

Township Cemetery Ordinance

GANGES TOWNSHIP ALLEGAN COUNTY, MICHIGAN Ordinance No. 63

1AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL, MAINTENANCE, AND MANAGEMENT OF CEMETERIES OWNED, CONTROLLED, OR OPERATED BY THE TOWNSHIP OF GANGES, IN ALLEGAN COUNTY, MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF THIS ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF GANGES (“Township”) ORDAINS:

Section 1. Title

This Ordinance shall be known and cited as the “Ganges Township Cemetery Ordinance.”

Section 2. Purpose and Intent

The Ganges Township Board recognizes and concludes that the proper and reasonable maintenance, appearance, and use of the cemetery or cemeteries owned or controlled by the Township is an important function of the Township’s government. It is also important that burials, disinterments, and other matters associated with a Township cemetery are handled in a respectful and proper way in order to promote the safety, public health, and general welfare of the community. The Township Board finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

- (a) A “cemetery plot” shall consist of an area in a Township cemetery sufficient to accommodate one full burial space or two cremations. It shall have a land area of at least four feet by eight feet, or a smaller area approved by the Township Board upon finding

that a smaller land area will serve the purposes of this Ordinance and promote the efficient use of land.

- (b) "Township" means Ganges Township, Allegan County, Michigan.
- (c) "Township cemetery" or "cemetery" means any cemetery owned, operated, or controlled by the Township.

Section 4. Sale of Cemetery Plots; Nontransferable

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the Township for the purpose of burial for the purchaser, or the purchaser's immediate family. No sale shall be made to funeral directors or persons or entities not eligible to purchase for their own use; however, a person or entity may purchase a cemetery plot as an agent for an eligible purchaser.
- (b) Cemetery plots may be sold by the Township to any natural person who is a resident of the Township or who owns any real property within the Township. Cemetery plots may also be sold to other natural persons at the Non-Resident price.
- (c) Cemetery plots are nontransferable, but may be sold back to the Township (for resale by the Township) for the original purchase price or such other price as is set by the Township Board.
- (d) The Township Board shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located and within which Township cemetery. Such

decision shall be based upon reasonable factors including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent to or nearby the cemetery plot or plots requested.

- (e) The Township shall have the absolute right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer, or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the Township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same Township cemetery in accordance with law.
- (f) The owner of every cemetery plot shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5. Purchase Price for Cemetery Plots

- (a) Subject to the adjustment of such fees from time-to-time by the Township Board by resolution pursuant to subsection (c) below, each cemetery plot shall cost the sum of \$50 for residents (*i.e.* a person who has lived in or owned real property in the Township for at least two consecutive years at the time of the purchase) and \$750 for non-residents (*i.e.* a person who does not qualify as a resident). Residency is determined at the time of

purchase. The lawful owner of any cemetery plot within the Township shall promptly provide the Township Clerk with any change in that owner's mailing address.

- (b) All charges and fees shall be paid to the Township.
- (c) The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance, repair, expansion, and acquisition.

Section 6. Grave Opening Charges

- (a) The Township may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Board. This subsection (b) shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Township Sexton shall be given at least 24 hours' prior notice of when such grave opening or closing will occur.

Section 7. Markers; No Monuments

- (a) All markers must be comprised of stone or other equally durable composition and shall face the same direction as the markers around them. Markers shall not be comprised of

slate, sandstone, plastic, wood, cement, artificial stone, metal, or iron. No fieldstones are allowed. No more than one monument or marker is allowed per cemetery plot.

- (b) Except for monuments that lawfully existed in a Township cemetery before the effective date of this Ordinance, no monument will be allowed or erected in a cemetery. For purposes of this Ordinance, “monument” shall be defined as any marker, statue, or similar item which exceeds 48 inches in height above normal ground level or which has a ground surface area exceeding 42 inches in width (or 60 inches in width for a double marker), with an overall height of no more than 48 inches above ground level, not including the foundation. Only one marker shall be permitted per cemetery plot, or one marker in total where two adjoining plots share that one marker. Markers shall be no more than 42 inches in width (or 60 inches in width for a double marker), with an overall height of no more than 48 inches above ground level, including the foundation.
- (c) The footing or foundation upon which any marker must be placed shall be constructed by the Township, or such person(s) as may be designated by the Township Board. Fees for such work shall be set from time to time by resolution of the Township Board, payable to Phil Sargent or such other person as is designated by the Township.
- (d) Should any monument or marker (including any monument or marker that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.

- (e) The maintenance, repair, and upkeep of a cemetery marker, monument, urn, or similar item is the responsibility of the heirs or family of the person buried at that location. The Township is not responsible or liable for the repair, maintenance, or upkeep of any such marker, monument, urn, or similar item.

Section 8. Interment Regulations

- (a) Only one person or two cremains shall be buried in a cemetery plot.
- (b) The Township shall be given not less than 48 hours' prior notice in advance of any funeral and burial to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the Township or such person or persons as are designated by the Township. All Township fees must be paid by the time of burial.
- (c) The appropriate permit or form issued by the Township 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 either the Township Sexton or the Township Clerk (or other designated Township official) prior to interment. Where such permit or form has been lost or destroyed, the Township Clerk must be satisfied, from Township records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

Section 9. Disinterments

- (a) No disinterment of an occupied grave shall occur until and unless any and all permits, licenses, and written authorizations required by law for such disinterment of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the Township.
- (b) The Township Board shall have the authority to refuse to allow a disinterment of an occupied grave if the disinterment of an occupied grave is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.

Section 10. Winter Burials

- (a) The Township may charge additional fees for winter burials as set by resolution by the Township Board from time-to-time.
- (b) If a winter burial cannot occur due to inclement weather, frozen ground, or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter cremation burials shall occur without the prior consent of the Township Sexton.

Section 11. Cremains

- (a) Cremains must be buried in a container approved by the Township in a cemetery plot.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.

Section 12. Grounds Maintenance

- (a) Flower pots, urns, and grave blankets may be placed and maintained at the markers of graves no earlier than April 1st and must be removed no later than October 31st of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one week prior and one week following the holiday.
- (b) No grading, leveling, or excavating within a cemetery shall be allowed without the prior written permission of the Township Sexton or the Township Clerk. Furthermore, no tree, shrub, landscaping, or similar plantings shall occur without the prior written permission of the Township Sexton or the Township Clerk.
- (c) No flowers, shrubs, trees, or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Township approval will be removed by the Township.
- (d) The Township Board reserves the right to remove or trim any existing tree, plant, planting, foliage, or shrub located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, loose stones, blocks, and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The Township Sexton 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 a maintenance or safety problem. In addition, the Township Board shall also have the authority (by an approved motion or resolution) to require that certain types of items be removed prior to a specific date or dates during a calendar year and to publicize the same.

- (g) Surfaces other than earth or 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 14 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 a Township cemetery, nor shall any grading, digging, mounding, or similar alteration of the ground or earth occur except as expressly authorized by this Ordinance or by the Township.

Section 13. Disclaimer of Township Liability and Responsibility

Every person who enters, remains in, and travels within a Township cemetery does so at their own risk. The Township is not responsible for any injury, accident, or other calamity that might occur to any person present in a Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of, or deterioration of any burial monument, marker, headstone, flower urn or other item placed at or near a cemetery plot, burial site, or anywhere in a Township cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) releases, waives, indemnifies, and holds harmless the Township for, from, and against any injury, damages, causes of action, claims, costs, and expenses associated with, relating to, or involving the cemetery plot or similar right, any headstone, monument, marker, or similar items, and any matter related to the

cemetery involved. Such waiver, release, and hold harmless provision shall apply not only to the Township, but also to the Township Sexton and any Township employee, officer, official, or agent.

Section 14. Repurchases of Plots or Burial Spaces

The Township may repurchase any cemetery plot from the owner for a price paid to and set by the Township Board, upon the written request of the owner or the owner's legal heirs or representatives.

Section 15. Records

The Township Clerk shall maintain records concerning all burials, cemetery plots, and any other records of the Township related to Township cemeteries. The records shall be open to public inspection at all reasonable business hours, in accordance with state law.

Section 16. Vaults

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.
- (b) Cremains shall be in a container approved by the Township.

Section 17. Cemetery Hours

Unless otherwise specified by the Township Board by resolution, all Township cemeteries shall be closed from dusk to dawn. During those hours, no person shall be present in a Township cemetery. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Township Sexton, any Township official, a person accompanied by the Township Sexton or other Township official, or any law enforcement

or firefighting official when engaged in the lawful duties of any such office or position. Burial hours are from 8am to 4pm, or from one hour after dawn to one hour before dusk.

Section 18. Prohibited Uses and Activities

The following prohibitions shall apply within any Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to, or otherwise injure any monument, marker, sign, tree, or other lawful item located within a Township 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 any Township cemetery.
- (c) There shall be no entry or presence in a Township cemetery by any person when the cemetery is closed or outside of authorized times.
- (d) There shall be no destruction of any Township cemetery property.
- (e) There shall be no destruction, defacing, cutting, removal, etc., of any tree, flower, or plant within a Township cemetery.
- (f) There shall be no headstones, markers, monuments, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs, or any other item placed, kept, installed, or maintained in a Township cemetery except those expressly allowed by this Ordinance.
- (g) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct which disturbs the peace in a Township cemetery.
- (h) There shall be no digging, grading, or mounding in a Township cemetery unless expressly authorized by this Ordinance.
- (i) There shall be no driving of any motor vehicle on any portion of a Township cemetery except the designated roads or drives.

- (j) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts, or similar vehicles in a Township cemetery.
- (k) There shall be no gathering in a Township cemetery in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (l) There shall be no disinterment or grave openings in a Township cemetery unless approved by the Township.
- (m) There shall be no possession or consumption of any alcoholic beverage in a Township cemetery.
- (n) There shall be no picnicking or consumption of food in a Township cemetery without prior Township approval.
- (o) There shall be no music, playing of any radio, or the use of any amplification device or similar item in a Township cemetery, except pursuant to a military ceremony or a funeral, or except in a motor vehicle at sound levels that do not create a disturbance of the peace.
- (p) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services in a Township cemetery.
- (q) There shall be no littering or dumping in a Township cemetery.
- (r) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession in a Township cemetery.
- (s) There shall be no private signs, lighting, moving displays, or changeable copy on a sign in a Township cemetery.
- (t) There shall be no fires, campfires, candles, or open flames in a Township cemetery.

- (u) No children under 12 years of age shall be allowed in any Township cemetery unless accompanied by and properly supervised by an adult in a Township cemetery.
- (v) There shall be no exceeding of posted speed limits in a Township cemetery.
- (w) There shall be no domestic animals of any kind or pets allowed within in a Township cemetery. However, this prohibition shall not apply to dogs assisting disabled persons.
- (x) No firearms or archery arrows shall be discharged or shot except that military or other veteran organizations may carry arms for the purpose of firing over the grave at the burial of an entitled person.
- (y) No person shall engage in any fight, quarrel, or disturbance in a Township cemetery.
- (z) Cremains or ashes of a deceased person shall not be scattered or dispersed in a Township cemetery.
- (aa) There shall be no dumping, vandalizing, or tipping over of any lawful garbage container or receptacle in a Township cemetery.
- (bb) No person shall engage in any lewd or obscene conduct in a Township cemetery.
- (cc) There shall be no camping in a Township cemetery.

Section 19. Authority of the Township Sexton

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (b) The Township Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.

- (c) The Township Sexton shall have such duties and obligations with regard to Township cemeteries as may be specified from time to time by the Township Board.

Section 20. Fees

The Township Board shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees may include, but are not limited to, a fee or fees for a burial permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 21. Applicability of this Ordinance

- (a) This Ordinance shall apply only to cemeteries owned, controlled, or operated by the Township.
- (b) The provisions of this Ordinance shall not apply to Township officials or their agents or designees involved with the upgrading, maintenance, administration, or care of a Township cemetery in accordance with this Ordinance.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighters involved in carrying out their official duties.

Section 22. Interpretation/Appeals to the Township Board

- (a) The Township Board 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 Board (or its designee) is also authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations promulgated under this Ordinance where practical difficulties in carrying out the strict letter of this

Ordinance or any rules or regulations related thereto would result in hardship to a particular person or persons or the public. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.

- (b) Any party aggrieved by any interpretation or decision made by the Township Sexton or any Township official, agent, or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a cemetery plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within 30 days of the date of the decision, determination, or other matter from which an appeal was filed. The Township shall give the aggrieved party who filed the written appeal with the Township at least 10 days' prior written notice of the meeting at which the Township Board will address the matter unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Township Board shall be final.
- (c) The Township Board may set a fee or fees for any such appeal from time to time by resolution.

**Section 23. Authority of the Township to Remove Unauthorized or Unlawful
Items from a Township Cemetery**

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed,

installed, left, or maintained in any Township cemetery in violation of this Ordinance, any Township rule or regulation regarding Township cemeteries, or any county, state, or federal law, statute, or regulation, may be removed by the Township from the Township cemetery at any time and destroyed or disposed of by the Township without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained, or kept such item in the Township cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained, or kept in a Township cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Township. Even if such an item is authorized to be installed, kept, maintained, or left in a Township cemetery, the Township shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from, or liability to the person or persons who installed, maintained, or left such item in a Township cemetery, if the item is no longer in compliance with this Ordinance or other applicable regulation.

Section 24. Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance or permit issued under this Ordinance) constitutes a municipal civil infraction. Any person, who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than \$100 for the first offense and not less than \$200

for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses, and remedies provided by law. For purposes of this section, “subsequent offense” means a violation of the provisions of this Ordinance committed by the same person within 24 months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which the person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 25. Severability

The provisions of this Ordinance are hereby declared to be severable and should any provision, section, or part thereof be declared to be 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 this Ordinance, which shall continue in full force and effect.

Section 26. Repealer

Any Township ordinance in conflict with any of the provisions of this Ordinance shall be deemed repealed but only to the extent of such conflict. In addition, Ganges Township Ordinance No. 46 (adopted in 2011, as amended) is repealed in its entirety as of the effective date of this Ordinance.

Section 27. Effective Date

This Ordinance shall become effective upon the expiration of 30 days after a copy of this Ordinance (or summary thereof) appears in the newspaper.

The above Ordinance was offered for adoption by Hebert and was seconded by Phelps, the vote being as follows:

YEAS: Hutchins, Reimink, Hebert, Phelps, Mohr

NAYS: 0

ABSENT/ABSTAIN: 0

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Ganges Township Board at a Township Board meeting held on May 16, 2023, at the Ganges Township Hall, pursuant to the required statutory procedures.

Respectfully submitted,

By *Robin Phelps*
Ganges Township Clerk

