

CHARTER TOWNSHIP OF COMSTOCK

ORDINANCE NO. 524

ADOPTED: February 7, 2022

**EFFECTIVE: THIRTY DAYS FOLLOWING
PUBLICATION AFTER ADOPTION**

An Ordinance to amend Township Ordinance 341, Cemetery Regulations, which is compiled at Section 140.000 of the General Compilation of Township Ordinances Charter Township of Comstock, by adding new requirements, revising existing provisions and repealing all ordinances or parts of ordinances in conflict herewith.

**CHARTER TOWNSHIP OF COMSTOCK
KALAMAZOO COUNTY, MICHIGAN**

ORDAINS:

SECTION I
AMENDMENT OF SECTION 140.000, CEMETERY REGULATIONS
GENERAL COMPILATION OF TOWNSHIP ORDINANCES
CHARTER TOWNSHIP OF COMSTOCK

Section 140, Cemetery Regulations, of the Compilation of General Ordinances Charter Township of Comstock, is hereby amended to read as follows:

140.000 Cemetery Regulations

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, maintained and operated by the Charter Township of Comstock, Kalamazoo County, Michigan, to provide sanctions for violation of said Ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

140.001 Title.

Sec I. This Ordinance shall be known and cited as the Comstock Charter Township Cemetery Ordinance.

140.002 Purpose and Intent

Sec II. The Charter Township of Comstock Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned, controlled, maintained and operated by the Township is an important function of the government of the

Township It is also important that burials, disinterment and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds the adoption and enforcement of this Ordinance is in the best interests of the Township, those who have purchased burial rights and the residents of the Township.

140.003 Definitions of cemetery lots and burial spaces/plots.

Sec. III.

- A. A *cemetery lot* shall consist of burial spaces sufficient to accommodate from one to four burial spaces.
- B. A *burial space/plots* shall consist of a land area four feet wide and ten feet in length.
- C. A *Township Official* is defined as any elected official, sexton, or designee approved by the Township Board to work in the cemetery.

140.004 Sale of lots or burial spaces.

Sec. IV.

- A. Hereafter, cemetery lots or burial spaces shall be sold to residents and non-residents of the Charter Township of Comstock. In the event that there are a limited number of cemetery lots or burial spaces available, then and in such event sales shall be to residents, non-resident taxpayers, and non-residents who are not taxpayers of the Township in that order of priority. The Township Board of the Charter Township of Comstock shall have the right and authority to charge different purchase prices among those classes of persons eligible to purchase cemetery lots or burial spaces so long as there is no discrimination among persons of a particular class of purchasers.
- B. All such sales shall be made on a form approved by the Township Board which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such form shall be executed by a Township Official.
- C. Burial rights may only be transferred to those persons eligible to be original purchasers of cemetery lots or burial spaces within the Township and may be effected only by endorsement or an assignment of such lot certificate in writing upon the lot certificate issued by the Township and by subsequent written approval by a Township Official of the certificate transfer. The assignment of any lot certificate, once approved by said Township Official, shall be entered upon the official records of the Township. Upon such new assignment, approval and record, said Official shall issue a new lot certificate to the assignee and shall cancel and terminate the original certificate on the Township's records. They can then reassign the unused interment spaces subject to any vested rights of interments or waiver thereof.
- D. In the event that the owner of a cemetery lot, burial space and/or plot is deceased, and if the deceased owner did not specifically devise and/or transfer the cemetery lot, burial

space and/or plot in his or her will or through another testamentary directive, the deceased owner's heirs will, upon proper application and presentation of proofs to the Township Official, inherit and/or otherwise be eligible for transfer of the deceased owner's cemetery lot, burial space and/or plot. Any persons making such claim shall provide the Township Official with an affidavit as to the death of the deceased owner (attaching the certified death certificate) along with a probate order to transfer title or other proof of the right to the cemetery lot, burial space and/or plot. Upon such proofs, the new owner of the cemetery lot, burial space and/or plot can then reassign the unused cemetery lot, burial space and/or plot subject to any vested rights or waiver thereof or sell unused plots back to the Township.

140.005 Purchase price, transfer fee, and grave opening charges.

Sec. V.

- A. Purchase price of burial spaces shall be at a cost determined from time to time by the Township Board and will be available in the Township Hall.
- B. Transfer of one or more burial spaces from an original purchaser to a qualified assignee shall be at a cost determined from time to time by the Township Board.
- C. 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 the Township Board.
- D. The foregoing charges shall be paid to the Township and deposited in the cemetery fund of the Township.
- E. No burial space shall be opened and closed except under the direction and control of the Township Sexton or Township Official.
- F. The 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, fees for a grave opening, setting of foundations, grave closing, weekend or holiday burial, the price for a new cemetery lot, and other matters.

140.006 Markers or memorials.

Sec VI.

- A. All permanent markers or memorials must be of stone, marble, granite, or bronze.
- B. All such permanent markers or memorials must be located upon a suitable solid foundation to maintain the same in an erect position. The footing or foundation upon which any permanent monument, marker, or memorial must be placed shall be constructed by the Township at a cost as determined by the Township Board.

- C. A single marker shall not be wider than 44” inches (48” including the foundation) or 20” in depth (24” with foundation), including overhang. In the event that one upright monument, marker or memorial is dedicated to the use of two or more burial spaces, then and in such event, such monument, marker or memorial shall be centered, as nearly as practical, among these contiguous burial spaces to which such monument, marker or memorial is dedicated. The marker needs to be no larger than 92” long (96” with foundation) and 20” in depth (24” with foundation). A monument shall stand up right no higher than 48”.
- D. Only one permanent monument, marker or memorial shall be permitted per burial space. However, a burial space for a veteran may have a second monument, marker or memorial that is flush to the ground identifying the deceased as a veteran. There shall, however, be no more than one upright monument, marker or memorial per burial space.
- E. Temporary markers may be erected for a period of 12 months following interment. The Township reserves the right to remove said marker after this time period. In order to provide notice, the Township shall make reasonable efforts to contact the owner of, or contact person for, the cemetery lot at least seven (7) days prior to commencing any corrective measures. Once a permanent marker is placed, the temporary marker must be removed.
- F. Should any monument or memorial (including any monument or memorial that was in place prior to the effective date of the amendment of this ordinance) become broken, moved off its proper site, or a safety hazard, the Township shall have the right to correct the condition or remove the monument or memorial. The Township shall make reasonable efforts to contact the owner of, or contact person for, the cemetery lot at least seven (7) days prior to commencing any corrective measures.
- G. The maintenance, repair, and upkeep of a cemetery memorial or marker 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 monument or marker.

140.007 Interment regulations.

Sec. VII.

- A. Except as provided in this section, only one person may be buried in a burial space except for one (1) infant (up to one year old) and one (1) adult buried at the same time or two (2) infants buried at the same time; however, only one (1) permanent marker, memorial or monument may be placed on said burial space.
- B. Four (4) cremation interments may be placed in one regular burial space; however, only one (1) permanent marker, memorial or monument may be placed on said burial space.
- C. Two (2) cremation interments and one (1) regular interment may be placed in one regular burial space; however, only one (1) permanent marker memorial or monument may be placed on said burial space.

- D. A request for the opening of a burial space requires not less than 36-hour advance notice to the Township. The Township will make every effort to accommodate the request for burial based on availability of the excavator and/or other Township equipment and personnel. All weekend burials must be requested by 4:00pm the Wednesday prior and all Monday burials (or Tuesday if Monday is a holiday) must be requested by 4:00pm on the Thursday prior.
- E. The appropriate permit for the burial space involved, together with the appropriate identification of the person to be buried therein, when necessary, shall be presented to the Township Official prior to interment. Where such permit has been lost or destroyed, the Township Official shall be satisfied, from his or 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.
- F. No disinterment or digging up of an 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 the Township Official.
- G. 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.

140.008 Ground maintenance.

Sec. VIII.

- A. No grading, leveling or excavating upon a burial space shall be allowed. No personal lawn maintenance equipment shall be used, except by the Township. No edging, stones, coping, fence, railing, hedge or *material of any sort* shall be established or maintained to define a cemetery lot or burial space or portion thereof.
- B. No flowers, shrubs, trees or vegetation of any type shall be planted within a Township cemetery. Any of the foregoing items may be removed and disposed of by the Township Official or the cemetery sexton.
- C. The Township reserves the right to remove or trim any tree, plant or shrub located within the cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- D. The Township shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers or other objects in the cemetery that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem or that are otherwise in violation of this Ordinance.
- E. Surfaces other than earth or sod are prohibited.

- F. All refuse of any kind or nature including, but not limited to, dried-up flowers, wreaths, balloons or statues, must be removed from the cemetery within ten (10) days after burial. Holiday and seasonal decor are permitted two (2) weeks prior to and two (2) weeks following that holiday. One (1) holiday decoration is permitted per gravesite. The term holiday as used in this Section refers to New Year's Day, Easter, Mother's Day, Memorial Day, Father's Day, Independence Day, Labor Day, Halloween, Veterans Day, Thanksgiving and Christmas, Kwanzaa or Hanukkah.
- G. There shall be no jars or glass used on the premises for the holding of cut flowers; however, the inclusion of permanent receptacles as part of the permanent marker, memorial, monument, or foundation for use of holding of cut flowers is permitted. One (1) decorative item per gravesite is permitted including a container to hold cut flowers, artificial flowers or any other not season specific items that can fit within the container. The item shall be placed on the side of the monument on a patio stone. One (1) shepherd's hook for hanging flower baskets is allowed per monument, if it is erected so the base is flush to the foundation. Cones for holding artificial flowers are not allowed nor are artificial flowers to be placed directly in the ground. All permitted items must be in-line with the marker, memorial or monument and cannot be placed in front or back or exceed the width of the lot.
- H. No bird feeders, deer feeders or other animal feeding devices or materials shall be permitted within a Township cemetery.
- I. The Township shall regularly perform ordinance enforcement duties throughout the year. Maintenance and clean-up will be conducted on a regular basis. The Township reserves the right to remove and dispose of items in violation of the ordinance.
- J. No cremains shall be spread upon any portion of a Township cemetery, unless it is an area established for such use.

140.009 Forfeiture of vacant cemetery lots or burial spaces.

Sec. IX.

Cemetery lots or burial spaces sold after June 15, 1980 and remaining vacant fifty (50) years from the date of their sale, shall automatically revert to the Township upon occurrence of the following events:

- A. Notice shall be sent by the Township Official by First Class Mail to the last known address of the last owner of record informing him/her of the expiration of the 50-year period and that all rights with respect to said lots or spaces will be forfeited if the owner does not affirmatively indicate in writing to the Township Official within 60 days from the date of mailing of the within notice his/her desire to retain said burial rights.
- B. No written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Township Official from the last owner of record of said lots or spaces or his/her heirs or legal representatives within 60 days from the date of mailing of said notice.

140.010 Repurchase of lots or burial spaces.

Sec. X.

The Township will repurchase any cemetery lot or burial space from the owner for the original price paid the Township upon the written request of said owner or his/her legal heirs or representatives.

140.011 Records.

Sec. XI.

The Township Official shall maintain records concerning all burials and issuance of lot certificates separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

140.012 Vault.

Sec. XII.

All burials shall be within a standard concrete vault installed or constructed in each burial space before interment. Cremation ashes shall be placed within a sturdy container (no plastic bags).

140.013 Cemetery hours.

Sec. XIII.

- A. The cemeteries shall be open to the general public from sunrise to sunset of each day.
- B. No person shall be permitted in the Township cemeteries at any other time other than the foregoing hours, except upon permission of the Township Official.

140.014 Prohibited Uses and Activities

Sec XIV.

The following prohibitions shall apply within both Township cemeteries:

- A. No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign or 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 or park on lawns or cemetery lots or park in the middle of the road.
- D. There shall be no destruction of cemetery property.

- E. There shall be no headstones, ornaments, glass vases, fences, benches, trellises, statues, signs of any other item placed, kept, installed or maintained in a cemetery except as expressly allowed by this Ordinance.
- F. There shall be no disturbing of the peace or engaging in any loud or boisterous conduct in the cemeteries.
- G. There shall be no digging, grading, or mounding unless expressly authorized by this Ordinance.
- H. There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- I. There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- J. There shall be no gathering in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- K. There shall be no disinterment or grave openings unless approved by the Township.
- L. There shall be no possession or consumption of any alcoholic beverage, marihuana, or illegal substances.
- M. There shall be no picnicking or consumption of food without prior Township approval.
- N. 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.
- O. There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- P. There shall be no littering or dumping.
- Q. There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- R. There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- S. There shall be no fires, candles or open flames.
- T. No children under 12 years of age shall be allowed in any Township cemetery unless accompanied by an adult and properly supervised by an adult.
- U. No firearms or archery arrows shall be discharged or shot except that military or other veteran organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- V. No person shall engage in any fight, quarrel or disturbance.
- W. There shall be no dumping in, vandalizing or tipping over of any lawful garbage container or receptacle.

140.015 Authority of the Township Sexton

Sec. XV.

- A. The Township Board may 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.

140.016 Applicability of this Ordinance

Sec. XVI.

This Ordinance shall apply only to cemeteries owned, controlled or operated by the Township.

The provisions of this Ordinance shall not apply to Township Officials, or their agents or designees involved with the upgrading, maintenance, administration or care of a Township cemetery.

The provisions of this Ordinance shall not apply to police officers or firefighting officials, or officers involved in carrying out their official duties.

140.017 Interpretation/Appeals to the Township Board

Sec. XVII.

Any appeals can be filed with the Township Board.

140.018 Authority of the Township to Remove Unauthorized or Unlawful Items from a Township Cemetery

Sec. XIII.

Any monument, marker, or item that has been placed, installed, left or maintained in any Township cemetery in violation of this Ordinance, any Township rule or regulation regarding Township cemeteries, or any county, state or federal law, statute or regulation may be removed by the Township from the cemetery at any time and may be disposed of by the Township without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained or kept such item in the cemetery. No such item (including, but not limited to a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, landscaping, flag, or similar item) can be installed, placed, maintained or kept in a Township cemetery unless expressly authorized by this Ordinance or a written rule or policy of the Township. Even if such an item is authorized to be installed, kept, maintained or left in a Township cemetery, the Township shall have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from, or liability to the person or persons who installed, maintained or left such item in a Township cemetery.

140.019 Penalties and Sanctions.

Sec. XIV.

A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan Law. Provisions of this Ordinance may also be enforced by suit for injunction. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense. A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

140.020 Enforcement of the Ordinance

Sec. XX.

Unless otherwise specified by the 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:

- Township Officials as outlined in 140.003 of this Section.
- Township Ordinance Enforcement Officer

140.022 Reserved.

140.023 Reserved.

140.024 Reserved.

140.025 Reserved

SECTION II **SEVERABILITY**

Should any provision or part of the within Ordinance be declared by any court of competent jurisdiction to be invalid or unenforceable, the same shall not affect the enforceability of the balance of this Ordinance which shall remain in full force and effect.

SECTION III

REPEAL

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION IV
EFFECTIVE DATE

This Ordinance shall take effect thirty days following publication after adoption.

Nicole Beauchamp, Clerk
Charter Township of Comstock