



**EVANGELINE TOWNSHIP CEMETERY
ORDINANCE
Ordinance No. 5-12-2020**

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, and management of the Cemetery owned by the Township of Evangeline, Charlevoix 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 EVANGELINE HEREBY ORDAINS:

Section 1. Title.

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

Section 2. Purpose and Intent

The Evangeline Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery owned or controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments and other matters associated with a municipal 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) The Cemetery is divided into three **Sections** (labeled A, B, or C).
- (b) **Cemetery lot** means an area of land within the Cemetery sufficient to accommodate from two (2) to ten (10) burial spaces.
- (c) **Burial space** means an area of land within the Cemetery lot four (4) feet wide and ten (10) feet long
- (d) **Resident** - refers to a place of abode that is more than merely temporary, a place which an individual intends to be his or her permanent home and to which such individual intends to return whenever absent.

- (e) **Heirs-at- law** means a person's spouse, natural and adopted children, natural and adopted grandchildren, parents, grandparents, brothers and sisters.
- (f) **Cemetery Lot Certificate** is the receipt for the purchase of the burial space issued by the Township Clerk.
- (g) **Burial Vault** (also known as a **burial liner**, **grave vault**, and **grave liner**) is a container made of concrete that encloses a coffin to help prevent a **grave** from sinking.
- (h) **Flush, Flat, or Lawn Level Marker** (referred to as marker) is no more than twenty (20) inches in length and ten (10) inches wide.

Section 4. Sale of Lots or Burial Spaces.

- (a). After the effective date of this Ordinance, Cemetery lots and burial spaces shall be sold only to residents or taxpayers of the Township for the purpose of burying the Purchaser or his or her heirs at law. The Township Clerk may grant exceptions to this sales restriction, but only when the purchaser discloses sufficient personal reasons for burial in the Township. In exercising the discretion granted in this section, the Township Clerk shall apply the following standards:
 - 1) Whether the prospective purchaser was a previous resident or taxpayer within the Township.
 - 2) The length of time the prospective purchaser was a resident or taxpayer within the Township.
 - 3) The length of time that has elapsed from when the prospective purchaser was a resident or taxpayer of the Township and the application to purchase a burial space.
 - 4) Whether the prospective purchaser falls within the definition of an heir at law of any person interred within the Cemetery.
 - 5) Whether the prospective purchaser already has immediate family buried in the cemetery.
- (b). The sale of a burial space shall grant a right of burial only and shall not convey title to the Cemetery lot or burial space sold. The sale of a Cemetery lot or burial space shall be documented in the Township's official cemetery records which shall contain a Cemetery Lot Certificate executed by the Township Clerk and the Township Supervisor to be provided to the purchaser.
- (c). Burial spaces may be transferred only to those persons eligible to be original purchasers of burial spaces under this Ordinance. All such transfers shall be accomplished through the following procedures:

- 1) The owner of the burial space to be transferred shall complete and sign the assignment of the purchased burial space on the original Cemetery Lot Certificate issued by the Township Clerk.
 - 2) The Township Clerk shall determine whether the assignee is qualified to hold a burial space under this Ordinance.
 - 3) If qualified, the Township Clerk shall approve the transfer and enter the assignee's interest in the burial space in the official Cemetery records
 - 4) The Township Clerk shall cancel in the official Cemetery Records the original Cemetery Lot Certificate assigned, and issue a new Cemetery Lot Certificate to the assignee.
- (d). **Proof of Ownership** - It is the responsibility of the owner of the Cemetery Lot Certificate or their heirs to provide proof of ownership of a specific burial site. The Township will not accept a request for burial without proof that the individual to be interned or inurned has the legal right to the burial space. The Township does not have the capability to know who is "next in line" for the burial rights to a lot. It is the family's responsibility to contact us with changes to the succession of ownership. Where such Cemetery Lot Certificate has been lost or destroyed, the Township Clerk shall be satisfied from a review of the official Cemetery records that the person to be buried in the burial space is eligible for burial in that burial space before any interment is commenced or completed.

Section 5. Purchase Price and Transfer Fees.

- (a). The Township Board shall from time to time by separate resolution establish the purchase price for cemetery lots and burial spaces and the fee for transferring one or more cemetery lots or burial fees to a qualified assignee.
- (b). The charges and fees established pursuant to subsection (a) above shall be paid to the Township.

Section 6. Grave Opening Charges.

- (a). The Township Board shall from time to time by separate resolution establish the fee for the opening and closing of a burial space, prior to and following a burial therein, including the interment of cremains.
 - 1) The opening and closing of a burial space, prior to and following a burial therein.
 - 2) The interment of cremains.

- (b). The fee established pursuant to subsection (a) above shall be paid to the Township and deposited in the Cemetery Fund..
- (c). No burial space shall be opened and closed, except under the direction and control of the Cemetery Sexton. However, this provision shall not apply to proceedings for the removal and re-interment of bodies and remains that are under the supervision of the local health department.

Section 7. Monuments, markers or Memorials.

- (a). Only one (1) monument and/or up to six (6) cremain markers shall be permitted per burial space. See attached diagram for approved placement of monument or lawn level markers.
- (b). All monuments, markers, or memorial must be of stone or other equally durable composition. The footing or foundation upon which any monument, marker, or memorial must be placed by an approved Township service provider at cost to the estate of the deceased.
- (c). The monument, marker, or memorial including base **must not exceed** thirty-six (36) inches in length, no more than sixteen (16) inches in width and thirty-six (36) inches in height. The Sexton will assist in the correct placement of the marker.
- (d). The maintenance, repair and upkeep of a monument, marker, or memorial, is the responsibility of the heirs or family of the person buried at that burial space. The Township has no responsibility or liability regarding the repair, maintenance or upkeep for any such monument, marker, or memorial.
- (e). Should any monument, marker, or memorial become broken, moved off its proper site, or a safety hazard, the Township Board shall have the right, at the expense to the heirs-at-law of the burial space, to correct the condition or remove the same. The Township shall make reasonable attempts to contact the owner of the burial space prior to any such work beginning. It is the family's responsibility to keep a current address and other contact information up-to-date with the Township Clerk.
- (f.) No trees, shrubs, lilacs, or any self-rooting shrubs shall be planted on a burial space. In addition, no hedge, wall, curbing, fence, or other enclosure shall be used to enclose a Cemetery lot or burial space.
- (g.) Mausoleums shall not be constructed on a Cemetery lot or burial space.

- (h.) Headstones, markers, or memorials to identify the burial space must be installed within two years after the purchase of the burial space.

Section 8. Interment Regulations.

- (a) Burial Space Options:
 - 1. One person may be buried in a burial space or
 - 2. No more than 6 cremains or
 - 3. One (vault) and two cremains or
 - 4. A parent and child less than two (2) years of age may be buried in one burial space or
 - 5. Two (2) children ages ten (10) years or less may be buried in the same burial space.
- (b) Not less than seventy-two (72) hours advance notice shall be given to the Township Clerk or Cemetery Sexton of the time for any funeral to allow for the opening of the burial space or spaces.
- (c) The Cemetery Lot Certificate for the burial space involved, together with the identification of the person to be buried, shall be presented to the Cemetery Sexton or Township Clerk prior to interment.
- (d) All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved as dictated by the Sexton.
- (e) No interred remains shall be disinterred unless ordered by the court. Only the Sexton shall disinter remains at the then current cost of disinterment.

Section 9. Winter Burials

No winter burials shall be permitted in the Township cemetery.

Section 10. Cremains

- (a) Cremains may be buried in a container approved by the Township Clerk in a burial space or in a columbarium that has been installed by the Township within the Township cemetery.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.

Section 11. Ground Maintenance.

- (a) No grading, leveling, or excavating upon a burial space shall be allowed without the prior written permission of the Township Clerk or Cemetery Sexton.

- (b). No vegetation of any type shall be planted without the prior written approval of the Township Clerk. Any vegetation planted without such approval may be removed by the Township Clerk.
- (c). The Township reserves the right to remove or trim any tree, plant or shrub located within a Township Cemetery that hinders the use of a lawn mower or other gardening apparatus.
- (d). All mounds which hinder the use of a lawn mower or other gardening apparatus are prohibited.
- (e). The Township or Cemetery Sexton 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 a source of litter or a maintenance problem.
- (f). Ground surfaces other than earth or sod, such as stones, bark, or wood chips, are prohibited.
- (g). All refuse of any kind or nature, including but not limited to dried flowers, wreaths, papers and flower containers must be removed annually from the Cemetery by September 30th.

Section 12. Forfeiture of Vacant Cemetery Lots or Burial Spaces.

- (a). If a burial space remains vacant for more than forty (40) years after the Cemetery Lot Certificate is issued to an original purchaser or a qualified assignee, the Township Clerk shall send by certified mail, return receipt requested, to the last owner of record a written notice informing him or her that the forty (40) year period has expired and that all rights in the Cemetery–burial space shall be forfeited to the Township if he or she fails within sixty (60) days of the date of mailing the notice to affirmatively indicate in writing to the Township Clerk his or her desire to retain the Cemetery burial space.
- (b). If the Township Clerk receives no written response within sixty (60) days after mailing the notice required to be sent pursuant to subsection (a) above, the Cemetery burial space identified in the notice shall revert to the Township free and clear from any claims of that original purchaser or qualified assignee. The Township Clerk shall then cancel in the official Cemetery records the burial permit issued and indicate in those records that the Cemetery burial space is eligible for resale under the terms and conditions of this Ordinance.

Section 13. Repurchase of Cemetery Lots or Burial Spaces.

Upon the written request of the original purchaser, or qualified assignee of any Cemetery burial space, or the legal heirs or representatives of the original purchaser, or qualified assignee, the Township shall repurchase the Cemetery burial space at the original price.

Section 14. Cemetery Records.

The Township Clerk shall maintain records concerning all burials, issuance of Cemetery Lot Certificates, and any perpetual care fund separate and apart from other Township records. These Cemetery records shall be open to public inspection upon mutually agreed time between the Township Clerk and the purchaser.

Section 15. Michigan Department of Health and Services Burials.

No person whose burial is paid by the Michigan Department of Health and Human Services shall be eligible for burial in the Evangeline Township Cemetery, unless that person was a resident of the Township at the time of his or her death.

Section 16. Vault.

All non-cremain burials shall be within a standard concrete vault installed or constructed in each burial space before interment.

Section 17. Cemetery Hours and Prohibited Uses and Activities.

- (a) The Township Cemetery shall be open to the general public daily from dawn to dusk
- (b) The speed of cars and other vehicles driven in the Cemetery shall not exceed 15 miles per hour. Persons driving in the Cemetery are responsible for all damage caused by their negligence.
- (c) Further, the Cemetery will be closed to vehicle traffic after the first snowfall, and reopen when all snow/ice is melted. The purpose for this is to protect our old headstones (some dating back to Civil War Veterans) from vehicles slipping off snow/iced drives. Many/several headstones are very close to the drives and we need to protect them.

- (d) No person shall be permitted in the Township Cemetery at any other time, except after receiving written permission from the Township Clerk or the Cemetery Sexton.
- (e) No children under the age of 16 years shall be admitted to the Township Cemetery unless accompanied and properly supervised by an adult, who shall be held responsible for the conduct of any such children.
- (f) All Cemetery visitors are prohibited from picking any plants, whether wild or cultivated, marking any monument, marker, bench or other structure, or in any way damaging, defacing or destroying the grounds of the Cemetery, any Cemetery property and any of the monuments, markers, benches or other structures or elements in the Cemetery.
- (g) Loud, boisterous or profane conduct and/or language, loitering, soliciting, and advertising is not permitted in the Cemetery. No person shall engage in any fight, quarrel or disturbance in the Cemetery.
- (h) No firearms or archery arrows shall be discharged, shot, or carried in the Cemetery except for military or other veterans' organizations may carry arms for the purpose of firing over the grave at the burial of a member. Any other exceptions require prior authorization from the Township Clerk.
- (i) Domestic animals, horses and other livestock, and pets of any kind, except dogs assisting handicapped persons, shall not be permitted to enter or remain in the Cemetery.
- (j) Operating snowmobiles, four-wheelers, or similar off-road vehicles within the boundaries of the Cemetery is prohibited.
- (k) 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. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (l) There shall be no soliciting or peddling of services or goods or any signs or placards advertising any goods or services.
- (m) Picketers, activists, demonstrators, marchers, press reporters, and any other such groups or persons shall remain at the Cemetery main entrance during a funeral or other service at the Cemetery, unless a written agreement with the funeral or service arranger has been approved by the Cemetery Coordinator.
- (n) The possession or consumption of any alcoholic beverages or smoking in the Township Cemetery is prohibited. There shall be no picnicking or consumption of food in a Township Cemetery without prior Township Clerk approval.
- (o) Private signs, lighting, moving displays or changeable copy as a monument are prohibited. except those expressly allowed by this Ordinance. There shall be no fires, candles, or open flames unless prior written authorization is given by the Township Clerk.

Section 18. 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 Cemetery 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 burial space, 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 thirty (30) days of the date of the decision, determination or other matter being appealed. The Township shall give the aggrieved party who filed a written appeal with the Township at least ten (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 19. Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery

Any monument, marker, planting, trellis, Shepherd hooks, 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, Shepherd hooks, 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.

Section 20. Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to 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 one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, at 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 twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said 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 21. Nuisance.

A violation of this Ordinance is hereby declared to be a public nuisance or a nuisance per se and is declared to be offensive to the public health, safety and welfare.

Section 22. Municipal Civil Infractions.

Any person, firm, or corporation who violates any provision of this Ordinance shall be held responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101-600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than Five Hundred and 00/100 (\$500.00) Dollars. Each day this Ordinance is violated shall be considered as a separate violation.

Section 23. Injunctive Relief.

In addition to enforcing this Ordinance through the use of a municipal civil infraction proceeding, the Township may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this Ordinance.

Section 24. 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.

Section 25. Correction of Errors.

The Township Board shall have the right to correct any errors which may be made, either in making interments or disinterments, or in the description, transfer or conveyance of any property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as near as possible, or by refunding the amount of money paid on account of that purchase. In the event the error shall involve the interment of remains of any person in such property, the Township Board shall have the right to remove and re-inter in such other property of equal value and similar location as may be substituted and conveyed by the Township Board.

Section 26. Effective Date.

This Ordinance shall become effective thirty (30) days after being published in a newspaper of general circulation within the Township.

EVANGELINE TOWNSHIP

By:

James Howell

Its: Supervisor

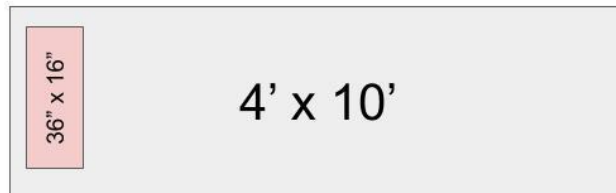
By:

Evelyn Howell

Its: Clerk

Evangeline Cemetery Plot Diagram

Evangeline Cemetery Plot



Evangeline Cemetery Plot for cremains

