

# AVERY TOWNSHIP CEMETERY ORDINANCE

## ORDINANCE No 3 - 2022

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control and management of cemeteries owned by the Township of Avery, Montmorency County, Michigan; to provide penalties for the violation of said Ordinance; and to repeal all ordinances or parts or ordinances in conflict herewith.

Township of Avery, County of Montmorency, Michigan ordains:

Section I: **Title:**

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

Section II: **Definitions of Cemetery Lots and Burial Spaces:**

A cemetery lot shall consist of burial/cremation spaces sufficient to accommodate from one (1) to eight (8) burial spaces in Avery Township East and West Cemetery, and from one (1) to two (2) burial/cremation spaces in Avery Township North Cemetery.

Section III: **Sale of Lots or Burial/Cremation Spaces:**

- A. Hereafter, cemetery lots or burial/cremation spaces shall be sold only to residents and taxpayers of the Township for the purpose of the burial/cremation of such purchaser, or their heirs at law, or next of kin, or persons of lineal consanguinity. Costs of burial/cremation spaces shall be set by resolution of the Township Board and posted in the Township Hall. Cemetery lots or burial/cremation may be sold to non-residents in adjoining townships who do not have available cemeteries. Costs of burial/cremation spaces to non-residents shall be set by resolution of the Township Board and posted in the Township Hall. No sale shall be made to funeral directors or others than as set forth. The Township Clerk, however, is hereby granted the authority to vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial/cremation within the Township through previous residence on the Township or relationship to person interred therein.
- B. All such sales shall be made on a form approved by the Township Board, which grants the right of burial/cremation only and does not convey any other title to the lot or burial/cremation space sold.
- C. Burial/cremation rights may only be transferred to those persons eligible to be Original purchasers of cemetery lots or burial/cremation spaces within the Township, and may be affected only by endorsement of an assignment of such cemetery deed upon the original cemetery deed form issued by the Township Clerk, approved by the Township Clerk and entered upon the official records of the Township. Upon such assignment, approval and record, said Township Clerk shall issue a new

cemetery deed to the assignee and shall cancel and terminate upon such records, the original cemetery deed assigned.

Section IV: **Purchase Price and Transfer Fees:**

- A: The cost of such burial/cremation space shall be set by resolution of the Township Board and reviewed from time to time. There shall be no charge to transfer burial/cremation spaces.
- B. Purchases of burial/cremation spaces by the Department of Social Services for indigent persons shall be at the current set purchase price.

Section V: **Grave Openings and Closings:**

- A. No Burials from November 15<sup>th</sup>, or when the ground freezes, whichever is first, through May 1<sup>st</sup>, or until the frost leaves the ground. At the Sexton's discretion, if later than November 15<sup>th</sup> or earlier than May 1<sup>st</sup>, burials may be done with an additional cost.
- B. The opening and closing of any burial/cremation space, prior to and following a burial/cremation therein, shall be at a cost to be determined by a resolution of the Township Board and payable to the Township. The Township Board shall review the costs from time to time. All costs shall be paid prior to or at the interment.
- C. No burial/cremation spaces shall be opened and closed except under the direction and control of the cemetery Sexton. This provision shall not apply to proceedings for the removal and/or re-interment of bodies or remains, which fall under the supervision of local health department.
- D. Grave opening and closing charges paid for by the Department of Social Services for indigent persons, shall be at the current set price.
- E. Monday, except on noted holidays, Tuesday, Wednesday, Thursday and Friday, opening and closings shall be at the cost as set by resolution of the Township Board. Saturdays, Sunday and noted holidays, opening and closings shall be at the cost as set by resolution of the Township Board.
- F. All burial/cremations will conform with the Michigan Department of Public Health rules and regulations and all other government rules and regulations.

Section VI: **Markers and Memorials:**

- A. All markers and memorials must be of stone or other equally durable composition. No artificial stone, native boulders or field stone will be permitted.
- B. Any upright marker or monument must be located upon a suitable foundation to maintain the same in an erect position.

- C. The West Section (lots 1-77) and East Section (lots 78-121) and North Section (lots 122-234) of Avery Township Cemetery may have upright markers, located at the head of the burial/cremation.
- D. The footing or foundation of any marker, monument or memorial tribute must be placed and constructed by the cemetery maintenance person. The foundation fees will be set by resolution of the Township Board. No foundation shall be poured without prior knowledge of the Township Clerk and may only be poured by the Township maintenance person or with prior authorization from the Township Clerk by another entity or person. Placement of markers, monuments or memorial tributes shall only be placed upon direction of the Sexton, maintenance person or Township Clerk.
- E. The Township shall be responsible for Armed Service markers on individual plots during the whole year and Flags from Memorial Day to Veterans Day, for all Veterans, to the best of our ability.

Section VII: **Interment Regulations:**

- A. Only one (1) person may be buried in a burial space, except for a parent and infant, 2 cremations or two (2) children buried at the same time, with the exception that one (1) container of cremated remains may be buried above another full burial with approval of cemetery management.
- B. Not less than seventy-two (72) hours shall be given in advance of any time of any scheduled burial to allow for the opening of burial spaces.
- C. The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to either the cemetery Sexton or the Township Clerk, prior to interment. Where such permit has been lost or destroyed, the Sexton or Township Clerk must be satisfied from the records or forms provided, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- D. No burial lot shall be used for any other purpose than the burial of human remains and the placing of appropriate memorials.

Section VII: **Ground Maintenance:**

- A. No grading, leveling or excavating upon a burial space shall be allowed upon a burial space shall be allowed without prior permission of the Township Clerk.
- B. Fresh flowers may be placed on graves at any time. Artificial flowers and plants may be used in pot/plant hangers from May 1<sup>st</sup> until November 1<sup>st</sup>. Artificial flowers and plants and pot/planters not removed by November 2<sup>nd</sup>, shall be

removed and discarded by the Township. Grave blankets and artificial flowers may be placed in urns and used during the winter months.

- C. Glass and plastic jars and vases and other such objects, cans, toys, Christmas trees and similar items are strictly prohibited. Any such decorations that are placed in the cemetery shall be removed and discarded by the Township.
- D. No plants or shrubs or trees of any type shall be planted. Any plantings that are planted and the Township has to remove them, will be charged to the Lot owner for the full cost of the removal.
- E. No curbing or fencing of any type is allowed around Lots or gravesites. The cost to remove any of this type of curb or fence, will be charged to the Lot owner for the full cost of the removal.
- F. The Township shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that through decay, deterioration, damage or otherwise have become unsightly, a source or litter, or a maintenance problem.
- G. The Township has the right to remove or trim any tree, bush, shrub or plantings located within the cemetery in the interest of maintaining proper appearance and use of the cemetery.
- H. Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited. Surfaces other than earth or sod are prohibited.
- I. All refuse of any kind or nature, must be removed and deposited at your personal property. There are no guaranteed refuse containers located within the cemetery.

Section IX: **Forfeiture of Vacant Cemetery Lots or Burial Spaces:**

Cemetery lots or burial spaces assigned or sold by the Township, that remain unused forty (40) years from the date of their assignment or sale shall automatically revert back to the Township according to the following procedure:

Notice shall be sent by the Township Clerk by first class mail to the last known address of the last owner of record informing them of the expiration of the forty (40) year period and that all rights with respect to said lots or spaces will be forfeited if they or their heir or legal representative does not affirmatively indicate in writing to the Township with thirty (30) days from the mailing date of the notice of their desire to retain said burial rights.

Section X: **Repurchase of Lots or Burial Spaces:**

The Township reserves the first right to purchase or buy back any lot or burial space for the original price paid to the Township upon the written request of said owner or their heirs or legal representative.

Section XI: **Records:**

The Township Clerk shall maintain records concerning all burials, issuance of burial permits, any perpetual care fund, separate and apart from any other records of the Township and the same shall be open to public inspection at all reasonable business hours.

Section XII: **Vault:**

All Burials shall be within a standard concrete vault installed or constructed in each burial space before the interment, with the exception of cremation containers, which shall be deemed appropriate by cemetery management.

Section XIII: **Cemetery Hours:**

The cemetery shall be open to the general public from the hours of dawn to dusk. No other hours shall be considered for any reason.

Section XIV: **Penalties:**

Any person, firm or corporation who violates any of the provisions of this Ordinance shall be guilty of a municipal civil infraction as define by Michigan law and subject to a civil fine determined in accordance with the following schedule:

- 1<sup>st</sup> violation \$50.00
- 2<sup>nd</sup> violation \$100.00
- 3<sup>rd</sup> violation \$300.00

Additionally, the violator shall pay all costs which may include all direct or indirect expenses to which the Township has incurred I connection with the violation. In no case however, shall costs of less than \$50.00 be ordered. A violator of this Ordinance shall be subject to such additional sanctions, remedies and judicial orders as authorized under Michigan law. Each day a violation of the Ordinance continues to exist constitutes a separate violation.

Section XV: **Severability:**

The provisions of this Ordinance are hereby declared to be severable, and should any provision, section or part thereof be declared 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, shall not affect or invalidate the remainder of such Ordinance which shall continue in full force and effect.

Section XVI: **Effective Date:**

This Ordinance shall take effect thirty days after publication.

AYES: Dawn Dobbyn, Gary McMurphy, Thom Seymour, Robin Ross, Diane Ives

NAYS: none

ABSTAIN: none

ABSENT: none

ADOPTED BY THE AVERY TOWNSHIP BOARD ON December 6, 2022.

PUBLICATION DATE, in the Montmorency Tribune, December 14, 2022.

EFFECTIVE DATE: January 14, 2023.