

COHOCTAH TOWNSHIP CEMETERY ORDINANCE

COHOCTAH TOWNSHIP

LIVINGSTON COUNTY, MICHIGAN

Ordinance No. 26

An 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 Cohoctah, in Livingston 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 COHOCTAH, COUNTY OF LIVINGSTON, MICHIGAN ORDAINS:

Section 1. Title

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

Section 2. Purpose and Intent

The Cohoctah Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Cohoctah Township is an important function of the government of the Cohoctah 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 Cohoctah Township Board finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Cohoctah 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:

- (a) A "cemetery plot" shall consist of an area in a Cohoctah Township cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area plotted as follows:
 - a. "Old" section: 48"x120," full burial sites.
 - b. "New" section: 42"x120," full burial sites.
 - c. "New" section: 42"x70," infant burial sites.
 - d. "New" section: 42"x30," cremation burial sites, which holds 2 urns and are restricted to flush markers only.

Exceptions may be made with Cohoctah Township permission to accommodate infant burial or the burial of cremains on full sites.

- (c) "Township" means Cohoctah Township.
- (d) "Cohoctah Township cemetery" or "cemetery" means any cemetery owned, operated and/or controlled by the Cohoctah Township.

Section 4. Sale of Cemetery Plots; Nontransferable

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by Cohoctah Township for the purpose of burial for the purchaser of a cemetery plot, or his or her family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the Cohoctah Township Board and signed by the designated Township official which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial site sold.
- (c) Cemetery plots are nontransferable without prior written approval by the Township in the Township's discretion. Cemetery plots may be sold back to the Township for the original purchase price for resale by the Cohoctah Township.
- (d) Cohoctah Township shall have the 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 Cohoctah Township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same Cohoctah Township cemetery in accordance with law.
- (e) The owner of every cemetery plot shall be responsible for notifying the Cohoctah Township whenever that person's mailing address changes.

Section 5. Purchase Price for Cemetery Plots

- (a) Each cemetery plot fee schedule will be set by the Cohoctah Township board by resolution. The lawful owner of any cemetery plot within the Cohoctah Township shall promptly provide the Cohoctah Township Clerk with any change in that owner's mailing address.
- (b) All charges shall be paid to the Township and turned over to the Treasurer.
- (c) The Cohoctah Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance 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 the Cohoctah Township Board, payable to the Cohoctah Township.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the Cohoctah Township Sexton or such other individual as is designated by the Cohoctah Township Board. This subsection 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 Cohoctah Township Sexton shall be given at least forty-eight (48) hours' prior notice of when such grave opening or closing will occur.

Section 7. 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) When a full site is used for the burial of 4 cremains, an upright stone is allowed at the head for two occupants and a flush marker is allowed midway on the site for the other two occupants. Only one (1) marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial. Headstones are limited to 12 (twelve) inches less than the width of the burial site. 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 in the cremation areas.
- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Township, or such person(s) as may be designated by the Cohoctah Township Board. Fees for such work shall be set from time to time by the Cohoctah Township Board, payable to the Cohoctah Township. The foundation includes a 2 inch border around the maker and 2 inches above grade as to prevent tipping due to frost or freezing over the winter months. Foundations can only be poured once the frost has left the ground.
- (d) Should any monument or memorial (including any monument or memorial that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Cohoctah Township Board shall have the right 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 memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The Township has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item. Any repairs must be done by an insured contractor approved by the Township Board.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child or two (2) children buried at the same time when approved by the Cohoctah Township. Up to four (4) cremains are allowed per cemetery plot. An infant would also be allowed at the foot of a family member's grave and marked with a flush marker with township approval.
- (b) The Township shall be given not less than 48 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot with the exception being a court-ordered opening. The opening and closing of cemetery plots shall be done only by the or such person or persons as are designated by the Township.
- (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 Cohoctah Township Sexton or the Cohoctah Township Clerk (or designated Cohoctah Township official) prior to interment. Where such permit or form has been lost or destroyed, the Cohoctah Township Sexton 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 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 or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations for such disinterment or digging up 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 Cohoctah Township Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave if the disinterment or digging up 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.
- (b) No burials shall occur without the prior consent of the Cohoctah Township Sexton or designated Township official in the absence of the Sexton.

Section 11. Cremains

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

Section 12. Grounds Maintenance

- (a) Flower pots and urns may be placed and maintained at the head stones of graves no earlier than May 1 and must be removed no later than October 1 of each year. Winter holiday Grave Blankets are allowed and will be removed in the spring for the growing season. Grave blankets are not allowed during the growing season. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Cohoctah Township Sexton or designated Township official. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Cohoctah Township Sexton. Small plantings and mulch are allowed around the headstones.
- (c) The Cohoctah Township Board reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery and to prevent damage.
- (d) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (e) The Cohoctah 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 problem, or are otherwise placed in violation of this Ordinance.
- (f) Surfaces other than earth or sod are prohibited.
- (g) 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.
- (h) No glass containers or items are allowed.
- (i) 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, landscaping, bricks, stones, grave border materials or other structures)

shall be installed or maintained within a Cohoctah Township 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 Cohoctah Township.

Section 13. Disclaimer of Cohoctah Township Liability and Responsibility

Every person who enters, remains in and travels within a Cohoctah 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 Cohoctah Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a Cohoctah Township cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Cohoctah Township for, from and against injury, death, 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 items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the Cohoctah Township, but also as to the Cohoctah Township Sexton and any Cohoctah Township employee, officer, official or agent.

Section 14. Forfeiture of vacant cemetery plots or burial spaces

(a) Cemetery plots or burial sites sold after the effective date of this Ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the Township upon the occurrence of the following events: (1) Notice shall be sent by the Cohoctah Township 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 plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the Cohoctah Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and (2) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Cohoctah Township Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

(b) Unused cemetery plots and burials rights may also be terminated and forfeited after a period of seven (7) years for failing or neglecting to care for and maintain burial spaces pursuant to the procedures and conditions set forth in 1931 PA 46, MCL 128.11, et seq.

Section 15. Records

The Cohoctah Township Sexton shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Cohoctah Township related to Cohoctah Township cemeteries, and the same shall be open to public inspection upon request.

Section 16. Vaults

(a) All full 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 Cohoctah Township Board by resolution, all Cohoctah Township cemeteries shall be closed during the hours from dusk to dawn the next morning. During those hours, no person shall be present in a Cohoctah Township cemetery. Such prohibition on being present in a Cohoctah Township cemetery during the time when a Cohoctah Township

cemetery is closed shall not apply to the Cohoctah Township Sexton, any Cohoctah Township official, a person accompanied by the Cohoctah Township Sexton or other Cohoctah Township Name official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 18. Prohibited Uses and Activities

The following prohibitions shall apply within any Cohoctah Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, marker, memorial, sign, tree or other lawful item located within a Cohoctah 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 Cohoctah Township cemetery.
- (c) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery except as deemed necessary for cemetery maintenance.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- (l) There shall be no gathering of persons in excess of 75 people without prior Cohoctah Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (m) There shall be no disinterment or grave openings unless approved and conducted by the Cohoctah Township.
- (n) There shall be no possession or consumption of any alcoholic beverage.
- (o) There shall be no picnicking or consumption of food without prior Cohoctah Township approval.
- (p) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles or open flames.

- (v) No children under twelve (12) years of age shall be allowed in any Cohoctah Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (w) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs service animals as permitted by law.
- (x) No firearms or archery arrows shall be discharged or shot except that military or other veterans' organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (y) No person shall engage in any fight, quarrel or disturbance.
- (z) Cremains or ashes of a deceased person shall not be scattered or dispersed except in designated scatter areas.
- (aa) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- (bb) In cremation designated areas, no flowers, décor or plantings can be used on any of the sites. Only flush markers are allowed. Veteran's flags are allowed with timely removal.

Section 19. Authority of the Cohoctah Township Sexton

- (a) The Cohoctah Township Board shall appoint a Cohoctah Township Sexton, who shall serve at the discretion of the Cohoctah Township Board. The Cohoctah Township Sexton may be a Cohoctah Township employee or independent contractor for the Cohoctah Township at the discretion of the Cohoctah Township Board.
- (b) The Cohoctah Township Sexton shall assist other Cohoctah Township officials with the enforcement and administration of this Ordinance.
- (c) The Cohoctah Township Sexton shall have such duties and obligations with regard to Cohoctah Township cemeteries as may be specified from time to time by the Cohoctah Township Board.

Section 20. Fees

The Cohoctah Township Board shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment 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 Cohoctah Township officials or their agents or designees involved with the upgrading, maintenance, administration or care of a Cohoctah Township cemetery.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 22. Interpretation/Appeals to the Cohoctah Township Board

- (a) The Cohoctah 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 Cohoctah 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 Cohoctah Township Sexton or any Cohoctah Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Cohoctah 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 Cohoctah Township Board. Any such appeal shall be in writing and shall be filed with the Cohoctah Township within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Cohoctah Township shall give the aggrieved party who filed the written appeal with the Cohoctah Township at least ten (10) days' prior written notice of the meeting at which the Cohoctah Township Board will address the matter unless an emergency is involved, in which case the Cohoctah Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Cohoctah Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Cohoctah Township Board shall be final.
- (c) The Cohoctah Township Board may set a fee or fees for any such appeal from time to time by resolution. For any such appeal that occurs at a time other than a regularly scheduled board meeting, a fee will be determined.

Section 23. Authority of the Cohoctah Township to Remove Unauthorized or Unlawful Items from a Cohoctah 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 Cohoctah Township cemetery in violation of this Ordinance, any Cohoctah Township rule or regulation regarding Cohoctah Township cemeteries, or any county, state or federal law, statute or regulation may be removed by the Cohoctah Township from the Cohoctah Township cemetery at any time and destroyed or disposed of by the Cohoctah 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 Cohoctah 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 Cohoctah Township cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Cohoctah Township. Even if such an item is authorized to be installed, kept, maintained or left in a Cohoctah Township cemetery, the Cohoctah 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 Cohoctah Township cemetery.

Section 24. Enforcement; Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction and may be prosecuted according to the policies and procedures of the Cohoctah Township Municipal Civil Infraction Ordinance. The Township may enforce the provisions of this Ordinance by any other method permitted by ordinance or applicable law. Each day during which any violation continues shall be deemed a separate violation. A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 25. Cohoctah Township Officials Who Can Enforce this Ordinance

Unless otherwise specified by the Cohoctah Township Board by resolution, the following officials or officers shall have the authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Cohoctah Township Supervisor
- Cohoctah Township Sexton
- Cohoctah Township Ordinance Enforcement Officer
- Any deputy of the Livingston County Sheriff's Department
- Any State Police Officer

Section 26. 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 27. Effective Date; Conflicts

This ordinance shall take effect 30 days after publication. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

CERTIFICATION

I hereby declare the above is a true copy of an ordinance adopted by the Cohoctah Township Board at a meeting held on November 10, 2022, at the Cohoctah Township Hall, pursuant to the required statutory procedures.

Respectfully submitted,

Barb Fear, Cohoctah Township Clerk