

Almena & Covey Hill Cemetery Ordinance

Almena Township

Van Buren County, Michigan

Ordinance No. 102

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 or operated by the Township of Almena, in Van Buren 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 Almena, County of Van Buren, Michigan Ordains:

Section 1. Title

This Ordinance shall be known and cited as the "Almena & Covey Hill Township Cemetery Ordinance."

Section 2. Purpose and Intent

The Almena Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled 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 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 lot" shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person. In the original design outlay of the cemeteries the lots are 48"x96" in length. In the new western portion of the Almena Cemetery the lots are 48"x120" each. This will also include the future proposed expansion to the east in the Almena Cemetery. Exceptions may be made to accommodate infant burial or the burial of cremains with a full vault burial.

- (b) "Township" means Alma Township.
- (c) "Township cemetery" or "cemetery" means any cemetery owned, operated and/or controlled by the Township.

Section 4. Sale of Cemetery Lots; Nontransferable

- (a) After the effective date of this Ordinance, cemetery lots shall be sold by the Township for the purpose of burial for the purchaser of a cemetery lot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) Cemetery lots may be sold by the Township to any resident, or non-resident township property taxpayer. The Township Clerk 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 residence in the Township or relationship to persons interred in the Township cemetery involved. Any such decision by the Township Clerk (either granting or denying such variance) may be overturned by the Township Board pursuant to Section 23 hereof.
- (c) All cemetery lots are sold at the time of need for immediate use only. No pre-death reserved lots may be sold by the Township except as set forth in subsection (e) below.
- (d) The Township shall have the absolute right and discretion to determine where a particular cemetery lot or lots will be located in each township cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery lots available and whether family or relatives of the person seeking to purchase a cemetery lot or lots are buried adjacent or nearby the cemetery lot or lots requested
- (e) Resident senior citizens, age 62 or older may be assigned (2) two graves for husband and wife in either cemetery at any time. Only resident taxpayers or residents and township property taxpayers may reserve grave sites. All other graves will be assigned only when the need arises.
- (f) The Township shall have the right to correct any errors that may be made concerning interments, disinterment, or in the description, transfer or conveyance of any cemetery lot. 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 same Township cemetery in accordance with law.

Section 5. Purchase Price for Cemetery Lots; Indigent Burials

- (a) The purchase price of a cemetery lot is set by the Cemetery Board and approved by the Township Board. All charges shall be paid to the Township Clerk prior to the interment.
- (b) The Township Board may waive some or all fees for the burial of indigent persons. Furthermore, the Township Board may set aside a portion of a Township cemetery or cemeteries for the burial of indigent persons.
- (c) The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.
- (d) If a person wishing to bury a loved one in a cemetery lot that they feel was previously paid for, they will not be charged a fee for the lot if they can produce a paid receipt, which will be honored.

Section 6. Grave Opening Charges

- (a) The Township may charge reasonable fees for the opening and closing of any cemetery lot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No cemetery lot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Clerk. This 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 or state health department authorities; however, even in such cases, the Township Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.

Section 7. Markers or Memorials; No Monuments, Grave Caps or Field Stones/Boulders

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.

- (b) Except for monuments, grave caps, large field stone/boulders that existed in a Township cemetery before the effective date of this Ordinance, no field stones or boulders will be allowed or erected in a cemetery. Only one (1) marker or memorial shall be permitted per cemetery lot, or one marker or memorial in total where two adjoining lots share that one marker or memorial.
- (c) The footing or foundation upon which any marker or memorial must be placed by such persons designated by the Township Board, such as the Cemetery Sexton. Footing/foundation orders will be sent to the Sexton by the participating Memorial Company. At which time the Sexton will set the foundation and bill the Memorial Company for his labor and materials. The Sexton will collect and retain the fees.
- (d) Should any monument or memorial (including any monument or memorial that was in place before this ordinance became effective) become broken, moved off its proper site, or a safety hazard, the Township Board shall have the right, at the expense of the owner of the cemetery lot to correct the condition or remove the monument or memorial. The Township shall make reasonable attempts to contact the owner of the cemetery lot prior to commencing any corrective measures.
- (e) The maintenance, repair and upkeep of a cemetery memorial, marker, 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, urn or similar item.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a cemetery lot, except for the following: one full burial and one cremain, or two cremains in one lot. A parent and an infant or two (2) children buried at the same time when approved by the Township.
- (b) The Township shall be given not less than 36 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery lots shall be done only by the Township Sexton.
- (c) Appropriate identification of the person to be buried therein and the burial-transit permit from the funeral home, shall be presented to either the Township Sexton or the Township Clerk prior to interment. The Township Clerk

must be satisfied, from his or her records, that the deceased person to be buried in the cemetery lot is an authorized and appropriate person for that space before any interment is commenced or completed.

- (d) The surface of all grave sites shall be kept in an orderly and neat-appearing manner within the confines of the cemetery lot involved.

Section 9. Disinterment

- (a) 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.
- (b) 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.

Section 10. Cremains

- (a) Cremains may be buried in a container approved by the Township in a cemetery lot or in a columbarium that has been installed by the Township within a Township cemetery.
- (b) No cremains shall be scattered or dispersed within a Township cemetery.

Section 11. Grounds Maintenance

- (a) Flower pots, urns and grave blankets may be placed and maintained at the head stones of graves no earlier than May 15 and must be removed no later than October 1 of each year. Decorations will be permitted for holidays falling outside of these dates. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Township Sexton or the Township Clerk. Furthermore, no tree, shrub, landscaping or perennial plantings shall occur.

- (c) No perennial 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 Clerk and Sexton reserves the right to remove or trim any existing trees, plants, or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The Township Sexton shall have the right and authority to remove and dispose of any and 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 than earth or sod are prohibited.
- (h) All refuse of 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, and 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 a 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 12. Disclaimer of Township Liability and Responsibility

Every person who enters, remains in and travels within a 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 a 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 lot, burial site or anywhere in a township cemetery. The purchaser of any cemetery lot or the equivalent (and all 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, relating to and/or involving the cemetery lot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. 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 13. Forfeiture and Reclaiming of vacant cemetery lots or burial spaces

Cemetery lots or burial spaces saved after the effective date of this Ordinance and remaining vacant for fifty (50) years or more from the date it was saved shall automatically revert to the Township upon the 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 individual whom had saved the lot 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 he/she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights.
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Township clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice. The Township may reclaim any cemetery lot from an individual that it was saved for in the event no written authority was received within sixty (60) days.

Section 14. Records

The Township Clerk or designated cemetery care giver shall maintain records concerning all burials, cemetery lots, issuance of burial permits and any other records of the Township related to Township cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 15. Vaults

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery lot before interment. Vaults of other suitable materials may be allowed at the discretion of the Township.

- (b) Cremains shall be in a container approved by the Township.

Section 16. Cemetery Hours

Unless otherwise specified by the Township Board by resolution, all township cemeteries shall be opened from sunrise to sunset. Such prohibition on being present in a Township cemetery during the time when a Township cemetery is closed shall not apply to the Township Sexton, any Township official, a person accompanied by the Township Sexton or other Township official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 17. Prohibited Uses and Activities

The following prohibitions shall apply within both Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign or tree, no rubbing of monument or memorial stones, 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 on lawns or cemetery lots in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property. There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (f) There shall be no headstones, ornaments, glass vases, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (g) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (h) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.

- (i) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (j) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
- (k) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (l) There shall be no disinterment or grave openings unless approved by the Township.
- (m) There shall be no possession or consumption of any alcoholic beverage.
- (n) There shall be no picnicking or consumption of food without prior Township approval.
- (o) 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.
- (p) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (q) There shall be no littering or dumping.
- (r) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (s) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (t) There shall be no fires, candles or open flames.
- (u) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (v) 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.

- (w) 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.
- (x) No person shall engage in any fight, quarrel or disturbance.
- (y) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

Section 18. Authority of the Township Sexton

- (a) The Township Board shall 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.

Section 19. Fees

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, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, weekend or holiday burial, the price for a new cemetery lot, and other matters.

Section 20. Applicability of this Ordinance

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by the Township.
- (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 a Township cemetery.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 21. Interpretation/Appeals to the Township Board

- (a) The Township Board shall have the authority to render binding interpretations 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 is authorized to waive application of the strict letter of any provision of this Ordinance or any rules or regulations 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 Township Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery, rights to a cemetery lot, or other matter arising pursuant to this Ordinance, shall have the right to appeal that 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 from. The Township shall give the aggrieved party who filed the written appeal with the Township at 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 Board shall be final.
- (c) The Township Board may set a fee or fees for any such appeal from time to time by resolution.

Section 22. Authority of the Township to Remove Unauthorized or Unlawful Items from a 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 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 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 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 still 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.

Section 23. Penalties

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. 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 24. 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 citations/tickets pursuant to this Ordinance:

- Township Clerk
- Township Sexton
- Township Ordinance Enforcement Officer
- Township Supervisor

Section 25. 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 party thereof involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 26. Effective Date: Conflicts

This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by the Almena Township Board Member Jim Manning and was seconded by Township Board Member Jim Rickli, the vote being as follows:

YEAS: Five

NAYS: None

ABSENT/ABSTAIN: 2 Board Members absent.

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Almena Township Board at a Board meeting held on Tuesday, November 9, 2010 at the Almena Township Hall, pursuant to the required statutory procedures.

Dated: November 9, 2010

Respectfully submitted,

By _____, Almena Township Clerk
Sandra B. Rickli