

**CEMETERY ORDINANCE**

**TOWNSHIP OF BAINBRIDGE**

**BERRIEN COUNTY, MICHIGAN**

**Ordinance No. 43D**

Adopted: August 6, 2001  
Published: August 15, 2001  
Effective: September 14, 2001  
Amended: February 3, 2003  
Amended: September 12, 2011

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

**THE TOWNSHIP OF BAINBRIDGE ORDINANCES:**

**SECTION I**

**Title**

This Ordinance shall be known and cited as the Bainbridge Township "Cemetery Ordinance."

**SECTION II**

**Definitions of Cemetery Lots and Burial Spaces**

A cemetery lot shall consist of burial spaces sufficient to accommodate from one to six burial spaces.

**SECTION III**

**Sale of Lots or Burial Spaces**

- A. Hereafter, cemetery lots or burial spaces shall be sold only to residents or taxpayers of the Township for the purpose of the burial of such purchaser or his or her heirs at law or next of kin. No sale shall be made to funeral directors or others than as heretofore 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 within the Township through previous residency for forty years or more in the Township or relationship to persons interred therein. Graves for non – residents of the township shall be twice the amount of grave cost for residents of the township.
- B. All such sales shall be made on a Lot Purchase Certificate, hereinafter referred to as a Burial Permit, which grants a right of burial only and does not convey any other title to the lot or burial space sold. The Township Clerk shall execute such form.

- C. Each sale or conveyance of cemetery property shall be recorded in the clerk's office of the township. The clerk shall issue a Burial Permit to the property owner and shall maintain a record of all cemetery transactions and Burial Permits.
- D. 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 of an assignment of such burial permit upon the original burial permit form issued by the Township Clerk, approved by said Clerk, and entered upon the official records of said Clerk. Upon such assignment, approval and record, said Clerk shall issue a new burial permit to the assignee and shall cancel and terminate upon such record, the original permit thus assigned.
- E. The rights of disposition and the ownership of cemetery property within a group of related individuals shall be as follows: Generally, the closest next of kin is the surviving person or persons listed as the authorized representative of the deceased. The order of closest next of kin follows in the following order:
  - 1. Spouse, 2. Children, 3. Grandchildren and thereafter the issue thereof, 4. Parents, 5. Brothers and Sisters, 6. Nephews and Nieces, 7. Grand-Nephews and Grand-Nieces and thereafter the issue thereof, 8. Grandparents, 9. Uncles and Aunts, 10. First Cousins and thereafter the issue thereof.

All persons with the same degree of kinship must sign or authorize the burial or disposition of remains in writing if they are the closest living next of kin.

- F. If the right of disposition is disputed by any family member or interested party, the party bringing the action must supply clear and convincing proof of ownership, of the grave space in question and present it to the Township Clerk with a declaration of holding the Township harmless from any and all damages as a result of the use of said burial plot, for review. The Clerk will review the proof; make a recommendation to the board as to ownership for their ruling. Notice of the ruling will be presented back to the party bringing the action in a timely manner.

## **SECTION IV**

### **Purchase Price and Transfer Fees**

- A. The fee for an adult, infant or stillbirth burial space, and any transfer fee of one or more burial spaces from an original purchaser to a qualified assignees, shall be at a cost to be determined from time to time by resolution of the Township Board, payable to the Township.
- B. The foregoing charges shall be paid to the Township and shall be deposited in the cemetery fund for the particular cemetery involved in the sale or transfer.

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

## **SECTION V**

### **Grave Opening Charges**

- 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 Township Board, payable to the Township. Non – resident fees shall be twice the cost of that of residents.
- B. No burial spaces shall be opened and closed except under the direction and control of the person or firm designated by the Township Board to provide said services. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the local health department.
- C. A burial transit permit or a cremation certificate along with a check made payable to Bainbridge Township for the cost of grave opening and closing must accompany any casketed body, cremated remains or any dead human remains to their place of final disposition in the cemetery. The permit should be given to the township clerk for filing *within* 24 hours of the interment.

## **SECTION VI**

### **Markers or Memorials**

- A. All markers or memorials must be of stone or other equally durable composition for which the Township bears no responsibility for maintenance or location.
- B. Any upright monuments must be located upon a suitable foundation to maintain the same in an erect position. *(Contact the Township Sexton for details concerning dimensions).*
- C. Only one monument, marker or memorial shall be permitted per burial space. *The width of a monument, marker, or a memorial shall not exceed thirty-six inches. (Contact the Township Sexton for details).*
- D. Monument foundations shall have a border not to exceed six inches from the base of the monument, measured in square inches. Installation of all monuments shall be approved by the Township Sexton.

## **SECTION VII**

### **Interment Regulations**

- A. *The following combinations are permissible on a burial space: one casket burial, one casket burial and one cremated remains, or two cremated remains.*

- B. No less than 36 hours notice shall be given in advance of any time of any funeral to allow for the opening of the burial spaces.
- C. The appropriate burial permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to the Township Clerk prior to interment. Where such burial permit has been lost or destroyed, the Township Clerk 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.
- D. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

## **SECTION VIII**

### **Ground Maintenance**

- A. No grading, leveling, or excavating upon a burial space shall be allowed without the permission of the Township Clerk.
- B. No flowers, shrubs, trees or vegetation of any type shall be planted without the approval of the Township Clerk. The Township may remove any of the foregoing items planted without such approval.
- C. The Township Board 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. Mounds, which hinder the free use of a lawn mower or other gardening apparatus, are prohibited.
- E. The person or firm assigned by the Township Board, shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers therefor that through decay, deterioration, damage or otherwise become unsightly, a source of litter or a maintenance problem and the Township shall bear no responsibility for any items left at any cemetery.
- F. Surfaces other than earth or sod are prohibited.
- G. All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

## **SECTION IX**

### **Forfeiture of Vacant Cemetery Lots or Burial Spaces**

Cemetery lots or burial spaces sold after the effective date of the ordinance and remaining vacant 40 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 Clerk by first class mail to the last known address of the last owner of record informing him of the expiration of the 40 year period and that all rights with respect to said lots or spaces will be forfeited if he does not affirmatively indicate in writing to the Township Clerk within 60 days from the date of mailing of the within notice his 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 Clerk from the last owner of record of said lots or spaces, or his heirs or legal representative, within 60 days from the date of mailing of said notice.

## **SECTION X**

### **Repurchase of Lots or Burial Spaces**

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

## **SECTION XI**

### **Records**

The Township Clerk shall maintain records concerning all burial permits, burial transfer permits, burial transit permits and cremation certificates, and 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 interment.

## **SECTION XIII**

### **Cemetery Hours**

- A. The Township Board reserves the right to set cemetery hours by resolution.
- B. Upon effective date of said hours, no person shall be permitted in the Township cemeteries at any time other than said hours, except upon permission of the Township Clerk.

## **SECTION XIV**

**Penalties**

Any person, firm or corporation who violates any of the provisions of the within ordinance shall be guilty of a Township Civil Infraction as defined by Michigan Law and subject to a civil fine determined in accordance with the Bainbridge Township Violations Bureau Ordinance, effective June 14, 2000.

**SECTION XV**

**Severability**

The provisions of the within 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 and 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 on September 12, 2011. All ordinances or parts of ordinance in conflict herewith are hereby repealed.

I hereby certify the foregoing is a true and correct copy of the Cemetery Ordinance, as amended, for Bainbridge Township, Berrien County, Michigan, duly adopted on the 12th day of September, 2011.

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Debra A. Grieser, Clerk  
Bainbridge Township

A motion that said "Cemetery Ordinance, Amended" be enacted was made by John Yetzke, and supported by Nancy Weber, at a regular meeting of the Bainbridge Township Board on the 12th day of September, 2011.

The names of the Township Board Members and their votes are as follows:

	<b><u>NAME</u></b>	<b><u>YES</u></b>	<b><u>NO</u></b>
	Jerry Jollay	X	
	Debra A. Grieser	X	
	Nancy Weber	X	
	Donald Baiers	X	
	John Yetzke	X	

I hereby certify that a summary of the foregoing Ordinance was published in The Tri-City Record, a newspaper circulated in Bainbridge Township on the 15th day of September, 2011.

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Debra Grieser, Bainbridge Township Clerk