

CEMETERY ORDINANCE

BUTMAN TOWNSHIP
GLADWIN COUNTY, MICHIGAN

ORDINANCE #29

An ordinance to protect the public health, safety, and general welfare by establishing regulations relating to the operation, control, maintenance and management of the cemetery owned by the Township of Butman, in Gladwin 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 BUTMAN, COUNTY OF GLADWIN, STATE OF MICHIGAN, ORDAINS:

Section 1. Title

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

Section 2. Purpose and Intent

The Butman Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the Butman Township Cemetery is an important function of the government of the Township. It is also important that burials, disinterments 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 that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

- (a) A "cemetery plot" shall consist of an area in the Township cemetery sufficient to accommodate one burial space for one deceased adult person. It shall consist of a land area at least (5) five feet wide and (10) feet in length. Exceptions may be made to accommodate infant burials or the burial of cremains. Infant burials and burials of cremains must be interred at a minimum depth of three and one half feet.
- (b) A "cemetery section" shall consist of an area that will accommodate (8) eight cemetery plots. Each section is divided on all sides by a (5) five foot wide pathway.

Section 4. Sale of Cemetery Plots

On the effective date of this Ordinance, a cemetery plot or plots shall be sold by the Township for the purpose of burial, to the purchaser of a cemetery plot for his or herself and/or immediate family members.

- (a) All sales and transfers of cemetery plots shall be made on a form approved by the Township Board and signed by the Township Clerk or Deputy Clerk 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 constitute a permit when approved.
- (b) Cemetery plots may be sold by the Township to any resident or taxpayer of the Township or to non-residents of Butman Township at fees to be determined from time to time by the Butman Township Board.
- (c) The Township board shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the Township shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located. Such decision shall be based on reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
- (d) The Township shall have the right to correct any errors that may be made concerning internments, disinterments, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or successor of the purchaser. In the event that an error involves the interment of the remains of any person, the township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the Township cemetery in accordance with law.
- (e) The owners of any cemetery plot shall be responsible for notifying the Township whenever that person's mailing address changes.

Section 5. Purchase Price for Cemetery Plots

- (a) The Township Board will set the costs for cemetery plots, burial spaces, and for infants and cremains. A list of these charges will be sent to the Funeral Directors located closest to the Township and that currently handle most of the Township's burials. The Township Board may, from time to time, change these fees when it becomes necessary to do so. In addition, a list of these fees may be obtained by contacting the Township Board at (989) 426-4351.
- (b) With adequate proof, the Township Board may waive some or all fees for the burial of an indigent person who is a resident of Butman Township.
- (c) All charges shall be made payable to the Butman Township Treasurer.

Section 6. Grave Opening & Closing

Charges

- (a) The Township will charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein; including charges for the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board.
- (b) All charges for grave openings and closings are payable to the Butman Township Treasurer, 5005 N Hockaday Rd., Gladwin, MI 48624.
- (c) The above 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 of local and state health department authorities.
- (d) No cemetery plot will be opened or closed except under the direction of the Township Sexton.
- (e) **In order to provide adequate service, The Township Sexton shall be given at least forty eight (48) hours prior notice when grave openings and closings are necessary.**

Section 7. Markers, Memorials and Monuments

- (a) All markers, memorials or monuments shall be made of stone or other equally durable composition.
- (b) Any marker, memorial or monument must be placed on a footing or foundation **and shall be constructed by the Township.** Costs for footings and/or foundations will be set from time to time by the Township Board.
- (c) It is the responsibility of the purchaser of the marker, memorial or monument to either personally, or through the auspices of a Monument Company to inform the Township of the size of the marker, memorial or monument in order to determine the cost of the foundation needed. So that the work can be done properly, it would be reasonable to check the cost of the foundation before building the monument, marker or memorial. All payments for foundations shall be made payable to the Butman Township Treasurer.
- (d) Should any monument or memorial (including any monument or memorial that was in place before the date when, this Ordinance becomes effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the 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 Township shall make reasonable attempts to contact the owner of the cemetery plot prior to such work beginning.
- (e) The maintenance, repair and upkeep of a cemetery memorial, marker, monument, urn or similar item, 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 marker, memorial, monument, urn or similar item.
- (f) Winter weather causes the ground to freeze. This may cause a delay in installing the foundation until such time as conditions allow. Accordingly, we cannot guarantee a specific time as to when a marker, memorial or

monument can be put in place. The monument company or purchaser of the monument, marker or memorial will be notified when the foundation is installed.

- (g) **All markers, memorials and monuments shall be placed at the *head of the grave*.**

Section 8. Internment Regulations

- (a) Only one person shall be buried in a cemetery plot, except for a parent and infant child or two (2) children buried at the same time when approved by the Township.
- (b) The Township shall be given **not less than forty- eight hours prior notice** in advance of any funeral to allow for the opening of a cemetery plot. The opening and closing of cemetery plots shall be done only by the Township or such person or persons designated by the Township.
- (c) The appropriate permit or form issued by the Township for the cemetery plot involved, together with the appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the Township Sexton (or other designated Township Official) prior to internment . Where such permit has been lost or destroyed, the Township Sexton 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 internment is commenced or completed.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery involved.

Section 9. Disinterments

- (a) No disinterment or the digging of an occupied grave shall occur without a Township disinterment permit. No disinterment or digging up of an occupied grave will occur until or unless any and all permits and 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 same has been filed with the Township.
- (b) The Township Board shall have the authority to refuse to allow a disinterment of the digging up of an occupied grave unless it is done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.

Section 10. Winter Burials

- (a) Due to the additional work required for the opening and closing of cemetery plots during the winter, the Township charges an extra fee for this service.

Section 11. Cremains

- (a) Cremains may be buried in a container recommended by the funeral director or in a suitable container approved by the Township Board.
- (b) No cremains shall be scattered or dispersed within the Township Cemetery.

- (c) Up to four (4) cremations may be placed in a burial plot.
- (d) One cremation container may be placed at the foot of an existing grave..

Section 12. Ground Maintenance

(a) Flower pots, urns and grave blankets may be placed and maintained at the head of the stone of graves no earlier than May 1 and must be removed no later than October 1 of each year. Decorations may be permitted for holidays falling outside of these dates, but only one (1) week prior and one (1) following the holiday. Veterans flags and flag holders shall be governed by the Veterans Administration rules and guidelines. *Amended 11/11/15*

(b) No grading , leveling or excavating within the cemetery shall be allowed without the prior permission of the Township Sexton or Cemetery Coordinator. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the Prior permission of the Township Sexton.

(c) No flowers, shrubs, trees, or vegetation of any type shall be planted outside of an urn . Any of the foregoing items planted without Township approval will be removed by the Township or the Township Sexton.

(d) The Township reserves the right to remove or trim any existing trees, plants or shrubs located within the cemetery; in the interest of maintaining proper appearance and use of the cemetery.

(e) Mounds, bricks, blocks, stones and any borders that hinder the free use of a lawn mower, trimmer or other gardening apparatus are prohibited.

(f) The Township Sexton shall have the right and authority to remove and dispose of any or 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 that earth or sod are prohibited.

(h) All refuse or any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within 10 days after a burial.

(i) No glass containers or items are allowed.

(j) Except for markers, memorials, flowers or urns expressly allowed by this Ordinance, and 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 the 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 Township.

Section 13. Disclaimer of Township Liability and Responsibility

Every person who enters, remains in and travels within the Township cemetery does so at their own risk. The Township is not responsible for any injury, accident or other calamity that might occur to any person present in the Township Cemetery.

Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in the Township cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs or beneficiaries) hereby releases, waives, indemnifies and holds harmless the Township for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, related to and /or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the Butman Township Cemetery. Such waiver, release and hold harmless provision shall apply not only to the Township, but also to the Township Sexton and any Township employee, officer, official or agent.

Section 14. Forfeiture of Vacant Cemetery Plots or Burial Spaces

Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for forty (40) years or more from the date of their sale shall automatically revert to the township upon the occurrence of the following events:

- (a) Notice shall be sent by the Township Sexton by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the forty (40) 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 Township Sexton within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights: and
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial places in question is received by the Township Sexton from the last owner of record of said plots or spaces, or his or her heirs or legal representative, within sixty (60) days from the mailing of said notice.

Section 15. Repurchases of Plots or Burial Spaces

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

Section 16. Records

The Township Sexton shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Township. The public may view these records by appointment or during regular Township business hours.

Section 17. Vaults



- (a) All burials will be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment.
- (b) Cremains shall be in a container recommended by the Funeral Director or approved by the Township.

Section 18. Cemetery Hours

Unless otherwise specified by the Butman Township Board by resolution, the Township cemetery shall be closed during nighttime hours and open during daylight hours. During nighttime hours no person shall be present in the Township cemetery. Such prohibition on being present in the Cemetery during nighttime hours shall not apply to the township Sexton, any Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position. Furthermore, no such prohibition shall apply to an appointed Township employee or contractor in order to access the cemetery for snow plowing or any other necessary duties.

Section 19. Authority of Township Sexton

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board. The Township Sexton shall be a Township employee or contractor; based on the decision 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 duties and obligations with regard to the township cemetery as may be specified from time to time.

Section 20. Fees

- (a) The Township Board shall have the authority to set fees pursuant to the 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 openings and closings, setting of foundations, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots and other matters.

Section 21. Applicability of this Ordinance

- (a) This Ordinance shall apply only to the Butman Township Cemetery.
- (b) 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 the Township cemetery.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in the carrying out of their official duties.

Section 22. Interpretation/Appeals to the Township Board

- (a) The Township board shall have the authority to render binding interpretation 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 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 Township Sexton or any Township official, agent, or contractor pursuant to this Ordinance, as well as any matter, relating to the Township cemetery, rights to a cemetery plot, or other matter arising pursuant to this Ordinance, shall have the right to appeal the determination/decision or matter to the Township Board. Any such appeal shall be in writing and shall be filed with the Township within thirty (30) days of the date of the decision, determination or other matter being appealed. The Township shall give the aggrieved party who filed the written appeal with the Township an least ten (10) days prior written notice of the meeting at which the Township Board will address the matter, unless an emergency is involved, in which case the Township shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Township Board at which the matter will be addressed pursuant to any such appeal, the decision of the Township shall be final.

(c) The township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 23. Authority of the Township to Remove Unauthorized or Unlawful Items from the Township Cemetery

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 the Township cemetery in violation of this Ordinance, any Township rule or regulation regarding the Township cemetery, or any county, state or federal law, statute or regulation may be removed by the Township from the Township cemetery at any time and destroyed or 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 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 the 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 the Township cemetery, Township shall still have the discretion to remove any such item at any time and dispose of same, without prior notice to consent from or liability to the person or persons who installed, maintained or left such item in the Township cemetery.

Section 24. Penalties

A violation of this Ordinance (or any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal 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 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 not be 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.

A violation of any permit or permit condition issued pursuant to this ordinance shall also constitute a violation of this Ordinance.

Section 25. Township Officials Who Can Enforce this Ordinance

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 citation/tickets pursuant to this Ordinance.

1. Township Supervisor (Ordinance Enforcement Officer)
2. Township Sexton
3. Township Clerk
4. Any deputy of the county sheriff's department
5. Any State Police Officer

Section 26. Severability

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.

Section 27. Effective Dates; Conflicts

This Ordinance shall become effective May 10, 2013 thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the Gladwin County Record and Clarion. All ordinances or parts of this ordinance in conflict herewith are hereby repealed

Section 28. Prohibited Uses and Activities at the Butman Township Cemetery

The addendum for the above activities is attached to and becomes a part of the provisions of this Ordinance.

**ADDENDUM TO BUTMAN TOWNSHIP CEMETERY
ORDINANCE # 29**

**PROHIBITED USES AND ACTIVITIES
AT THE BUTMAN TOWNSHIP CEMETERY**

- 1. NO PERSON SHALL DESTROY, DEFACE, APPLY GRAFFITI TO OR OTHERWISE INJURE ANY MONUMENT, SIGN, TREE OR OTHER LAWFUL ITEM LOCATED WITHIN THE TOWNSHIP CEMETERY.**
- 2. NO PERSON SHALL DISTURB THE PEACE OR UNREASONABLY ANNOY, HARASS OR DISTURB ANY OTHER PERSON WHO IS LAWFULLY PRESENT ON THE GROUNDS OF THE BUTMAN TOWNSHIP CEMETERY.**
- 3. THERE SHALL BE NO DRIVING OF AUTOMOBILES, MOTORCYCLES, TRUCKS, SNOWMOBILES, ORV'S, OR ANY OTHER VEHICLE ON LAWNS OR CEMETERY PLOTS. ALL VEHICLES ARE CONSIGNED TO DRIVING ON DESIGNATED ROADS OR DRIVES LOCATED WITHIN THE CEMETERY.**
- 4. THERE SHALL BE NO DESTRUCTION OF CEMETERY PROPERTY.**
- 5. THERE SHALL BE NO DESTRUCTION, DEFACING, CUTTING, ETC. OF ANY TREE OR PLANT WITHIN THE CEMETERY.**
- 6. THERE SHALL BE NO HEADSTONES, ORNAMENTS, VASES, PLASTIC FLOWERS, FENCES, BENCHES, TRELLISES, STATUES, SIGNS OR ANY OTHER ITEMS PLACED, KEPT, INSTALLED OR MAINTAINED IN THE CEMETERY EXCEPT THOSE EXPRESSLY ALLOWED BY THIS ORDINANCE.**
- 7. THERE SHALL BE NO DISTURBING OF THE PEACE OR ENGAGING IN ANY LOUD OR BOISTEROUS CONDUCT.**
- 8. THERE SHALL BE NO DIGGING, GRADING OR MOUNDING UNLESS EXPRESSLY AUTHORIZED BY THIS ORDINANCE.**
- 9. THERE SHALL BE NO GATHERING IN EXCESS OF 75 PEOPLE WITHOUT PRIOR TOWNSHIP APPROVAL (EXCEPT DURING OR INCIDENTAL TO A FUNERAL OCCURRING CONCURRENT WITH A BURIAL).**
- 10. THERE SHALL BE NO DISINTERMENT OR GRAVE OPENINGS UNLESS APPROVED BY THE TOWNSHIP.**

11. THERE SHALL BE NO POSSESSION OR CONSUMPTION OF ANY ALCOHOLIC BEVERAGE.
12. THERE SHALL BE NO MUSIC, PLAYING OF ANY RADIO, OR USE OF ANY AMPLIFICATION DEVICE OR SIMILAR ITEM, EXCEPT PURSUANT TO A MILITARY CEREMONY OR FUNERAL.
13. THERE SHALL BE NO SOLICITATION OR PEDDLING OF SERVICES OR GOODS OR ANY SIGNS OR PLACARDS ADVERTISING ANY GOODS OR SERVICES.
14. THERE SHALL BE NO LITTERING OR DUMPING.
15. THERE SHALL BE NO PRIVATE SIGNS, LIGHTING, MOVING DISPLAYS OR CHANGEABLE COPY ON A SIGN.
16. THERE SHALL BE NO FIRES, CANDLES OR OPEN FLAMES.
17. NO CHILDREN UNDER TWELVE (12) YEARS OF AGE SHALL BE ALLOWED IN THE CEMETERY UNLESS ACCOMPANIED BY AN ADULT, OR ARE PROPERLY SUPERVISED BY AN ADULT.
18. THERE SHALL BE NO EXCEEDING OF POSTED SPEED LIMITS.
19. THERE SHALL BE NO DOMESTIC ANIMALS OF ANY KIND OR PETS ALLOWED WITHIN THE CEMETERY GROUNDS. HOWEVER, THIS PROHIBITION SHALL NOT APPLY TO DOGS ASSISTING HANDICAPPED PERSONS.
20. 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.
21. NO PERSON SHALL ENGAGE IN ANY FIGHT QUARREL OR DISTURBANCE.
22. CREMAINS OR ASHES OF A DECEASED PERSON SHALL BE SCATTERED OR DISPERSED.
23. THERE SHALL BE NO DUMPING, VANDALIZING OR TIPPING OVER OF ANY LAWFUL GARBAGE CONTAINER OR RECEPTACLE.

AUTHENTICATION OF RECORD

We, Supervisor, Shirley A. Kyle and Clerk, Paul D. Joyce of Butman Township, Gladwin County, Michigan, hereby authenticate the following relative to the foregoing ordinance:

1. That the same was adopted by the Township Board on the 25th day of February, 2013.

2. By roll call vote, the following members of the Butman Township Board voted Yea, in favor of said Ordinance: Richard Johnson, Shirley Kyle, Susie Ruppert and Don Joyce. No members of the Township Board voted Nay. Trustee, Bud Miller was absent and excused.



Butman Township
Gladwin County, Michigan

By: Shirley A. Kyle
Shirley A. Kyle, Supervisor

By: Paul D. Joyce
Paul D. Joyce, Clerk