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SIMS/WHITNEY TOWNSHIPS JOINT CEMETERY ORDINANCE

SIMS TOWNSHIP ORDINANCE NO. _____

WHITNEY TOWNSHIP ORDINANCE NO. _____

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE BY ESTABLISHING REGULATIONS TO THE OPERATION, CONTROL, AND MANAGEMENT OF CEMETERY PROPERTIES AND THE USE THEREOF BY THE PUBLIC BY THE TOWNSHIPS OF SIMS AND WHITNEY, ARENAC COUNTY, MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

SECTION 1: Title

This ordinance shall be known and cited as the Sims/Whitney Townships Joint Cemetery Ordinance.

SECTION 2: Definitions and Restrictions

A. Burial Space: Each space is forty (40) inches wide by one hundred twenty (120) inches long for one casket and vault.

B. Casket: Container which meets all requirements of applicable law in which deceased human bodies are placed.

C. Vault: All burials must be within a standard concrete vault or other suitable material at the discretion of the cemetery sexton, and as required by law.

D. Cremains: Cremated remains must be in a container approved by the sexton and meeting all requirements of applicable law.

E. Sexton: This individual shall be named from time to time by resolution of the joint boards. The Sexton or his/her designee shall be in charge of all recordkeeping, permits, sale of lots, and burials. The sexton shall be primarily responsible for the management of the cemetery and its staff, if any. Compensation payable to the sexton shall be established by joint resolution of the boards.

F. Containment Walls: Walls installed around a lot. This is only allowed in the old section of the cemetery. A permit is required from the sexton before construction. All new containment walls must be at ground level.

G. Cemetery Lot: In the old sections lots contained four, six, or eight burial spaces. In the new section lots will contain one burial space.

H. Cemetery Lot Certificate: A document given to the purchaser of a cemetery lot(s) which grants the right of burial only and does not convey any other title to the lot or burial space sold.

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I. Cemetery Deed: A document formerly provided to lot owners of record when purchased. These cannot be recorded at the Arenac County Register of Deeds. These are now known as Cemetery Lot Certificates, see H, above. The records will be retained by the sexton. The records must be kept in a secure location with appropriate daily back-up of the data.

J. Foundations: Reinforced concrete structure installed below grade to support grave markers/monuments. With the exception of veteran markers, permits are required for all foundations and may be obtained from the sexton for a nominal fee. The fee for such permit may be established by resolution of the joint boards.

K. Funeral Director: Individual or company licensed by the State of Michigan to conduct funerals.

L. Grave Markers/Monuments:

1. Old Section: Foundations for markers/monuments shall not exceed the boundaries of a single lot. Families may place a joint marker not to exceed above size. Maximum monument height shall not exceed 48”.

2. New Section: Foundations for markers/monuments shall not exceed the boundaries of a single lot. Families may place a joint marker not to exceed a maximum monument height of 48”. A family marker must be placed within the confines of the adjoining family lots, subject to the approval of the sexton.

M. Grass: Natural low-cut vegetation.

N. Groundskeeper: Person employed by the township to maintain the cemetery.

O. Man-made fabric: Material such as, but not limited to, indoor/outdoor carpeting shall not be installed on cemetery lots.

P. Non-Resident: A person who is not a property owner or domiciled in Sims or Whitney Township.

Q. Planting: Shrubs, bushes. Planting is prohibited without a permit issued by the sexton. All plantings must be maintained by the lot owners/heirs. Maintenance or removal of plantings may occur at the direction of the sexton and may be billed to the lot owner or heirs.

R. Resident: A person who is a property owner or domiciled in Sims or Whitney Township.

S. Right of Burial: A document stating who can be buried in the cemetery lots.

T. Watering System: Spigots to provide a source of water to be used to fill watering cans. This water is non-potable.

U. Cemetery Operations Committee: Consists of the township supervisors of each township and the sexton; shall be empowered to make decisions relating to the operations and maintenance of the cemetery properties between the regularly scheduled joint meetings of the board. This committee is authorized to act on any issue of operations not specifically prohibited by resolution and to expend

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cemetery funds up to a limit established by resolution. Any actions taken by this committee must be reported to the board at the next joint meeting of the township boards before any old or new business is considered. Actions taken by the Operations Committee may be appealed to the joint boards of each township.

V. Cemetery: All land jointly owned by Sims Township and Whitney Township for cemetery and other purposes on the east and west sides of US 23 and extending to the water's edge of Lake Huron.

SECTION 3: Cemetery Hours

The cemetery shall be open to the general public from 8:00 am to sunset each day.

No person shall be permitted in the Sims-Whitney Township Cemetery at any time other than the foregoing hours, except upon permission of the Sims-Whitney Township Boards, Operations Committee, or the sexton.

SECTION 4: Sale of Lots or Burial Spaces and Uses

Cemetery lots or burial spaces can be sold by the Sexton to residents and non-residents for the purpose of burial of such purchaser, his or her heirs, or relatives. Burial rights and/or deeds may be transferred or sold to another only when approved by the Sexton; a new cemetery lot certificate will be issued and entered into the official records of the cemetery. All such transfers and sales shall be made on a form approved by the Sims/Whitney Townships Joint Board which grants a right of burial only and does not convey any other title to the lot or burial space sold. Such forms shall be executed by the Sexton.

Purchase of less than eight spaces may not create locked-in spaces. Single sites will be sold as designated by the Sexton taking into consideration the buyer's preferences.

No lot shall be used for any other purpose than the burial of the human dead.

No sale shall be made to funeral directors.

Lot owners shall not allow interments in their lots in return for remuneration of any kind.

The Sexton will provide a book to put notices of lots for sale by individuals.

SECTION 5: Purchase Price, Fees, and Costs

The initial purchase price of burial spaces in the cemetery, for residents and non-residents shall be set by resolution of the joint township boards and adjusted from time to time by resolution.

A fee for the transfer of one or more burial spaces from an original purchaser to a qualified assignee shall be established by a resolution of the joint boards.

The Township Boards of Sims and Whitney may periodically alter prices, fees, and costs by resolution. The joint boards may establish new fees by resolution.

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All charges and fees shall be paid to the Sexton and deposited into the Sims/Whitney Cemetery accounts.

Other fees and costs as may be properly determined by resolution of the joint boards may be assessed by the sexton when the decision is made and properly reflected in the minutes of the joint bodies acting at a regular or special meeting.

Section 6: Grave Opening

The fee for opening and closing of any burial space, including the interment of cremains, shall be at a cost to be determined from time to time as established by resolution of the joint Township Boards of Sims and Whitney Townships. All fees due for any burial shall be paid to the sexton prior to any burial. Said fee shall be deposited into the Sims/Whitney Cemetery accounts.

No burial spaces shall be opened and closed except under the direction and control of the Sexton. This provision shall not apply to proceedings for the disinterment and re-interment of bodies and remains, which are under the supervision of the local health department.

SECTION 7: Interment Regulations

Only one person may be buried in a burial space except for a parent and infant or two children buried at the same time in the same casket. Children shall both be under four (4) years of age.

Not more than three cremains may be interred per burial lot.

Not less than forty-eight (48) hours' notice shall be given in advance of the time of any funeral to allow for the opening of the burial spaces. Longer notification may be necessary during the winter months or for holiday burials.

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 the Sexton prior to interment. Where such permit has been lost or destroyed, the Sexton shall be satisfied, from his or her records, that the person to be buried in the burial space is authorized and appropriate before any interment is commenced or completed.

All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.

No burial space shall be opened except under the direction and control of the Sexton.

All burials are to be performed by a vendor and/or person hired by the Sexton and approved by the Sims/Whitney Township Boards.

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In the event of severe weather or adverse ground conditions, storage of remains shall be handled by the funeral director until conditions improve.

SECTION 8: Vaults

A. All burials shall be within a standard concrete vault or other suitable materials at the discretion of the cemetery sexton in compliance with applicable law.

B. Cremation burials must be in a container approved by the cemetery sexton.

SECTION 9: Markers or Memorials

All markers or memorials must be made of stone, granite, marble, or other material of equally durable composition.

Any monuments must be located upon a suitable foundation to maintain the same in an erect position. All markers or memorials must have foundations and be placed on the cemetery lot. They must not encroach on walkways or other lots.

Only one monument/marker shall be permitted per burial space with the exception of a veteran's marker. A family plot may be identified by a monument in addition to the above.

The footing or foundation upon which any monument/marker must be placed shall be constructed by the owner of the burial plot or his designee. Foundations shall meet the following requirement: no more than 4 square foot of surface area, four (4) inch thick (minimum depth), 3000 PSI concrete with steel reinforcement rods. The footing size shall exceed the monument size by 2" on all sides.

No foundation can be installed without obtaining a permit to do so from the Sexton. The cost of permits will be established by resolution of the joint boards. Plans and specifications of the foundation must be submitted for approval by the sexton at the time of application. The installation shall be completed only by an approved individual or entity.

Maintenance of any marker or containment wall is the responsibility of the lot owner or heir who has placed or maintained any monument on a lot. If owner or heir fails to properly maintain his/her area, the containment walls or markers/monuments may be maintained or removed at the sole discretion of the townships or their designate; the lot owner or heirs will be responsible for all costs associated with said maintenance or removal.

SECTION 8: Ground Maintenance and Use

No grading, leveling, or excavating upon any burial space shall be allowed without the permission of the Sexton.

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No shrubs, or vegetation of any type shall be planted without the approval of the Sexton. Any of the foregoing items planted without such approval may be removed by the cemetery groundskeeper at the direction of the sexton. The fee for such a permit will be established by joint resolution of the Sims and Whitney Township boards.

Any bushes or trees already planted on any burial space must be kept trimmed to specifications by the lot owners. Any plants which are untrimmed, or which become a nuisance by reason of their branches, roots, appearance or otherwise become detrimental to adjacent lots, walkways, roadways, or an inconvenience to other lot owners or to the upkeep of the cemetery, may be removed without notice and possibly at the expense of the lot owner. Removal decisions may be made by the joint boards, sexton or operations committee.

The 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 without notice.

Mounds which hinder the free use of a lawn mower or other gardening apparatus are prohibited.

Surfaces other than earth or sod are prohibited.

The ordinance also provides the cemetery board the right to declare by resolution that all decorations be removed at certain times during the year to facilitate proper maintenance of the property.

All refuse of any kind or nature including, but not limited to, artificial flowers, wreaths, papers, and flower containers must be removed or deposited in containers located within the cemetery.

No person shall litter on these premises.

Possession and use of alcoholic beverages is prohibited.

Fires are prohibited.

Fireworks are prohibited.

All use of ORV's, including but not limited to motorcycles, dirt bikes, mini bikes, 4 wheelers, 3 wheelers, snowmobiles is prohibited.

Unattended watering is prohibited.

Driving of any vehicle is restricted to maintained driveways. Exceptions are to be made for maintenance or burials, or by the approval of the sexton. Parking for funerals is restricted to the driveways only. Vehicles may park only in designated areas or driveways; parked vehicles may not impede the flow of traffic through the cemetery.

The ordinance specifically provides the right to the joint boards to restrict or prohibit pets from the cemetery lands by resolution. The owner of any pet allowed upon the cemetery property is responsible for the removal and disposal of all feces. Pets must be leashed.

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This ordinance specifically authorizes the joint boards, by resolution, to create, enact and enforce any rules which they may deem to be necessary or useful in managing the cemetery.

SECTION 9: Forfeiture of Vacant Cemetery Lots or Burial Spaces

Cemetery lots or burial spaces sold after the effective date of this ordinance and remaining vacant forty (40) years from the date of the sale shall automatically revert to the Sims/Whitney Townships upon occurrence of the following events:

Notice shall be sent by the 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 lots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the sexton within sixty (60) days from the date of mailing of the notice his/her desire to retain said burial rights.

It is the responsibility of the lot owner to notify the Sexton of any change of address.

If no written response to said notice indicating a desire to retain the cemetery lots or burial spaces in question is received by the Sexton from the last owner of record of said lots or spaces, or his heirs or legal representative, within 60 days from the date of mail of said notice, the lots or burial spaces will revert to the townships.

SECTION 10: Repurchase of Lots or Burial Spaces

The Sims-Whitney Township Boards will not repurchase any cemetery lots or burial spaces from the owner.

SECTION 11: Records

The Sexton shall maintain records concerning all burials, ownership of cemetery lots or burial spaces, and burial permit transfers. Accounting for all cemetery funds shall be maintained by Sims or Whitney Township, as identified by resolution. Said funds shall be maintained separate from any other records of the township and the same shall be open to public inspection during reasonable business hours. Deposit and disbursement procedures shall comply with standard governmental financial procedures. The cemetery accounts will be audited annually.

SECTION 12: Penalties

A violation of this Ordinance (or any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction. Any person who violates, disobeys, 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 aides 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 (\$100.00) for the first offense and not less than Two Hundred Dollars (\$200.00) for subsequent offenses, at the discretion of the court, in addition to all other costs, damages, expenses, and remedies provided by law. For purposes of this section "subsequent violation" 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

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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 13: Enforcement

The members of the Cemetery Operations Committee, composed of the Sims and Whitney Township Supervisors and the sexton are hereby authorized to enforce this ordinance, and they may delegate the enforcement to any other administrative official or employee of the township that is authorized by resolution of the Sims-Whitney Township Boards to enforce same. This ordinance may be enforced by any lawfully sworn law enforcement officer.

SECTION 14: Validity

Should any section, clause, or provision of this ordinance be declared by any court to be invalid, the same shall not affect the validity of the remaining portion of such Section of the Ordinance or any part thereof other than the part so declared to be invalid.

SECTION 15: Conflicting Laws

If any of this ordinance conflicts with any previous ordinance, this ordinance shall prevail, and those terms inconsistent with this ordinance, are hereby repealed. Unless otherwise provided for herein, any section of any previous ordinance shall remain in full force and effect.

SECTION 16: Disclaimer of Liability and Responsibility

Every person who enters, remains in, and travels within the cemetery does so at their own risk. Sims and Whitney Townships are not responsible for any injury, accident, or other calamity that might occur to any person present in the cemetery, as defined in Section 2, Paragraph V. Further, the townships are not responsible for any damage, 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 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 Sims Township and Whitney Township for, from and against any injury damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot 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 Sims and Whitney Townships, but also as to the Cemetery Operations Committee, the cemetery Sexton and any township or board employee, officer, official or agent.

Section 17: Interpretation/Appeals

The Sims and Whitney Township boards 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 boards (or their designee) are also authorized to waive application of the strict letter of any provision of 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.

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

The Sims-Whitney Township Boards may set a fee or fees for any such appeal from time to time by resolution.

SECTION 18: Effective Date

This Ordinance shall become effective thirty (30) days after publication in the Arenac County Independent.

Filename: SW Cemetery Ordinance - Public