

**TOWNSHIP OF MICHIGAMME
COUNTY OF MARQUETTE, STATE OF MICHIGAN**

ORDINANCE # 2022- 11-14 #1

LAKEVIEW CEMETERY ORDINANCE

An ordinance to protect the public health, safety and general welfare by establishing the regulations relating to the shared responsibility between Michigamme Township and Spurr Township for operation, control, and management of the Cemetery owned by the Township of Michigamme, Marquette County, Michigan; to provide penalties for violation of said ordinance, to repeal all ordinances or parts of ordinances in conflict therewith; and to provide an effective date.

THE TOWNSHIP OF MICHIGAMME ORDAINS:

Section 1: Title

This Ordinance shall be known and cited as the "Lakeview Cemetery Ordinance".

Section 2: Ownership and Operation

Michigamme Township shall continue to own the Cemetery property. The Lakeview Cemetery will be operated jointly by Michigamme Township, located in Marquette County, and Spurr Township, located in Baraga County, pursuant to that certain Letter Agreement adopted between the townships, and pursuant to the authority of MCL128.61. Should either Township revoke the Letter Agreement by providing thirty (30) day written notice (pursuant to its terms) the Cemetery will be operated solely by Michigamme Township.

Section 3: Definitions

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

- A. Cremains means the container and incinerated body of a deceased person.
- B. Immediate family means a spouse, parent, step-parent, grandparent, child, step-child, grandchild, sibling, and the spouse of any of the above persons.
- C. One Cemetery Plot shall be 5 feet by 10 feet in size.

Section 4: Assignment of Cemetery Plots

- A. After the effective date of this Ordinance, cemetery plots shall be assigned for the purpose of burial for the assignee of the cemetery plot, or his or her immediate family. No assignment shall be made to funeral directors or others, except for those acting as an agent of an eligible assignee.
- B. All assignments of cemetery plots shall be made on a form approved by both Township Boards, which grants a right of burial only and does not convey any other title or right to the cemetery plot assigned. Each assignment form shall be signed by the Michigamme and Spurr Township Clerks and shall constitute a permit upon approval by both Township Clerks.
- C. Cemetery plots may be assigned by the Township Clerks to any legal resident or taxpayer of Michigamme Township or Spurr Township. The Township Clerks have the authority to vary the aforesaid restrictions on assignment where the individual discloses sufficient personal reason for burial within the Township through previous residence in either Township or a relationship to persons interred in the family plot. Any such decision by the Township Clerks (either granting or denying such variance), or the lack of a decision due to inability of the Township Clerks to agree, may be appealed to a joint meeting of the Township Boards pursuant to Section 19.
- D. At the time of assignment, each cemetery plot shall be assigned to the name of the specific person who shall be interred in the cemetery plot upon death. Each such person shall be a resident or taxpayer of Michigamme Township or Spurr Township or be a member of the immediate family of the qualified assignee. If the assignee of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, the person must inform the Townships and reassign that space in the name of another eligible person, since cemetery plots are otherwise nontransferable.
- E. Cemetery plots are nontransferable without the prior written approval of both Township Clerks.
- F. The Township Clerks shall have the authority to limit the number of cemetery plots assigned to a particular person, as well as the person's family and relatives. At this time, each resident may purchase one (1) plot. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be assigned to a specific person and where such cemetery plot or plots will be located.
- G. The Townships shall have the right to correct any errors that may be made concerning interments, or location of interments, or in the description, transfer or conveyance of any cemetery plot, by either canceling the permit for a particular cemetery plot or plots and substituting and conveying in lieu thereof another cemetery plot or plots in a similar location within the Cemetery.
- H. The assignee of every cemetery plot shall be responsible for notifying the Townships whenever that person's mailing address changes.

Section 5: Grave Opening and Charges

- A. The Townships may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following the burial therein, including the interment of ashes. Such fees will be set from time to time by resolution of the respective Township Boards.
- B. Cemetery plots shall not be opened or closed, except under the direction and control of the Townships or such other person or contractor designated by the Township Boards. Any grave opening, disinterment, or other similar matter shall be performed in strict compliance with state law in effect at the time, in conformity with any valid court order, or under the supervision and direction of local or state Health Department authorities.
- C. The Townships shall be given at least seventy-two (72) hours prior notice of when a grave opening or closing will occur.
- D. Grave openings shall not be permitted on Sundays or holidays, except as may be ordered by local or state Health Department authorities.

Section 6: Markers or Memorials

- A. All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- B. Except for monuments that existed in Lakeview Cemetery before the effective date of this Ordinance, no monument will be allowed or erected in the Cemetery, except as provided herein. For the purposes of this Ordinance, "monument" shall be defined as a marker, memorial, statue, or similar item which does not exceed thirty (30") inches in width or forty-eight (48") inches in width for a double marker, with an overall height of not more than forty-eight (48") inches above ground level, including the foundation. Only one marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining lots share that one marker or memorial. Individual markers for cremains shall be flush with the ground and shall be no more than twelve (12") inches by twenty-four (24") inches in size.
- C. The footings or foundation upon which any marker or memorial must be placed shall be constructed at the expense of the family. Township employees shall not be engaged in pouring foundations, setting markers, monuments, or urns.
- D. Should any monument or memorial (including any monument or memorial that was in place before the effective date of this Ordinance) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, either Township Board shall have the right, at the expense of the assignee of the cemetery plot, to correct the condition or remove the same. The Townships shall make reasonable attempts to contact the assignee of the cemetery plot, or heirs or family of the person buried there.

- E. The maintenance, repair, and upkeep of a cemetery memorial, marker, urn, border or similar item is the responsibility of the heirs or family of the person buried at that location. The Townships have no obligation, responsibility or liability regarding the repair, maintenance, or upkeep for any such marker, memorial, urn, border or any such item.
- F. The Townships will advise those who neglect to maintain, repair, or upkeep memorials, markers, urns, borders or similar items by letter to correct the situation or remove the same.
- G. Monument companies or contractors shall be responsible for all damages to cemetery grounds and surrounding markers, memorials, or monuments that occur during their delivery or installation of a marker, memorial or monument.

Section 7: Interment Regulations

- A. A maximum of four cremains, or one casket and two cremains shall be buried in a cemetery plot.
- B. The Townships shall be given at least 72 hours prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by one of the Townships or such persons or contractors designated by either Township. Interments may be permitted on a weekend at the additional expense of the family, paid in advance.
- C. The appropriate permit or form issued by the Townships for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the Health Department, shall be presented to the Township Clerk (or other designated Township official) prior to interment. If such permit or form has been lost or destroyed, the Township Clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that plot before any interment is commenced or completed.

Section 8: Disinterment

- A. Disinterment or digging up of an occupied grave shall not occur until and unless all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any state or county agency, governmental unit or appropriate official and a copy of the same has been filed with the Townships.
- B. The Townships shall deny a request for disinterment or digging up of an occupied grave unless the Townships are presented with proof of a properly issued permit granted by the Health Department pursuant to an application by a licensed funeral director or other eligible applicant, or pursuant to a court order. All disinterments and reinterments shall be performed in strict compliance with applicable law then in

effect and with all rules and regulations promulgated by the local and state Health Departments.

Section 9: Winter Burials

- A. The Townships shall charge additional fees for winter burials. Winter burial rates shall be established by resolution of the respective Township boards.
- B. Winter burial rates shall customarily be charged between November 15 and April 30 of each year. Winter burial rates may also be charged for burials occurring outside these dates within the sole discretion of each Township if inclement weather, frozen ground, snow cover, or other conditions warrant.

Section 10: Cremains

- A. Cremains shall be buried in a non-biodegradable container approved by the Townships.
- B. No cremains shall be scattered or dispersed within Lakeview Cemetery.

Section 11: Grounds Maintenance

- A. The surface of all graves shall be kept in an orderly and neat appearing manner within the confines of the cemetery plot involved.
- B. Flowerpots, urns and grave blankets may be placed and maintained at the headstones of graves not earlier than when the grounds are suitable for driving and must be removed no later than the designated closing date published on a Township notice each year. Veteran flags and flag holders shall be governed by the State of Michigan rules and guidelines.
- C. No grading, leveling or excavating within the Cemetery shall be allowed without the prior permission of the Township Clerks. Furthermore, no trees, shrubs, landscaping or similar plantings shall occur without the permission of the Township Clerks.
- D. The Townships reserve the right to remove or trim any existing trees, plants, or shrubs located within the Cemetery in the interest of maintaining proper appearance and use of the Cemetery.
- E. Mounds, bricks, blocks and any borders that hinder the free use of a lawnmower or other gardening apparatus are prohibited.
- F. The Townships shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become, or are unsightly, a source of litter or maintenance problem.
- G. Surfaces other than sod are prohibited.

- H. All refuse of any kind or nature, including but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the Cemetery within 10 days after a burial.
- I. No glass containers or items are allowed.
- J. Except for markers, memorials, flowers and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within the Cemetery, nor shall any grading, digging, mounding, or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the Townships.

Section 12: Disclaimer of Townships' Liability and Responsibility

Every person who enters, remains in or travels within Lakeview Cemetery does so at their own risk. The Townships are not responsible for any injury, accident or other calamity that might occur to any person present in Lakeview Cemetery. Furthermore, the Townships are not responsible for any damage or vandalism to, theft of, or deterioration of any building, monument, headstone, flowers, urns, or other items placed at or near a cemetery plot, burial site or anywhere in Lakeview Cemetery. By accepting the burial rights within Lakeview Cemetery conferred under this Ordinance and the issuance of any permit hereunder, the assignee or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby release, waive, indemnify and hold harmless Michigamme Township and Spurr Township from and against any injury, damages, causes of action, claims, costs, and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument, or similar item, and any matter related to the Cemetery. Such waiver, release and hold harmless provisions shall apply not only to the Townships, but to any Township employee, officer, official, or agent.

Section 13: Forfeiture of Vacant Cemetery Plots

Cemetery plots assigned and remaining vacant for 40 years or more from the date of their assignment shall revert to the Townships pursuant to this section. If the date of assignment is unknown, such plots shall revert back to the Townships after 10 years from discovery of the undated plot assignment.

- A. Notice shall be sent by the Township Clerk by first-class mail to the last known address of the last assignee of record informing him/her of the expiration of the 40 year period, (or if no known date, after the expiration of the 10 year period), and that all rights with respect to a plot will be forfeited if he/she does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of such notice of his/her desire to retain such plot; and,
- B. If no written response to said notice indicating a desire to retain the cemetery plot in question is received by the Township Clerk from the last assignee of record of said plot, or his/her heirs or legal representative within 60 days from the mailing of said notice, the assignment shall revert back to Michigamme Township, as the owner of the Cemetery.
- C. The process for reversion of an assigned plot to Michigamme Township as owner of Lakeview Cemetery shall be conducted in consultation with the Township Attorneys who provide legal services to Michigamme and Spurr Townships at that time.

Section 14: Reassignment of Plots

The Township Clerks may reassign any cemetery plot upon which the written request of said owner or his/legal heirs or representatives have not responded resulting in forfeiture.

Section 15: Records

The Michigamme Township Clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits, and any other records of the Townships relating to Lakeview Cemetery. Cemetery records prior to the adoption date of this Ordinance may or may not be on file. Cemetery records shall be open to public inspection at all reasonable business hours.

Section 16: Cemetery Hours

Unless otherwise specified by the Township Boards by resolution, Lakeview Cemetery shall be closed from the hours of 9:00 p.m. until 7:00 a.m. the next morning. During those hours, no person shall be present in the Cemetery. Such prohibition on being present in Lakeview Cemetery during the time when the Cemetery is closed shall not apply to Township officials or any law enforcement or firefighter official when engaged in lawful duties of any such officer position.

Section 17: Prohibited Uses and Activities

The following prohibitions shall apply within Lakeview Cemetery:

- A. No person shall destroy, deface, apply graffiti or otherwise injure any monument, sign, tree or other lawful item located within Lakeview Cemetery.
- B. No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of Lakeview Cemetery.
- C. There shall be no entry or presence in the Cemetery by any person when the Cemetery is closed or outside of authorized times.
- D. There shall be no driving of an automobile, truck or other motorized vehicle on any portion of the Cemetery except on designated roads or drives.
- E. There shall be no gathering of persons in excess of 75 people without the prior Townships' approval (except during or incidental to a funeral occurring concurrent with a burial).
- F. There shall be no possession or consumption of any alcoholic beverages within Cemetery grounds.
- G. There shall be no picnicking or consumption of food within Cemetery grounds without the prior approval of the Townships.
- H. There shall be no playing music, video, electronic device, or use of an amplification device or similar item, except pursuant to a military ceremony or funeral unless approved by the Townships.
- I. There shall be no solicitation or peddling of services or goods or use of any signs or placards advertising any goods or services within Cemetery grounds.
- J. There shall be no domestic animals of any kind or pets allowed within the Cemetery grounds. However, this prohibition does not apply to service animals.
- K. No firearms or archery arrows shall be discharged or shot except military or other veterans' organizations may carry firearms for the purposes of firing over a grave at the burial of a member.
- L. The Township Boards may modify the above prohibitions by resolution.

Section 18: Fees

The Township Boards shall establish fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee for the purchase or reassignment of a plot, fees for a burial permit, burial, winter burial, disinterment permit, grave opening, grave closing, and any other matters.

Section 19: Appeals

- A. The Township Boards (meeting in joint session) shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Ordinance and any rule or regulation adopted pursuant to this Ordinance, as well as their applicability. The Township Boards, acting jointly, are authorized to waive the application of the strict letter of any provision of this Ordinance or any rules and regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter this Ordinance or any rules or regulations related thereto would result in hardship to a person or persons or the public. Any such waiver, however, must be of such character as it would not impair the purposes and intent of this Ordinance.
- B. Any party aggrieved by any interpretation or decision made by the Michigamme or Spurr Township Clerk, any Township official, agent, or contractor pursuant to this Ordinance shall have the right to appeal that determination/decision to a joint session of the Township Boards. Any decision on an appeal must be adopted by a majority (three (3) members) of each Township Board.
- C. The Township Boards may set a fee or fees for such appeal from time to time by resolution.

Section 20: Violations

Any person who violates the provisions of this Ordinance shall be deemed responsible for a civil infraction and shall be subject to a civil penalty. While Spurr Township shall also have enforcement powers under this Ordinance, it is anticipated that most or all violations requiring issuance of a civil infraction citation shall be conducted by Michigamme Township, since Lakeview Cemetery is located entirely within the boundaries of Michigamme Township, Marquette County, Michigan. Spurr Township shall notify Michigamme Township upon learning of a violation or suspected violation of this Ordinance, potentially requiring issuance of a civil infraction citation.

Section 21: Severability

The sections of this Ordinance shall be deemed severable, and should any section, clause, paragraph or provision thereof be deemed unconstitutional or contrary to the laws of State of Michigan and thereafter voided by any court of competent jurisdiction, the same shall not affect the validity of the Ordinance as a whole or any other part thereof other than that part or section so declared to be unconstitutional or invalid.

Section 22: Repeal

This Cemetery Ordinance shall repeal any other ordinance pertaining to cemeteries or burials.

Section 23: Effective Date

This Ordinance shall become effective 30 days after publication pursuant to MCL 41.184(3), but shall be contingent upon adoption of the substantially identical Ordinance by the Township of Spurr, Baraga County, Michigan .

Adopted: _____, 2022 by roll call.

Ayes: _____.

Nays: _____.

Neil Hanson, Michigamme Township Clerk
(906) 323-6608