

# Ordinance Number 7

## Carmel Township Eaton County, State of Michigan

### Cemetery Ordinance

May 2017 As updated September 2019

**Preamble:** 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 Carmel, Eaton County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith. Public Act 215 of 1937, MCL 128.1

#### THE TOWNSHIP OF CARMEL, EATON COUNTY, MICHIGAN, ORDAINS:

#### Section 1: Title

- 1.1 This ordinance shall be known and cited as the Carmel Township Cemetery Ordinance.

#### Section 2: Definitions

- 2.1 **CEMETERY LOT:** A cemetery lot shall consist of the number of burial spaces (plots) as shown on the plat of record, which consists of not more than eight.
- 2.2 **PLOT/GRAVE/GRAVESITE:** A burial space shall consist of a land area five (5) feet wide and ten (10) feet in length (the old portion of West Carmel Cemetery consists of 4 feet by 8 feet and/or 10 feet in the A Section and part of B Section). Millerburg Cemetery consists of five (5) feet wide and ten (10) feet in length and four (4) feet and ten (10) feet in length.
- 2.3 **CREMAINS:** Cremated human remains.
- 2.4 **CREMAIN AREA:** Section C – northern section of West Carmel Cemetery.
- 2.5 **TOWNSHIP, TOWNSHIP BOARD, TOWNSHIP CLERK:** Carmel Township or the Carmel Township Board or the Carmel Township Clerk respectively.
- 2.6 **RESIDENT:** Persons or person who maintains a Principal Resident's within Carmel Township.
- 2.7 **INTERMENT:** The burial of the remains of the deceased person.
- 2.8 **LOT MARKER:** A marker used by cemetery personnel to locate corners of a lot.
- 2.9 **MARKER/MONUMENT:** A marker /monument is a stone or plaque either flush or above the ground indicating the given and/or family name(s) of the deceased. It is usually located on the west side of the plot.
- 2.10 **SEXTON:** The Clerk or person reporting to the Clerk who is responsible for the maintenance of the cemetery grounds, ground preparation before and after interment pouring of monument foundations and enforcement of the rules and regulations of the cemetery.
- 2.11 **Burial Rights Certificate:** shall mean a certificate which grants the rights of burial in a grave.

### **Section 3: Sale of Lots or Burial Spaces**

- 3.1 Hereafter, cemetery lots or burial spaces shall be sold only to residents 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 set forth herein. The person purchasing the family lot shall designate the name of the family members for whom each lot is reserved without vacancies. The township board may vary the aforesaid restriction on sales where the purchaser discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred therein, at a resident or non-resident rate.
- 3.2 Individuals are restricted to purchasing not more than eight plots known as a family lot. 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 burial space sold. Such form shall be executed by the Township Clerk.
- 3.3 Burial rights of the original owner may only be transferred to mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter. The transfer is effected only by endorsement of an assignment of such burial permit upon the original cemetery lot certificate issued by the Township Clerk, approved by the current Township Clerk, and entered upon the official records of said Clerk. Upon such assignment, approval, and record, said Clerk shall issue a new cemetery lot certificate to the assignee and shall cancel and terminate upon such records the original certificate thus assigned. If the original owner is deceased, a court order or proof of authority satisfactory to the Clerk will be necessary for any transfers of any particular plot or lot.
- 3.4 A transfer fee of an amount determined by the township board through resolution will apply to any transfers, and must be paid before a new certificate is issued. The transfer fee may be waived by the clerk with the Carmel Township Board approval. Cemetery lots and/or plots can only be resold back to the Township (*see Section 10*).

### **Section 4: Purchase Price and Transfer Fees**

- 4.1 Each burial space shall cost the sum as determined by the Township Board through resolution. The Township Board, by resolution, may periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.
- 4.2 The purchase of a burial space assumes one burial in that space. Additional burials within that same space (See section 7), will result in an additional burial fee set by the Township Board through resolution. The foregoing charges shall be paid in full to the Township Treasurer and shall be deposited in the cemetery fund for the particular cemetery involved in the sale or transfer.
- 4.3 All payments must be made in full and in advance of any burials.

### **Section 5: Plot/Gravesite/Grave Opening Charges**

- 5.1 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 Treasurer. No burial spaces shall be opened and closed except under the direction of the Township Clerk. This provision shall not apply to the proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the local health department and in conjunction with the Township Clerk and/or their representative. Foundations where disinterment occurs will be moved and reset at requester's expense.

## Section 6: Markers or Memorials

- 6.1 All markers or memorials must be of stone or other equally durable composition and placed upon a suitable foundation. Headstones and markers must be placed on the west end of the lot. Additional markers are permitted, but must be flush with the ground.
- 6.2 The Sexton shall oversee the placement of all markers. The grave marker foundations shall have at least a 3-inch apron around the grave marker base, at ground level to facilitate maintenance.
- 6.3 Military Service markers may be placed at the head of the grave.
- 6.4 *Grave markers shall not be altered or removed without the consent of the Sexton.*
- 6.5 *Grave markers on single plots shall be allowed.*
- 6.6 Grave markers on family plots with one or more adjoining plots, shall be allowed up to 36 inches high, 60 inches wide and 18 inches deep.
- 6.7 Family monuments shall be allowed and only one central or family memorial shall be placed on a family plot and must be approved by the Cemetery Sexton prior to placement. Placement will be at the expense of the family.
- 6.8 The size of the family monument will be governed according to the ratio of its face area (length x height) to the square foot area of the lot. The face area should not exceed 15% of the square foot of the area of the lot and its width should not exceed 60% of the average width of the lot.

The following table shall be used for family monuments:

Side by Side lots Side Lots	Dimensions of Lot	Max Width of Base (60%)	Area of Lot	Max Area of Face (15%)
2 graves	10' x 8'	4'10"	80 sq. ft.	12.0 sq. ft.
3 graves	10' x 12'	7'2"	120 sq. ft.	18.0 sq. ft.
4 graves	10' x 16'	9'7"	160 sq. ft.	24.0 sq. ft.
6 graves	10' x 24'	14'3"	240 sq. ft.	36.0 sq. ft.

Variances may be granted at the discretion of the Carmel Township Board.

## Section 7: Interment Regulations

- 7.1 Only the remains of one person may be buried in a burial space except for the remains of a parent and infant or two children buried at the same time.
- 7.2 Not less than 36 hours' notice shall be given in advance of anytime of any funeral to allow for the opening of the burial space (s).
- 7.3 The appropriate Township permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary, shall be presented to the Sexton Prior to interment. When such permit has been lost, the Clerk shall be satisfied from his or her records that the papers are in order before interment is commenced or completed.
- 7.4 Two (2) cremations may be buried in one burial space.
- 7.5 Arrangements during extreme weather conditions will be at the discretion of the Sexton.
- 7.6 Arrangements for the interments may be made for any day except Sundays, Memorial Day, July 4, Labor Day, Thanksgiving, Christmas, New Year's Day and Election Days.

- 7.7 All burials shall be within a standard funeral director approved durable vault installed or constructed in each burial space before interment.
- 7.8 All cremations shall be in approved permanently sealed container(s).

### **Section 8: Ground Maintenance**

- 8.1 No grading, leveling, or excavating in the cemetery shall be allowed without the permission of the Cemetery Sexton.
- 8.2 No shrubs or trees shall be planted without the approval of the Township Sexton. Any flowers planted must be within twelve inches (12") of the headstone and maintained by the family members. All urns and decorations must also be within 12" of the headstone. Any items placed or planted outside of twelve inches without such approval may be removed by the Cemetery Sexton or the Township.
- 8.3 Urns may be placed and maintained at the head stones of graves by the plot owner.
- 8.4 Artificial flowers may be removed by the Cemetery Sexton at his discretion.
- 8.5 No shrubs or trees are allowed in the Cremains Area. Planted or potted flowers are allowed in the cremains area.
- 8.6 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.
  - 8.6.1 All Winter decorations shall be removed by April 15<sup>th</sup>.
  - 8.6.2 All summer decorations shall be removed by November 1<sup>st</sup>.
  - 8.6.3 If artificial decorations are not removed by given dates, they will be disposed of.
- 8.7 The Cemetery Sexton 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 become unsightly, a source of litter or a maintenance problem. Surfaces other than earth or sod are prohibited that include but are not limited to; edging, aluminum stripping, marble chips, cinder, tile, terracotta, gravel, wood or wood chips.
- 8.8 All refuse of any kind or nature including, among others, dried flowers, wreaths, papers, and flower containers must be removed.
- 8.9 No lights or objects requiring any power are permitted in the cemetery (including, but not limited to solar lights).
- 8.10 No advertising of any kind is allowed on cemetery ground.
- 8.11 No alcoholic beverages, off-road-vehicles, dogs (except service dogs), or horses are permitted in the cemetery.
- 8.12 Mowing shall only be performed by Township Sexton

### **Section 9: Forfeiture of Vacant Cemetery Lots or Burial Spaces**

- 9.1 Cemetery lots or burial spaces sold after the effective date of the ordinance and remaining vacant 50 years from the date of their sale shall automatically revert to the Township upon occurrence of the following events:
  - 9.1.1) Notice shall be sent by the Township Clerk by first class mail or at the then prevailing method of providing notice to the last known address or contact point of the last owner of record informing the owner of the expiration of the 50-year period and that all rights with respect to said lots or spaces will be forfeited if they do not affirmatively indicate in writing to the

Township Clerk within 60 days from the date of providing the notice the owner's desire to retain said burial rights.

9.1.2) If 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 the owner's mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter, within 60 days from the date of providing the notice, the lots or burial spaces will revert back to the Township.

#### **Section 10: Repurchase of Lots or Burial Spaces**

10.1 The Township may at its discretion, repurchase any vacant cemetery plot from the owner for the original price paid upon the written request of said owner.

#### **Section 11: Records**

11.1 The Township Clerk shall maintain records concerning all burials, issuance of cemetery lot certificates, and any perpetual care funds, separate and apart from any other records of the township and the same shall be open for public inspection at all reasonable business hours. It is the responsibility of the burial rite holder to notify the Township Clerk of any change in address.

#### **Section 12: Vault**

12.1 All burials shall be within a durable grave liner installed or constructed in each burial space before interment. Containers for cremains must be approved by the Sexton.

#### **Section 13: Cemetery Hours**

13.1 The cemetery shall be open to the general public from the hours of sunrise to sunset each day.

#### **Section 14: Penalties/Legal Actions**

14.1 Any person, firm or corporation who violates any of the provisions of this ordinance is guilty of a misdemeanor and shall be subject to a fine of up to \$100 and/or imprisonment for up to 90 days in jail as may be determined by a court of competent jurisdiction. Each day that a violation continues to exist shall constitute a separate offense. Any criminal prosecutions hereunder shall not prevent civil proceedings for abatement and termination of the activity complained of.

14.2 repealed – 9-15-2019

#### **Section 15: Severability**

15.1 The provisions of this ordinance are 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 16: Effective Date**

16.1 This ordinance duly adopted on March 16, 2017 at a regular meeting of the Township of Carmel shall be effective after legal publication and in accordance with the provisions of the Act governing same.

I, Brenda Morris, Clerk of the Township of Carmel, certify that this ordinance was adopted by the Township of Carmel Board and published on 5/27/2017. All ordinances or parts of ordinances in conflict with this ordinance are repealed.

//s \_\_\_\_\_ Brenda Morris, Carmel Township Clerk