

**Liberty Township Cemetery Ordinance**  
**Liberty Township, Wexford County, Michigan**  
**Ordinance No 2023-1, Replacing Ordinance No 12-01**

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 Liberty Township, of Wexford County, Michigan; to provide penalties for the violation of said ordinance and to repeal all ordinances or parts of ordinance in conflict therewith.

THE MUNICIPAL ENTITY NAME OF LIBERTY, COUNTY OF WEXFORD, MICHIGAN ORDAINS:

**1. Title**

- (a) The ordinance shall be known and cited as the Liberty Township Cemetery Ordinance No 2023-1

**2. Purpose and Intent**

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

**3. Definitions**

- (a) A “cemetery plot” shall consist of an area in a Liberty Township cemetery sufficient to accommodate one burial space or one deceased person. It shall consist of a land area of at least forty-eight (48) inches (4 feet) wide one hundred twenty (120) inches (10 feet) in length. Exceptions may be made with Liberty Township permission to accommodate infant burial or the burial of cremains.
- (b) “Liberty Township” means Liberty Township of Wexford County
- (c) “Liberty Township Cemetery” or “cemetery” means any cemetery owned, operated and/or controlled by Liberty Township.

**4. Sale of Cemetery Plots; Nontransferable**

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the Liberty Township for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate 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 Liberty Township Board and signed by the Liberty Township Sexton and/or Township Official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the Liberty Township Sexton, Clerk, Deputy Clerk or Sexton's designee and shall constitute a permit when approved.
- (c) Cemetery plots may be sold by the Liberty Township to any resident or taxpayer of Liberty Township. The Liberty Township Clerk is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Liberty Township Cemetery through personal previous residence in Liberty Township or relationship (first blood) persons interred in the Liberty Township Cemetery involved. Any such decision by the Liberty Township Clerk either granting or denying such variance may be overturned by the Liberty Township Board pursuant to item 22 hereof.
- (d) At the time of purchase from Liberty Township each cemetery plot shall be assigned the name of the specific person who shall be interred in that cemetery plot upon death. Each such person must be either a resident or taxpayer of Liberty Township or be a member of the immediate family of a qualified purchaser. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot they may do so by notifying the Sexton and or Township Official of Liberty Township in writing. Cemetery plots are nontransferable without written approval by Liberty Township.
- (e) The owner of every cemetery plot shall be responsible for notifying Liberty Township whenever that person's mailing address changes.

**5. Purchase Price for Cemetery Plots; Indigent Burials**

- (a) The cost of each cemetery plot shall cost a sum determined by a resolution approved by the Liberty Township Board and updated as needed. The possessor of burial rights or assigned individual of any cemetery plot within the Liberty Township Cemetery shall promptly provide the Liberty Township Clerk with any change in that owner's mailing address.
- (b) All charges shall be paid to the Liberty Township Sexton or Township Official and submitted directly to such.
- (c) The Liberty Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Liberty Township Board may set aside a portion of a Liberty Township Cemetery or cemeteries for the burial of indigent persons.
- (d) The Liberty Township Board may by resolution periodically alter the forgoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

## 6. Grave Opening Charges

- (a) The Liberty Township Board 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 (cremains). Such fees shall be set from time to time by resolution of the Liberty Township Board, payable to Liberty Township.
  - (b) No cemetery plot shall be opened or closed except under the direction and control of the Liberty Township Sexton, or such other individual as is designated by Liberty Township Board. This subsection (b) shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction official or state health department authorities; however, even in such cases the Liberty Township Sexton shall be given twenty-four hours' (24) prior notice of when such grave opening or closing will occur.
- ## 7. Markers or Memorials; No Monuments
- (c) 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.
  - (d) 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). Any foot stones must be flat to the ground.
  - (e) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Liberty Township, or such persons(s) as may be designated by the Liberty Township Board, payable to Liberty Township.
  - (f) 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 Liberty Township has no responsibility or liability regarding repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.
  - (g) Should any monument or memorial (including any monument or memorial that was in place before this Ordinance became effective) become broken, moved off its proper site, dilapidated or a safety hazard, the Liberty 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 Liberty Township shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning. Notice shall be sent by first class mail to the last known address of the last owner of the record informing him/her of the situation. If no response to said notice is received by the Liberty Township Clerk from the last owner of record of said monument or memorial or his/her heirs or legal representative within sixty (60) days from the date of mailing of said notice, then the Township shall have the right to remove or correct the unsafe condition at the expense of the owner.

## **7. Interment Regulations**

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child
- (b) Liberty Township Official/Sexton shall be given not less than 48 hours (two (2) days') 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 done only by the Liberty Township or such person or persons as are designated by Liberty Township.
- (c) The appropriate permit or form issued by Liberty 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 Liberty Township Sexton or the Liberty Township Official (or designated Liberty Township official prior to interment. Where such permit or form has been lost or destroyed, the Liberty Township Clerk 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) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of Liberty Township.
- (e) Cremains shall be in a container and must have an identification tag.
- (f) Establishment of green burials and/or an ash scatter garden may eliminate this requirement for these types of burials or cremains.
- (g) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

## **8. Disinterment**

- (a) No disinterment or the digging up of an occupied grave shall occur without a Liberty Township disinterment permit.
- (b) No disinterment or digging up of a occupied grave shall occur until and unless any and all permits, licenses and written authorizations 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 Liberty Township.
- (c) The Liberty 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 Liberty 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.

- (d) No disinterment permit shall be issued by Liberty Township until the Liberty Township disinterment application form (as authorized by the Liberty Township Board) has been fully completed (and signed by a properly authorized person and filed with the Liberty Township records.

**9. Winter Burials**

- (a) Liberty Township 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. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter burials shall occur without the prior consent of the Liberty Township Sexton.

**10. Cremains**

- (a) Cremains may be buried in a container in a cemetery plot.
- (b) No cremains shall be scattered or dispersed within a Liberty Township Cemetery unless it is an area designated for such purposes.

**11. Grounds Maintenance**

- (a) Flowerpots, urns and grave blankets 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. Decorations will be permitted for occasions falling outside of these dates. Veteran flags and flag holders shall be governed by the Veterans' Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Liberty Township Sexton or Liberty Township Official. Furthermore, no trees, shrub, landscaping or similar plantings shall occur without the prior permission of the Liberty Township Sexton or Liberty Township Official.
- (c) No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Liberty Township approval will be removed by the Liberty Township Sexton.
- (d) The Liberty 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 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) The Liberty 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.
- (g) Surfaces other than earth or sod are prohibited.

- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers, and plastic flower containers must be removed from the cemetery at the end of the season.
- (i) No glass containers or items are allowed
- (j) Except for markers, memorials, flowers and urns expressly allowed by this Ordinance, veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a Liberty 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 Liberty Township Board.

**12. Disclaimer of Liberty Township Liability and Responsibility**

- (a) Every person who enters, remains in and travels within a Liberty Township Cemetery does so at their own risk.

**13. Forfeiture of Vacant Cemetery Plots or Burial Spaces**

- (a) Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for sixty (60) years or more from the date of their sale shall automatically revert to the Liberty Township upon the occurrence of the following events:
- (b) Notice shall be sent by the Liberty 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 60 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 Liberty Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (c) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Liberty 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.

**14. Repurchases of Plots or Burial Spaces**

- (a) The Liberty Township may repurchase any cemetery plot from the owner for a price set by the Liberty Township Board, upon the written request of said owner or his or her legal heirs or representatives.

**15. Records**

- (a) Records concerning all burials, cemetery plots, issuance of burial permits and any other records of Liberty Township related to the Liberty Township cemeteries shall be maintained and updated by the Liberty Township Sexton and its designated staff. Copies of all records must be maintained by the Liberty Township Clerk and/or Sexton open to public inspection at all reasonable business hours.

## **16. Cemetery Hours**

**(a) The hours of the Liberty Township Cemetery are 8:00am – 8:00 pm.**

**(b) The Cemetery will be closed from October 1 through May 1.**

(c) The gates of the cemetery are closed during the winter.

## **17. Prohibited Uses and Activities**

(a) The following prohibitions shall apply within any Liberty Township cemetery:

- i. No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a Liberty Township cemetery.
- ii. No person shall disturb the peace or unreasonable annoy, harass, or disturb any other person who is lawfully present on the grounds of any Liberty Township cemetery. There shall be no engaging in any loud or boisterous conduct
- iii. There shall be no entry or presence in the cemetery by any person when the cemetery is closed during the winter. There shall be no destruction of cemetery property
- iv. There shall be no destruction, defacing, cutting, etc., of any tree or plant within a Liberty Township cemetery.
- v. 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.
- vi. There shall be no digging, grading, or mounding unless expressly authorized by this Ordinance.
- vii. There shall be no driving of an automobile, truck, or any vehicle on any portion of a Liberty Township cemetery except the designated roads or drives. No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- viii. There shall be no gathering of persons in excess of 75 people without prior Liberty Township approval (except during or incidental to a funeral occurring concurrent with a burial.)
- ix. There shall be no disinterment or grave openings unless approved by Liberty Township.
- x. There shall be no picnicking or consumption of food without prior Liberty Township approval unless it is part of a funeral ceremony.
- xi. There shall be no solicitation of peddling of services or goods or any signs or placards advertising any goods or services.
- xii. There shall be no littering or dumping. Disposal of items removed from a grave site shall be done in the designated dumpster.

- xiii. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- xiv. There shall be no fires, candles, or open flames.
- xv. 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
- xvi. No person shall engage in any fight, quarrel, or disturbance.
- xvii. There shall be no dumping, vandalizing, or tipping over any lawful garbage container or receptacle.

**18. Authority of the Liberty Township Sexton**

- (a) The Liberty Township Board shall appoint a Liberty Township Sexton as an individual or a contractor who shall serve at the discretion of the Liberty Township Board. The Liberty Township Sexton may be a Liberty Township employee or independent contractor for Liberty Township at the discretion of the Liberty Township Board. The Liberty Township Sexton may utilize other employees at his/hers discretion under the approval of the Board.
- (b) The Liberty Township Sexton shall assist other Liberty Township officials with the enforcement and administration of this Ordinance.
- (c) The Liberty Township Sexton shall have such duties and obligations with regard to Liberty Township cemeteries as may be specified from time to time by the Liberty Township Board and compensated in accordance with the Liberty Township agreement.

**19. Fees**

- (a) The Liberty 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.

**20. Applicability of this Ordinance**

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by Liberty Township.

**21. Interpretation/Appeals to the Liberty Township Board**

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

**22. Authority of the Liberty Township to Remove Unauthorized or Unlawful Items from a Liberty Township Cemetery**

- (a) 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 Liberty Township Cemetery in violation of this Ordinance, any Liberty township rule or regulation regarding Liberty Township cemeteries, or any county state or federal law, statute or regulation may be removed by Liberty Township from the Liberty Township cemetery at any time and destroyed or disposed of by the Liberty 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 Liberty 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 Liberty Township cemetery unless expressly authorized by this Ordinance or a written rule or policy of Liberty Township. Even if such an item is authorized to be installed, kept, maintained or left in a Liberty Township cemetery, the Liberty 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 persons or persons who installed, maintained, or left such items in a Liberty Township cemetery.

**23. Penalties**

- (a) A violation of this Ordinance (or 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, 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 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.
- (b) A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

**24. Liberty Township Officials Who Can Enforce this Ordinance**

- (a) Unless otherwise specified by the Liberty 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 Ordinance.
  - i. Liberty Township Sexton
  - ii. Liberty Township Clerk
  - iii. Liberty Township Supervisor

**25. Severability**

- (a) 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.

**26. Effective Date; Conflicts**

- (a) This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**27. Scatter (ash) Garden Scatter Garden**

- (a) The Liberty Township Board may designate a space or trail on their property where cremains may be spread or scattered on the ground.