

**CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2017-007**

TOWNSHIP CEMETERY ORDINANCE AMENDMENT

An Ordinance to amend the Township Cemetery Ordinance to provide for a separate Cemetery Advisory Board, specify liability related to Township Cemeteries, eliminate endowment care fund deposits and obligations of the Township for future sales of plots or graves, limit events and gatherings in Township Cemeteries, and specify certain activities that may be provided for by rules or regulations and fees.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

Section 19-003, Definitions, of the Charter Township of Waterford Code is amended by amending the definitions of "Board" and "Interment", and adding a new definition of "Cemetery Board" to read as follows:

Sec. 19-003. Definitions.

Board means the Township Board of Trustees, ~~which shall serve as the Cemetery Board for Township Cemeteries.~~

Cemetery Board means an advisory board comprised of: (1) the Public Works Official or Public Works Official's designee, (2) a member of the Board appointed by the Board, and (3) a Township Resident appointed by the Supervisor and approved by the Board for a term of three (3) years.

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Interment means the burial in a grave of remains or cremains or other disposition of cremains in an area of a cemetery that is allowed by and in accordance with Board approved rules or regulations.

Section 2 of Ordinance

Sections 19-005, 19-006, 19-008, and 19-013 of the Charter Township of Waterford Code are amended to read as follows:

Sec. 19-005 Rules and regulations.

In addition to the provisions in this Ordinance, the Board reserves the right by Resolution, to adopt rules or regulations for the maintenance and operation of, and conduct, specialty designated areas, or activities in cemeteries. A violation of any such rule or regulation that is not corrected by a person that had prior written notice of the rule or regulation shall be a violation of this Ordinance.

Sec. 19-006. Fees and charges.

Fees and other charges for the purchase and transfer of plots and graves, and interment, dis-interment, and other services provided by the Township related to the cemeteries shall be established and may be amended by Board Resolution, and may be different for Township and non-Township residents and designated classes of deceased persons such as veterans.

Sec. 19-008. Interpretations, enforcement, variances, and appeals.

- (a) Interpretation, decisions, and enforcement of this Ordinance and any rules and regulations adopted by the Board shall be the responsibility of the Public Works Official. In exercising that responsibility, the Public Works Official may request and consider the Cemetery Board's recommendation.
- (b) Requests for a variance from a provision of this Ordinance or rule or regulation adopted by the Board, and appeals from a final Public Works Official interpretation or decision under this Ordinance shall be made in the time and manner specified in, and be governed by Section 1-015 of this Code.

Sec. 19-013. Right to re-plat, revise, and improve cemeteries.

- (a) The Board shall have the right to resurvey, enlarge, diminish, re-plat, alter in shape or size, or otherwise change all or any part, portion or subdivision of a Township cemetery, including the right to lay out, establish, close, eliminate, or otherwise modify or change the location of roads, walks, or drives, and to file amended maps or plats thereof.
- (b) The Township shall have the right to construct or install, maintain, and operate buildings, shelters, roads, paths, pipelines, conduits or drains for sprinkler, drainage, electric or communications lines, and other improvements in a Township cemetery, and if the cemetery is not owned by the Township, shall have easements and rights of any way over the cemetery property for those purposes.
- (c) By Resolution, the Board may provide for, designate and establish rules and regulations for one or more special common areas in the cemeteries for interment by the above ground scattering of cremains. If so provided, a right to such an interment may be purchased, transferred, and assigned as provided in Sections 19-021 and 19-022 for plots and graves, and be subject to Section 19-023, to the extent applicable.

Section 3 of Ordinance

A new Section 19-010 of the Charter Township of Waterford Code is hereby added to read as follows:

Section 19-010. ~~Reserved~~Cemetery Board.

- (a) The Cemetery Board is an advisory body to the Board and Public Works Official regarding the management, maintenance, and operation of the Township cemeteries including the budget, the administration, enforcement, and amendment of this Ordinance, the adoption, administration, enforcement, and amendment of rules or regulations under section 19-005, and the types and amounts of fees and charges under section 19-006.
- (b) The Cemetery Board is a public body subject to the Open Meetings Act, Public Act No 267 of 1967, as amended. The Cemetery Board shall hold at least one (1) annual regular meeting and special meetings that may be called and scheduled by the Public Works Official.

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Section 4 of Ordinance

The title of Article IV in Chapter 19 and Sections 19-031, 19-035, and 19-036 of the Waterford Charter Township Code are amended to read as follows:

ARTICLE IV ~~ENDOWMENT CEMETERY AND SPECIAL CARE AND FUNDS~~

Sec. 19-031. ~~Endowment~~Cemetery care.

~~Cemetery~~Endowment care, as determined proper and provided by the Township, is that care and maintenance necessitated by natural growth and ordinary wear which can be provided at reasonable intervals and includes such activities as planting, cutting, watering, care of lawns, trees and shrubs, cleaning and upkeep of buildings, and the necessary maintenance, repair, and reconstruction of buildings, utilities, walls, roadways, walks, and structures located within cemeteries.

Sec. 19-035. Expenditures for endowment care.

- (a) Endowment care fund expenditures shall be made by the Township in such manner as will, in its judgment, be most advantageous to the grave and plot owners as a whole, and in accordance with the purposes and provisions of the laws of the State of Michigan applicable to the expenditure of such funds.
- (b) The Township has the full power and authority to determine, in its sole judgment, upon what property, for what purpose, and in what manner the net income from the endowment care fund shall be expended to provide ~~cemetery~~endowment care as described in Section 19-031.
- (c) The Township may also expend the net income from the endowment care fund for attorney's fees and other costs necessary for the preservation of the legal rights of the Township.
- (d) Nothing in this Ordinance prevents the Township from funding endowment care from sources other than the endowment care fund.

Sec. 19-036. ~~Deposit to e~~Endowment care fund.

The endowment care fund, which may also be referred to as a perpetual care fund, is limited to money deposited with and accepted by the Township~~purchase price for each plot or grave specifically for perpetual or endowment care prior to November 13, 2017, the effective date of a~~ that is sold by the Township shall include an amount that is designated by Resolution of the Board to discontinue for deposits in the endowment care fund from ~~-which shall be at least 15% of the purchase price of plots and graves. Upon receipt of the purchase price, the Township shall deposit that designated amount in the endowment care fund.~~

Section 5 of Ordinance

Sections 19-037 and 19-038 of the Waterford Charter Township Code are repealed in their entirety.

~~Sec. 19-037. — Record of Deposits.~~

~~A record book, electronic or otherwise, shall be kept by the Township showing the name of each grave or plot owner and the amount the purchase price for the grave or plot that has been deposited in the endowment care fund.~~

~~Sec. 19-038. — Cemetery Regulation Act.~~

~~The Township's creation and maintenance of the endowment and special care funds, and the deposit, investment, use, and reporting of those funds under this article shall be in compliance with the applicable provisions of section 16 of the Cemetery Regulations Act, MCL 456.536, as amended.~~

Section 6 of Ordinance

Sections 19-071(b) and 19-072(d) of the Waterford Charter Township Code are amended to read as follows:

Sec. 19-071. Use of Walks, Roads, Alleys and Liability.

- (b) The Township does not guarantee or represent that the cemeteries are free from conditions, whether open and obvious or otherwise, that could be claimed as unsafe. Unless otherwise provided by law and regardless of the cause, the Township shall not be liable for personal injuries or property damage or loss sustained or suffered by a person while in a cemetery, with all persons entering a cemetery doing so at their own risk of, and solely responsible for all observations, precautions, and measures necessary to prevent or avoid, such injuries, damage, or loss.

Sec. 19-072. Prohibitions on and regulation of activities.

- (d) Except for an interment or burial service as part of or following a funeral, and memorial services or ceremonies and other cemetery related events approved in advance by the Township, cemeteries shall not be used as a site for any other event, function, or occasion that involves the gathering of more than 50 people without prior notice to and approval by the Township. ~~There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial)~~

Section 7 of Ordinance

Should any section, subdivision, sentence, clause or phrase of this ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part as invalidated.

Section 8 of Ordinance

This Ordinance shall take effect immediately upon publication.

CERTIFICATION

I certify that this Ordinance was adopted by the Board of Trustees of the Charter Township of Waterford at a regular meeting held on November 13, 2017.

CHARTER TOWNSHIP OF WATERFORD

Date

By: _____
Sue Camilleri, Township Clerk