



VILLAGE OF LAKEVIEW
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**VILLAGE OF LAKEVIEW
Montcalm County, Michigan
Ordinance #2019-3**

Adopted: February 11, 2019

Published: February 16, 2019

Effective: March 16, 2019

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 Village of Lakeview, in Montcalm 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 "Village of Lakeview Cemetery Ordinance."

Section 2. Purpose and Intent

The Village Council for the Village of Lakeview recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Village is an important function of the government of the Village. It is also important that burials, disinterment's 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 Village Council find that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Village.

Section 3. Definitions

The following words and phrases used in this chapter shall have the meanings stated respectively in this section:

- A. "Burial right" shall mean a right of earth interment.
- B. "Burial space" shall mean a land area four (4) feet wide, or forty-eight (48) inches, wide and eight (8) feet, or ninety-six inches, in length. Exceptions may be made with Village permission to accommodate infant burial or the burial of cremains. The Village Council may change the dimensions of a cemetery plot from time to time by resolution.
- C. "Cemetery" or "Village Cemetery" shall mean a burial park for earth interments that is owned, operated and/or controlled by the Village.
- D. "Cemetery Lot" shall mean a burial space sufficient to accommodate one or more burial spaces.

- E. "Cremation" shall mean the incineration of the body of a deceased person.
- F. "Internment" shall mean the permanent disposition of human remains by cremation and inurnment, entombment or burial.
- G. "Marker" shall mean a monument that is flush with the ground.
- H. "Monument" shall mean a tombstone or memorial of granite or marble which shall extend above the surface of the ground.
- I. "Nonresident" shall mean a person who does not currently live within the Village.
- J. "Residents" shall mean a person who is currently residing in the Village.
- K. "Village Sexton" shall mean the person so designated by the Village Council to open and close burial spaces.
- L. "Winter" shall mean the months of the year when excavating a grave-site is more difficult due to the ground being frozen. Typically, this occurs from December 1 until April 1 each year.

Section 4. Administration and Enforcement

The Village Council is hereby empowered to enforce all rules and to exclude from the cemetery any person in violation of such rules. The Village Council shall have charge of the grounds and buildings, including the conduct of funerals, traffic, employees, burial space owners and visitors and at all times shall have supervision and control of all persons in the cemetery.

Section 5. Record Keeping

The Village Clerk shall maintain records concerning all burials and issuance of burial permits separate and apart from any other records of the Village, and the records shall be open to public inspection during reasonable office hours.

Section 6. Sale of Burial in Cemetery Lots or Burial Spaces

- A. After the effective date of this Ordinance, burial rights in cemetery lots and burial spaces shall be sold and conveyed to the Village residents and nonresidents, but the Village Council may establish a higher charge for nonresidents, as compared to residents. The sale and conveyance of such burial rights shall be only for the purpose of burial for the purchaser and/or his/her heirs at law or next of kin. No such sales shall be made to funeral directors or other, unless they otherwise qualify as purchasers under the terms of this subsection.
- B. The sale or transfer of a cemetery plot to a person grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold or transferred to the person receiving the cemetery plot. All sales and transfers of cemetery plots shall be made on a form approved by the Village Council and signed by the designated Village Official. Such forms shall be signed by the Village Clerk or Village Manager and shall constitute a burial permit when issued.
- C. Notwithstanding other provisions of this section, however, such burial rights may be sold, and such sale may be approved by the Village Clerk, in those situations where the purchaser, or the person for whom burial rights are sought, has been a previous resident of the Village, or is a descendant or other relative of residents or previous residents of the

Village, so that the sale of burial rights would make possible the burial of persons who have another family member already buried in a Village cemetery, or there are other sufficient personal reasons for burial in the Village cemetery by reason of previous residents or family or other relationships to persons interred therein.

- D. At the time of purchase from the Village, each cemetery plot shall be assigned the name or relationship of the specific person who shall be interred in the cemetery upon death. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person must present the original Village cemetery plot assignment document (or equivalent document or documents) to the Village Clerk for formal reassignment by the Village, since cemetery plots are otherwise nontransferable.
- E. Cemetery plots are nontransferable without prior written approval by the Village.
- F. The Village Council 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 Village shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold or transferred to a specific person and where such cemetery plot or plots will be located and within which Village cemetery. Such decisions 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 or nearby the cemetery plot or plots requested.
- G. A maximum of eight burial spaces per family may be purchased in advance; additional burial space for a family shall be sold on an as-needed and available basis.
- H. The owner of every cemetery plot shall be responsible for promptly notifying the Village whenever that person's mailing address changes.
- I. No remains (except cremation ashes) shall be buried within the Village except in a Village cemetery, church cemetery or other lawful cemetery.

Section 7 Purchase Price, Transfer Fees and Indigent Burials

- A. The cost of each cemetery plot and burial space shall be determined by resolution of the Village Council. The Village Council may, by resolution, periodically alter the fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.
- B. All charges shall be paid to the Village.
- C. A fee shall be charged for any transfer of one or more burial spaces.
- D. The Village Council may waive some or all fees for the burial of indigent persons. Furthermore, the Village Council may set aside a portion of a Village cemetery or cemeteries for the burial of indigent persons.

Section 8 Opening and Closing of Burial Spaces

- A. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by resolution of the Village Council, payable to the Village. The Village Council may establish a higher charge for nonresidents, as compared to residents.

- B. All charges for the opening of closing of a cemetery burial space shall be paid to the Village Treasurer.
- C. No burial spaces shall be opened and closed except under the direction and control of the Village Sexton. 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 Village Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closings will occur.
- D. No Village employee may solicit or accept any form of payment or gratuity for work or services rendered in or associated with a Village cemetery or any burial space therein. Village cemetery employees shall not perform work for burial space owners or other parties other than the Village, except as specifically permitted by the Village Council.
- E. The full purchase price of a burial space and the charge for grave openings shall be paid prior to any interment in the burial space. The charge for any disinterment shall be paid in advance.

Section 9 Forfeiture of Vacant Cemetery Plots or Burial Spaces

Cemetery lots and burial spaces sold or granted 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 Village upon occurrence of both of the following events:

1. A notice shall be sent by the Village 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 such lots or spaces will be forfeited if her/she does not affirmatively indicate in writing to the Village Clerk, within sixty (60) days from the date of mailing of the written notice, his/her desire to retain such burial rights.
2. No written response to such notice indicating a desire to retain the cemetery lot or burial spaces in question is received by the Village Clerk from the last owner of record of such lots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing such notice.

Upon the occurrence of the events stated in subsection (a) and (b) of this section, the Village shall become the owner of such cemetery lots and burial spaces, without any other conveyance or proceedings. The Village may thereupon sell and convey such cemetery lots and burial space to others or may otherwise deal with such lots and spaces and permitted by this chapter.

Section 10 Repurchase of Cemetery Lots or Burial Spaces

Upon written request of the owner, or his or her legal heirs, designees or representatives, the Village may repurchase any cemetery lots or burial spaces from the owner thereof for a price set by the Village Council.

Section 11 Interment Regulations

- A. Only one person may be buried in a burial space; provided, however, that one burial space may be used for the burial of (1) a parent and an infant; (2) two children; (3) the

cremated remains of not more than three persons; or (4) one person and the cremated remains of one person.

- B. A minimum of 48 hours' notice shall be given in advance of any funeral to allow for the opening of the burial space. The opening and closing of cemetery burial space shall be done only by the Village of such person or persons as are designated by the Village.
- C. The appropriate cemetery lot certificate for the burial space involved, with appropriate identification of the person to be buried therein, and, where necessary, shall be verified by the Village Sexton or the Village Clerk or his/her designee prior to interment. Where such certificate has been lost or destroyed, the Village Clerk shall be satisfied, from his/her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- D. All graves shall be located in an orderly and neat appearing manner, within the confines of the burial space involved.
- E. The Village Council can by resolution establish certain cemetery lots and burial spaces to be reserved for burials of eligible persons in those situations in which, by reason of indigence, there are not funds or not sufficient funds for the purchase of a burial space. Such burial spaces may be allocated and used in the discretion of the Village Clerk, consistent with the terms of this chapter. Upon a determination that a burial space shall be made available and used in such circumstances, the clerk shall prepare and execute an appropriate burial rights certificate and mark the Village cemetery records accordingly.
- F. Disinterments and reinterments shall be under the supervision of the Village Sexton, a licensed funeral director, and the local health officer.
- G. Disinterment of remains shall take place only upon issuance of a permit by the local health officer; provided, however, that a permit shall not be required to disinter cremated remains. A duplicate copy of any disinterment or reinterment permit shall be maintained by the Village Clerk as part of the permanent records of the cemetery. For the disinterment of cremated remains, a request for such purpose may be made to the Village Sexton, by the surviving next of kin, on an affidavit or other form, which shall be maintained by the Village Clerk as part of the permanent records of the cemetery.
- H. A permit shall not be required to open a casket in order to remove an article therefrom or to place an article therein. The opening of a casket for such purpose shall be under the supervision of the Village Sexton.

Section 12 Winter Burials

- A. The Village may charge additional fees for winter burials.
- B. If a winter burial cannot occur due to inclement weather, frozen ground or similar conditions, the deceased person may be kept in winter storage until a spring burial can occur. The Village is not obligated to provide 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 burials shall occur without the prior consent of the Village Sexton.

Section 13 Cremains

- A. Cremains may be buried in a container approved by the Village in a burial space or in a columbarium that has been installed by the Village within a Village cemetery.
- B. No cremains shall be scattered or dispersed within a Village cemetery.

Section 14 Markers and Monuments

- A. All markers and monuments must be of stone or other equally durable composition.
- B. Any large upright monument must be located upon a suitable foundation two inches larger than the marker on all sides to maintain the marker in an erect position with the exception of bronze markers which will be installed in cement at ground level.
- C. Only one marker or monument shall be permitted per burial space with the exception of veteran markers.
- D. The footing or foundation upon which any marker or monument must be placed shall be constructed by the Village, or person so designated by the Village. Fees for such work shall be set from time to time by resolution of the Village Council, payable to the Village.
- E. The placement of the marker or monument shall be the responsibility of the monument company or other designee selected by the family or by the person acting on behalf of the deceased person. All costs for the purchase and placement of markers and monuments shall be paid directly to the monument company or other responsible party.
- F. Should any monument or marker (including any monument or marker that was in place before this Ordinance became effective) become unsightly, broken, moved of its proper site, dilapidated or a safety hazard, the Village Sexton shall have the right, at the expense of the owner of the cemetery burial space or lot, to correct the condition or remove the same. The Village shall make reasonable attempt to contact the owner of the cemetery burial space or lot prior to any such work beginning.
- G. The maintenance, repair and upkeep of a cemetery monument, memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at the location. The Village has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such monument, marker, memorial, urn or similar item.

Section 15 Ground Maintenance and Care

- A. The general care of the cemetery is assumed by the Village and includes the cutting of the grass at reasonable intervals, the raking and cleaning of the grounds, and the pruning of shrubs and trees that may be placed at the discretion of the Village Council and/or the Village Sexton.
- B. No grading, leveling or excavation upon a burial space shall be allowed without the permission of the Village Sexton.
- C. No flowers, shrubs, trees or vegetation of any type shall be planted without the approval of the Village Sexton. Any of the foregoing items planted without such approval may be removed by the Village or the Village Sexton.

- D. The Village Council reserves the right to authorize the removal or the trimming of any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- E. Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- F. The Village Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefor that through decay, deterioration or damage are determined to be unsightly, a source of litter or a maintenance problem.
- G. Landscape materials (i.e. bark mulch, stone, etc.), other than earth or sod, are prohibited unless approved by the Sexton and/or the Village.
- H. Urn/containers may be placed on burial spaces from May 1 through November 1. The Village Sexton or person so designated by the Village Council may remove any or all refuse of any kind or nature including, among others, dried flowers, wreaths, papers and flower urns/containers which have not been removed or deposited in containers located within the cemetery by November 1.
- I. No advertisement or posting of any sign is to be permitted with the exception of the Village notices.
- J. No hunting or trapping on the cemetery ground shall be permitted.
- K. Vehicles may be operated within the cemetery only upon the roads, and only as directed by traffic signs or other signs. The use of off-road or all-terrain vehicles anywhere in the cemetery is prohibited.
- L. All objects and items placed at a cemetery lot or burial space that are not consistent with a pleasing and uniform appearance in the cemetery are subject to removal by the Village. The Village Council reserves the right to regulate the method of decorating burial spaces and cemetery lots, so that an appropriate appearance can be maintained throughout the cemetery. Any monument, effigy or other structure or object not in compliance with this section or that is inconsistent with a reasonably uniform and character appearance of the cemetery is subject to removal by the Village.
- M. Any plants, flowers, emblems, displays, containers and any other objects that have become unsightly or a hindrance to proper ground maintenance within the cemetery may be removed by the Village. All refuse of any kind, including dried flowers, wreaths, flower containers, papers and other debris must be fully and promptly removed from the cemetery by the persons who placed such materials there, or by other persons who may be caring for the grave sites where any such materials may have been placed.
- N. The Village shall not be responsible for damage to grave markers or grave sites as a result of the elements, vandalism, thievery, or by other causes beyond the control of the Village.

Section 16 Conduct of Persons within the Cemetery

The following prohibitions shall apply within any Village Cemetery:

- A. The cemetery grounds shall not be used as a place for recreational activity. Proper and dignified conduct, appropriate to a place of public burial, shall be observed within the cemetery at all times. The Village may remove from the cemetery any person who acts in

a disrespectful manner, inappropriate to the character and nature of the cemetery. Persons are prohibited from picking flowers, breaking or injuring any tree, shrub or plant, writing upon, defacing or destroying any grave marker, memorial, or other structure. No person shall destroy or otherwise disturb the birds or other animal life in the cemetery if not authorized to do so by the Village Council.

- B. No person shall bring in alcoholic beverages, or consume them, in the cemetery, nor disturb or interfere with any funeral or memorial service or prevent or disturb other persons who are at grave sites or elsewhere in the cemetery for the purpose of honoring or memorializing those interred at any grave site.
- C. No person other than a law enforcement officer or other person authorized by state law shall possess, carry or transport any firearm or weapon within any cemetery within the Village. Furthermore, no weapon or firearm shall be discharged in any cemetery within the Village. This prohibition on discharge of a firearm shall not apply to any firearm discharge that is performed in lawful self-defense as defined by the laws of the State of Michigan, nor shall this prohibition apply to any law enforcement officer or Village official who is authorized to possess, carry or discharge a gun or firearm in carrying out their authorized law enforcement duties. Nor shall this section apply to any firearm or ceremonial weapon discharged in any cemetery for ceremonial purposes in connection with a funeral or related matter if such discharge is performed by a nationally recognized veteran's organization or a recognized law enforcement organization, and if approved in advance by the Village Council or Village Manager.
- D. No loud talking or any other vocal disturbance shall be permitted in the cemetery within hearing distance of persons attending funeral services. No signs, notices or advertisements of any kind shall be allowed in the cemetery, unless placed there by authorized Village employees. Littering within the cemetery is prohibited; smoking in any cemetery building is prohibited.
- E. Motor vehicles within the cemetery shall always keep to the right side of a cemetery road. Motor vehicles shall not park or come to a complete stop in front of an open grave unless the occupants of the vehicle are in attendance at a funeral.
 - 1. Motor vehicles shall not be driven off a cemetery road or be driven in a manner such as to damage any grass, tress, shrubbery or plants in the cemetery. No person shall park or leave a motor vehicle in such a location as to prevent any other motor vehicle from passing.
 - 2. A vehicle shall not be operated in the cemetery for recreation purposes. Any motor vehicle improperly parked within a cemetery may be removed by the Township, and the owner and/or operator of the vehicle shall be responsible for all costs of such removal.
- F. There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- G. There shall be no headstones, ornaments, vases, plastic flower, 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 use of off-road motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
- I. There shall be no disinterment or grave openings unless approved by the Village.
- J. There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- K. There shall be no fires, candles or open flames.
- L. No children under twelve (12) years or age shall be allowed in any Village cemetery unless accompanied by an adult and are properly supervised by an adult.
- M. Cremains or ashes of a deceased person shall not be scattered or dispersed.
- N. There shall be no littering or dumping.
- O. There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

Section 17 Vaults

All casket burials shall be within a standard concrete vault installed or constructed in each burial space before internment. All cremated remains shall be placed in a durable container.

Section 18 Cemetery Hours

- A. The cemetery shall be open to the general public during the daylight hours.
- B. No person shall be permitted in the Village cemeteries at any time other than the hours described in subsection (A) of this section, except upon the permission of the Village Council or the Village Sexton.

Section 19 Disclaimer of Village Liability and Responsibility

Any person who enters, remains in or travels within a Village cemetery does so at his or her own risk. The Village is not responsible for any injury, accident or other calamity that might occur to any person present in a Village cemetery. Furthermore, the Village 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 lot, burial space or anywhere in a Village cemetery. The purchaser or transferee of any cemetery lot or equivalent (and all subsequent transferees, assigns, heirs or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Village for, from and against any injury, damage, 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 to and benefit not only to the Village, but also to the Village Sexton and any Village employee, officer, official or agent.

Section 20 Fees

The Village Council shall have the authority to set or change 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 closings, winter or holiday burial, the price for a new cemetery lot, transfer fee for cemetery lots and other matters. The Village Council shall have the authority to set different fees for residents and nonresidents.

Section 22 Applicability of this Ordinance

- A. This Ordinance shall apply only to cemeteries owned, controlled or operated by the Village.
- B. The provisions of this Ordinance shall not apply to Village officials or their agents or designees involved with the upgrading, maintenance, administration or care or a Village 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 23 Interpretation/Appeals to the Village Council

- A. The Village Council 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 Village Council (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 that it will not impair the purposes and intent of this Ordinance.
- B. Any party aggrieved by any interpretation or decision made by the Village Sexton or any Village official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Village cemetery, rights to a cemetery plot or burial space, or other matter arising pursuant to this Ordinance, shall have the right to appeal that determination/decision or matter to the Village Council. Any such appeal shall be in writing and shall be filed with the Village within thirty (30) days of the date of the decision, determination or other matter being appealed from. The Village shall give the aggrieved party who filed the written appeal with the Village at least ten (10) days' prior written notice of the meeting at which the Village Council will address the matter unless an emergency is involved, in which case the Village shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Village Council at which the matter will be addressed. Pursuant to any such appeal, the decision of the Village Council shall be final.
- C. The Village Council may set a fee or fees for any such appeal from time to time by resolution.

Section 24 Errors and Corrections

The Village 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 or burial space, either by canceling the permit for a particular vacant cemetery plot or plots or burial space or spaces and substituting and conveying in lieu thereof another vacant cemetery plot or plots or burial space or spaces in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot or burial space 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 Village shall have the right to remove and transfer the remains so interred to another cemetery plot or burial space in a similar location in the same Village cemetery in accordance with law.

Section 25 Severability

Should any section, portion or part of this Ordinance/ordinance amendment, be declared to be invalid or unconstitutional by a court of competent jurisdiction, that shall not affect the balance of this Ordinance/ordinance amendment which shall remain in full force and effect.

Effective Date

This Ordinance/ordinance amendment shall be effective upon the expiration of 30 days after this Ordinance/ordinance amendment (or a summary thereof) appears in the local newspaper as provided by law.

The vote in favor to adopt this Ordinance/ordinance amendment was as follows:

YEAS: Lund, Case, Treivis, Savon, Robert, and Fryor.

NAYS: _____

ABSENT/ABSTAIN: Huttinger

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby certify that the above is a true copy of an Ordinance/ordinance amendment adopted by the Village Council for Lakeview at the time, date, and place specified above pursuant to the required statutory procedures.

Respectfully submitted,

By Melissa King
Melissa King
Village of Lakeview Clerk