

TOWNSHIP OF WELLS
MARQUETTE COUNTY, MICHIGAN

CEMETERY ORDINANCE
August 2024

The Cemetery or Burial Grounds Act, Public Act 215 of 1937, MCL 128.1, et seq., gives townships authority to establish, control, maintain and care for public cemeteries that are not owned by another municipality or private organization, and to adopt an ordinance to regulate the operation and use of a cemetery.

The Township of Wells, County of Marquette, Michigan, hereby ordains the following 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 Wells, in Marquette County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

Section 1. Title

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

Section 2. Purpose and Intent

The Wells Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemeteries 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 Wells Township Board finds that the adoption and enforcement of this Ordinance is in the best interest of the property owners and residents of Wells Township.

Section 3. Definitions

- (a) The term “cemetery” is hereby defined as a burial park for earth interments.
- (b) A cemetery “lot” shall consist of eight plots (burial spaces). A designated “cremains lot” shall consist of 16 plots (burial spaces).
- (c) A “plot” (burial space) shall consist of a land area four feet wide and eight feet long. A designated “cremains plot” (burial space) shall consist of a land area four feet wide and four feet long. A cemetery plot (burial space) may accommodate up to two interments: one full casket with one cremains on top or two cremains. A designated cremains plot (burial space) may accommodate one cremains. Designated cremains plots will be sold/filled in sequence, as needed, at the discretion of the Sexton.
- (d) The term “interment” shall mean the permanent disposition of the remains of a deceased person.
- (e) The term “memorial” shall include a tombstone, monument, marker, bench, or headstone for family or individual use.

- (f) The term “marker” refers to a memorial flush with the ground, placed on the head end of the plot.
- (g) The term “lot marker” refers to any means used by the cemetery to locate corners of the lot.
- (h) The term “Certificate of Ownership” shall apply to the original conveyance given by the cemetery to the original purchaser.
- (i) The term “management” shall mean the person (Sexton) or persons duly appointed by the Wells Township Board for the purpose of conducting and administering the cemetery business.
- (j) Resident (as defined by the State of Michigan - Income Tax Act 281 of 1967 (MCL 206.18) for interment in the Wells Township cemeteries a resident is defined as an individual who resides in Wells Township for a minimum of 183 days per calendar year. Exceptional circumstances with residency considered on a case by case basis for lifelong residents who may not be able to meet the residency requirement.
- (k) Non-Resident - For the purpose of interment in Wells Township cemeteries a non-resident is defined as an individual who does not reside in Wells Township for a minimum of 183 days per calendar year. Residency of those in the military will be determined individually upon death.
- (l) Designated Agent - a person appointed by the Wells Township Board to act as the Sexton in the absence of the Sexton.

Section 4. Sale of Cemetery Plots; Nontransferable; Repurchase

- (a) No sales shall be made to funeral directors or others, except those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made by the Township Sexton. The Township Sexton is granted the authority to restrict sale of cemetery plots to any individual. Any such decision by the Township Sexton (either granting or denying a sale) may be overturned by the Township Board. Sale of a burial space grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Sale of "family lots", eight burial spaces with no proposed occupancy, is suspended. Sale of more than four plots to any one individual may require Township Board approval.
- (c) At the time of purchase from the Township, the individual must supply proof of residency (if applicable), name, address, email address if possible, and phone number for each future occupant of a burial space. Each burial space shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person must contact the Township Sexton, fill out any forms requested by the Sexton, and if applicable prove residency or pay the price difference between resident and non resident. Cemetery plots are otherwise nontransferable.
- (d) Cemetery plots may not be sold or given away but may be sold back for the original purchase price to the Township for resale by the Township.
- (e) The Sexton or Township Board shall have the authority to place a limit on the number of cemetery plots sold to a particular person. Furthermore, the Sexton or Township Board shall have the absolute

right and discretion to determine which 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.

(f) The Township Sexton 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 the 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.

(g) The owner of every cemetery plot shall be responsible for notifying the Township Sexton whenever a person's contact information changes, whether it be their own or a proposed occupant of a plot in their name.

Section 5. Purchase Price for Cemetery Plots; Indigent Burials

(a) Each cemetery plot shall cost the sum of Fifty Dollars (\$50.00) for residents. Cemetery plots for non-residents shall cost the sum of Two Hundred Fifty Dollars (\$250.00). Designated cremains plots shall cost the sum of Fifty Dollars (\$50.00). Wells Township Cemeteries do not allow "Green Burials" or burial of anything other than human remains.

(b) Payment shall be made payable to Wells Township.

(c) The Township Board may waive some or all fees for the burial of indigent persons and set aside a part of a township cemetery or cemeteries for the burial of indigent persons.

(d) The Township Board may, by resolution, periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance.

Section 6. Grave Opening Charges

(a) All costs associated with opening and closing of a burial space are the sole responsibility of those requesting the burial. Any person or persons breaking ground within the Wells Township cemeteries must have prior approval of the Township Sexton.

(b) No cemetery plot shall be opened or closed unless it is marked and in the presence, direction and control of the Township Sexton or such other individual appointed by the Township Board. This 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. The Township Sexton shall be given at least THIRTY-SIX (36) HOURS prior notice of such grave opening or closing.

Section 7. Memorials

(a) All memorials must be made of stone, bronze or other equally durable composition and shall face the same direction as those around them. No memorial shall be placed in any Wells Township cemetery without prior authorization by the Township Sexton. The location of memorials must be determined by the Township Sexton before placement. Only one memorial shall be allowed per cemetery plot for a

single burial, a military marker may also be added. Plots with two burials may contain two memorials in addition to any military marker(s). Memorials designed to span across two plots are also allowed. Designated cremains plots may contain only one memorial, a military marker may also be added.

(b) All memorials must be located upon a suitable solid foundation to maintain the same in an erect position. The footings or foundation for any memorial shall be at the expense of the family. All foundations shall extend sufficiently far enough to support the weight of the memorial with a minimum of three inches beyond the base on all sides, unless instructed differently by the Township Sexton. Urns for flowers may be placed on the foundation, which can be extended beyond the three inch requirement.

(c) Should any memorial (including any memorial 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.

(d) The maintenance, repair, and upkeep of a cemetery memorial 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 memorial or similar item.

Section 8. Interment Regulations - Full Body Interment and Cremains

(a) All burials must be contained within their designated plots that were purchased and recorded. No burials may take place outside of surveyed/mapped cemetery plots.

(b) Only one full human body interment in one burial space shall be permitted along with one container of human cremains on top. With prior approval by the Township Board two containers of human cremains may be placed above one full human body interment. The only exception is for a parent and infant child, or two infant children buried at the same time. Up to two human cremains may be placed per burial space. Only one human cremains may be placed per designated cremains plot (burial space).

(c) Cremains must be buried in a container pre-approved by the Township Sexton. No cremains shall be scattered or dispersed within a Wells Township cemetery.

(d) All burials, except cremains, must be buried in a standard vault that meets all applicable laws. Only vaults constructed for permanent duration made from materials such as cement, steel, or a metal alloy, may be used.

(e) The Township Sexton shall be given not less than 36 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 supervised by the Township Sexton, or such person or persons as appointed by the Wells Township Board.

(f) The proper permit or form issued by the Township for the cemetery plot involved, together with appropriate identification of the person to be buried therein, a burial-transit permit from the health department for a full body interment or a death certificate or cremation disposition for cremains, shall be presented either to the Township Sexton or the designated township official prior to interment. Where such permit or form has been lost or destroyed, the Township Sexton or the designated township official

must be satisfied from his or her records that the deceased person to be buried in the cemetery plot is the authorized person for that space before any interment is commenced.

(g) The surface of all graves shall be kept in an orderly manner within the confines of the cemetery plot involved.

(h) The following steps should occur regarding a burial:

1. The Township Sexton is contacted by the family of someone recently deceased or the funeral home, thus giving 36 hours' notice that a burial will take place.
2. Arrangements are made with the Township Sexton as to the exact date and manner of burial and approval of the person who will be doing the excavating.
3. A copy of the burial-transit permit is filed with the Township Sexton, along with all applicable fees, if any, paid to the Township. In case of cremation, a copy of the death certificate or cremation disposition will be required before interment.
4. The Township Sexton or designated township official marks the grave site and supervises the pre-approved person or persons while opening and closing the grave site.
5. Post burial, the headstone must be installed. While the funeral home or memorial company may install the headstone, the Township Sexton or the designated township official must mark and approve the area before placement.

Section 9. Disinterments

(a) No disinterment or digging up of an occupied grave shall occur until all permits, licenses and written authorization required by law 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 Township Board shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a township disinterment permit for the same) 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

No winter burials shall occur. Due to variable weather patterns and ground conditions the Township Sexton will determine when burials will end for the year and when burials will resume in the spring.

Section 11. Grounds Maintenance

(a) Artificial flowers and other small remembrance objects are expected to be maintained by the family, or plot owner, in a presentable condition. Small vases or urn planters may be placed at the base of a headstone. Any object deemed as unsightly, a safety hazard, or interferes with ground maintenance will be removed.

(b) No grading, leveling, digging with a shovel, or excavating within a cemetery shall be allowed without the prior permission and supervision of the Township Sexton or the designated township official.

(c) Shrubs and trees or vegetation of such type shall not be planted in any Wells Township cemetery. Any of the foregoing items planted without Township approval will be removed by the Township or the Township Sexton.

(d) The Township Board reserves the right to remove or trim any existing tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.

(e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.

(f) Township Sexton shall have the right and authority to remove and dispose of all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem.

(g) Surfaces other than earth or sod are prohibited.

(h) All refuse of any kind or nature including, but not limited to, dead flowers, dried wreaths, broken memorabilia and broken flower containers must be removed from the cemetery.

(i) Except for memorials, flowers, and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including but not limited to signs, trellises, statues, 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 authorized by this Ordinance or by the Township.

Section 12. 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 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 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 Township from 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 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 as to the Township Sexton and any Township employee, officer, official or agent.

Section 13. Forfeiture of vacant cemetery plots or burial spaces

Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for 80 years or more from the date of sale may be reevaluated. After 80 years from the date of sale the Township may seek to find the individual possessing the right of burial to a specific burial space. If it is found that the individual is already deceased and buried elsewhere the plot or burial space will automatically revert back to the Township. If the individual or their immediate family heirs cannot be

found the plot or burial space may revert back to the Township. Transfer of heirs may occur under exigent circumstances. Contact Township Sexton for more information.

Section 14. Records

The Township Sexton shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the township related to township cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 15. Cemetery Hours

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.

Section 16. Prohibited Uses and Activities

(a) No person shall destroy, deface, apply graffiti to or otherwise injure any memorial, 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) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.

(d) There shall be no destruction of cemetery property.

(e) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.

(f) 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 or specifically approved by the Township Sexton and/or Township Board.

(g) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.

(h) There shall be no digging, grading or mounding unless expressly authorized by this ordinance.

(i) There shall be no driving of any vehicle on any portion of a cemetery except the designated roads or drives.

(j) There shall be no disinterment or grave openings unless approved by the Township Board.

(k) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.

(l) There shall be no littering or dumping.

- (m) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (n) There shall be no private signs, moving displays or changeable copy on a sign placed within the cemetery grounds.
- (o) There shall be no fires, candles or open flames except as part of an authorized memorial event.
- (p) 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 or during any authorized memorial event.
- (q) No person shall engage in any fight, quarrel or disturbance on cemetery grounds.
- (r) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (s) Flags provided and placed by a veterans organization on the graves of military veterans for Memorial Day will be removed the week after the Independence Day holiday on July 4th. Personal flags, if appropriately identified, will remain on site, and their removal will be the responsibility of the site owner.

Section 17. Authority of the Township Sexton

- (a) The Wells 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 18. Applicability of this Ordinance.

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

Section 19. Fees

The Wells Township Board shall have the authority to set fees pursuant of this Ordinance from time to time by resolution. Such fees can include, but not limited to, grave opening, setting of foundations, grave closings, holiday burials, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 20. Interpretation/Appeals to the Wells Township Board

(a) The Wells 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 Wells 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 Wells Township Sexton or any Wells Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Wells 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 Wells Township Board. Any such appeal shall be in writing and shall be filed with the Wells Township Board within 30 days of the date of the decision, determination or other matter being appealed from. The Wells Township Board shall give the aggrieved party who filed the written appeal with the Wells Township Board at least ten days prior written notice of the meeting at which the Wells Township Board will address the matter unless an emergency is involved, in which case the Wells Township Board shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Wells Township Board at which the matter will be addressed. Pursuant to any such appeal, the decision of the Wells Township Board shall be final.

(c) The Wells Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 21. 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 acts 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 infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) 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 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 22. Township Officials Who Can Enforce this Ordinance

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

- * Wells Township Supervisor
- * Wells Township Clerk
- * Wells Township Sexton
- * Wells Township Zoning Administrator
- * Any deputy of the Marquette County Sheriff's Department
- * Any Michigan State Police Officer

Section 23. 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 24. Effective Date, Conflicts

This Ordinance shall become effective upon the certification date. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Wells Township Board Member Steve Mieski and was seconded by Wells Township Board Member Robert Therman the vote being as follows:

YEAS: 4

NAYS: 0

ABSENT/~~ABSTAIN~~ 1

WELLS TOWNSHIP CEMETERY ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Wells Township Board at a regular meeting held on August 12, 2024 at the Wells Township Hall, pursuant to the required statutory procedures.

Dated: August 12, 2024

Respectfully submitted,

By Robert J. Mammien, Wells Township Clerk