monument, urn or decorations or any such items.

In order to keep lawn-mowing and other cemetery expenses affordable, markers or headstones for any newly-purchased property to be plotted and used either as a new viable cemetery or as an annex to the present cemeteries – New Troy and Glendora Cemeteries – shall be surface markers which are flush with the ground.

Only one marker or headstone shall be permitted per burial space. Such markers are to be placed only at the head of a burial site.

The footing or foundation upon which any marker or headstone must be placed shall be constructed by the Sexton for a designated fee (Addendum 1).

Section 7: Exemptions

This Ordinance's prohibitions, limitations and regulations generally do not apply to township officials, contractors or employees performing maintenance, burial or other duties in the cemetery which arise out of their position with the Township. Firefighters, police officers, and other law enforcement officers are also exempt from the regulations contained herein when engaged in their official duties. The Ordinance shall also expressly exempt the penalties provision of the ordinance from applying to the carrying out of duties and responsibilities by Township officials or contractors pursuant to the ordinance.

Section 8: Interment/Disinterment Regulations

Only one person may be buried in a burial space except for a mother and infant or two children buried in the same burial site. Up to two cremated remains may be buried in one burial space, or one cremated remains and one person may be buried in one burial space. Burial shall be below

ground in a state-approved sealed concrete vault, or other vault approved by the Sexton. Winter interments/disinterments shall be charged at a higher rate due to inclement weather and freezing making it difficult to excavate the earth.

Anyone requesting a disinterment, as well as the contractor who performs the disinterment, shall sign a consent and release form that will indemnify and hold the Township harmless against any and all liabilities, causes of action or similar matters that might arise due to the disinterment. No disinterment or reinterment can occur until the Township receives a copy of a disinterment or reinterment permit issued by the local health department (MCL 333.2853).

Mausoleums are not allowed to be used in the Weesaw Township cemeteries.

Not less than 36 hours notice shall be given to the Clerk and/or Sexton in advance of any time of any funeral to allow ample time for the opening of the burial space.

The appropriate Cemetery Lot 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 Clerk prior to interment. Where such permit has been lost or destroyed, the 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.

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

Section 9: Ground Maintenance

No grading, leveling, or excavating upon burial space shall be allowed without the permission of the Sexton or the Board.

No flowers (except Annuals, as set forth in the "Cemetery Rules – Addendum 2"), shrubs, bushes, trees or vegetation of any type shall be planted. A Board-authorized person or the Sexton may remove any of the foregoing unauthorized items planted.

The Board reserves the right to remove or trim any trees, plants or shrubs located within the cemetery in the interest of maintaining a proper and neat appearance of the use of the cemetery.

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

The Sexton or other Board-authorized personnel shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefore that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem.

Surfaces other than earth or sod are prohibited. Seeding of the burial space by the Sexton shall be completed as soon as feasibly possible following burial.

All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery. These containers shall be emptied by the contracted lawn mowers on a regular basis in the mowing season or by Board-authorized personnel as needed at other times.

Section 10: Disclaimer of Liability and Responsibility

Cemetery visitors are on the cemetery grounds at their own risk and the Township assumes no responsibility or liability regarding cemetery visitors. In addition, the Township is not responsible for and shall not repair or replace any damaged, stolen, vandalized or missing headstone, monument, urn or similar item.

Section 11: Forfeiture of Vacant Cemetery Lots or Burial Spaces

Cemetery lots or burial spaces, which were 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:

1. Notice shall be sent by the Clerk by first class mail to the last known address of the last owner of record informing him/her of the expiration of the 40 year period and that all rights with respect to said lots or burial spaces will be forfeited if he/she does not affirmatively indicate in writing to the Clerk within 60 days from the

date of mailing of the written notice his/her desire to retain said burial rights.

2. If no written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Clerk from the last owner of record of said lots or burial spaces, or his/her heirs or legal representative, within 60 days from the date of mailing said notice, ownership of said lots shall revert back to Weesaw Township.

It shall be the responsibility of the purchaser of a lot or burial space to notify the Clerk of any change in address. Notice sent to a purchaser at his/her last known address shall be considered sufficient and proper legal notification.

Section 12: Repurchase of Lots or Burial Spaces

The Township will repurchase any cemetery lot or burial space from the owner at the original price paid to the Township, upon written request of said owner or his/her legal heirs or representatives. There will be a nominal fee for this service, and the original Cemetery Lot Certificate shall be turned over to the Clerk for cancellation. A new Cemetery Lot Certificate will be issued by the Clerk upon resale of the lot to a new purchaser. Burial spaces shall not be transferred by original purchaser to another party without written approval of the Board.

Section 13: Records

The Clerk shall maintain records concerning all burials, issuance of burial permits, and any permits, and any perpetual care fund, if applicable, 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 14: Vault

All burials shall be within a state-approved standard concrete vault, or a vault that has been approved by the Sexton. These vaults are to be installed or constructed in each burial space before interment.

Section 15: Cemetery Hours

The cemetery shall be open to the public from the hours of dawn to dusk each day.

Spring cleanup shall be completed no later than April 15 and fall cleanup shall be completed by November 1 of each year by the lawn mowing contractor. All gravesite decorations shall be removed by October 15 of each year by the family or loved ones of the deceased.

No person shall be permitted in the township cemeteries at any time other than the period indicated above, except upon permission of the Board or the Sexton of the Cemetery.

Section 16: Penalties

Any person, firm or corporation who violates any of the provisions of the within ordinance shall be guilty of a civil infraction and shall be subject to a fine of up to \$100.00 for a first offense and up to \$150.00 for any second or additional offense, and any other restitution or fees incurred by the Township 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 hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of. This being a police power Ordinance, it is to be enforced by either a Law Enforcement Officer or the Township Code Enforcement Officer.

Section 17: 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 and is still enforceable.

Section 18: Cemetery Sexton

The Sexton shall be contracted by the Board and report directly to the Board. The Board will conduct interviews and set qualifications for the Sexton position. The Sexton should be a physically fit individual, able to work in all kinds of weather. The person shall be able to have all gravesites opened in time for the burial scheduled by the funeral home.

The Sexton from time to time may find it necessary to amend the opening and closing of graves and other burial fees, only after approval of the Board to do so. Such fees shall be published by the Clerk along with the

Board-approved burial space fees (See Addendum 1). A copy of said fees shall be maintained by the Clerk.

All monies for the opening and closing of graves, burial of cremains and setting monument foundations shall be made payable to Weesaw Township and disbursements of such funds will be made to the Sexton as soon as possible or at the next Regular Board Meeting.

Burial spaces shall not be reserved for future purchase for a period of more than thirty (30) days, after said time the temporary reserve shall be removed, thus freeing up the burial space for sale to another purchaser.

If the Sexton is aware of any of the following issues or other questionable activities, the Sexton shall immediately bring it to the attention of the Clerk to be brought before the Board for resolution:

- Plantings, such as unpermitted flowers, trees or shrubs.
- Landscaping that would interfere with mowing or encroachment upon others' cemetery burial space(s). No crushed stone permitted.
- Destruction/defacing/breakage of any buildings, headstones, etc. in the cemeteries.

It shall be the responsibility of the Sexton to contact the Township snow removal contractor to remove snow from the driveway and surrounding graves on the day of a funeral or as deemed necessary during the winter season.

Section 19: Effective Date

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The Board may, from time to time, review and make revisions or Amendments to the Ordinance as necessary. Such revisions/amendments shall be approved by the Weesaw Township Board of Trustees and recorded within the Ordinance under the appropriate section by the Township Clerk.

Section 20: Adoption of Ordinance

This Ordinance duly adopted on January 21, 2015, at a Meeting of the Weesaw Township Board of Trustees and will become effective eight (8) days after date of publication in a newspaper of general circulation within the Township.

Motion offered by Board Member Sandy McKamey, supported by Board Member Jack Jones.

Roll Call Vote:

Ayes: McKamey, Tackitt, Jones, Sommers, Green

Nays: None

This Ordinance was further declared adopted by the Weesaw Township Supervisor.

Sandy McKamey
Sandy McKamey, Township Supervisor

Clerk's Certificate of Adoption and Publication

I, the duly elected Clerk of the Township of Weesaw, certify that the foregoing is a true copy of the Weesaw Township Cemetery Ordinance #20-2015 adopted by the Weesaw Township Board of Trustees on January 21, 2015, and published in a newspaper of general circulation in the Township of Weesaw on January 29, 2015.

Wanda J Green

January 29,

2015

Wanda Green, Township Clerk

Date

Attachments: Addendum 1. **New Troy & Glendora Cemeteries' Fees (Attachment 1)**
Addendum 2. **Cemetery Rules (Attachment 2)**

Township Board Amendments/Revisions:

REV. DATE	CHANGES ENACTED BY WEESAW TOWNSHIP BOARD OF TRUSTEES
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06/15/2016	Change Cemetery Rule #5, 3 rd sentence to read: In any new cemetery land purchased after 2015, headstones or memorials shall be flush with the ground.