

Chapter 29

CEMETERIES

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[HISTORY: Adopted by the Village Council of the Village of Bellaire 6-6-2001 by Ord. No. 7-2001. Amendments noted where applicable.]

§ 29-1. Designation of public burying grounds.

- A. All cemeteries now owned or which may hereafter be acquired by the Village, wherever located, and all cemeteries now within the Village or which in the future may be established within the Village, whether owned by the Village or not, are hereby declared to be public burying grounds. No person shall establish or locate a cemetery within the Village unless the necessity and/or desirability for the establishment of such cemetery has been approved by the Village Planning and Zoning Commission, or similar acting entity at the time, in conformance with the existing land use regulations.
- B. No interments of any deceased person shall be made in any place other than a public burying ground, nor shall the interment of anything other than human bodies be permitted therein.

§ 29-2. Requirements for cemetery lots, gravesites and burial units.

A cemetery lot shall consist of four gravesites measuring 16 feet by nine feet, each gravesite measuring four feet by nine feet. Any number of cemetery lots and/or gravesites may collectively be referred to in this chapter as "burial units."

§ 29-3. Purchase of cemetery lots.

Persons purchasing lots or fractions of lots (gravesites) after the effective date of this chapter shall be entitled, upon payment of the entire price charged, to a deed conveying burial rights in the lot or fraction, together with perpetual care activities. The sale of lots or fractions of lots shall be made under the following terms:

- A. The purchase price of lots or gravesites shall be for prices determined from time to time by the Village Council by resolution or regulation. The purchase price of lots or gravesites shall include the cost of perpetual care, as provided by resolution each year; mowing and trimming services, filling and reseeded of sunken graves, and removal of debris. [Amended 6-7-06 by Ord. No. 5-2006.]
- B. Residents or taxpayers of the Village of Bellaire and the residents of Forest Home Township (Antrim County, Michigan), provided that an agreement is signed between the Village of Bellaire and Forest Home Township detailing this relationship, shall be charged a rate for lots and gravesites, as determined by the Village Council. All nonresidents shall be charged a higher rate than the preferred resident rate. The Village of Bellaire Cemetery Committee shall review all rates yearly. [Amended 01-21-09 by Ord. No. 2 of 2009]
- C. Additional fees, as determined by the Village Council, shall be charged for burials on Saturdays and holidays. Any fees and charges for disinterment shall be on a time-and-material basis.
- D. Any individual or married couple can purchase a maximum of two cemetery lots (eight gravesites) only. Any number fewer than eight gravesites may be purchased.
- E. The total purchase price must be paid in-full prior to the issuance of a cemetery deed. No lots or gravesite shall be considered sold or reserved until a deed has been issued.
- F. No burial of any kind shall be made in any lot or fraction thereof until a deed has been issued.
- G. Any foregoing charges shall be paid to the Village Clerk or his/her designee and allocated according to resolution of the Village Council each year. [Amended 6-7-06 by Ord. No. 5-2006 and on 9-20-06 by Ord. No. 13-2006]

§ 29-4. Transfer and forfeiture of rights.

- A. Persons purchasing any lot or gravesite within the cemetery shall acquire only the privilege or license to make interments in the lot or gravesite so purchased. The owner of any lot or gravesite shall not allow any interment to be made therein for remuneration, nor shall a lot or gravesite be used for any other purpose than a place for burial of the dead. All interments in lots shall be restricted to members of the family and relatives of the owner thereof, except an owner may give written consent to the Village of Bellaire for the burial of the remains of any person, and, if consent is made in good faith and not for remuneration, the Village shall honor the consent.
- B. At no time shall an owner of a lot or gravesite be permitted to sell any portion of the site owned except to the Village of Bellaire at the original purchase price.

- C. Cemetery lots or gravesites sold after the effective date of this chapter and remaining vacant 70 years from the date of their sale shall automatically revert to the ownership of the Village of Bellaire upon the occurrence of the following:
- (1) Notice shall be sent by the Village Clerk by registered mail to the last known address of the last owner of record informing the owner of the expiration of the 70th year and that all rights with respect to said burial units will be forfeited if the owner does not affirmatively indicate in writing to the Village of Bellaire within 60 days from the date of mailing of notice of their desire to retain said burial rights. [Amended 9-20-06 by Ord. No. 13-2006].
 - (2) If no written response to said notice indicating a desire to retain the cemetery burial units in question is received by the Village Clerk from the last owner of record of said burial units or his heirs or legal representative within 60 days from the date of mailing of said notice. [Amended 9-20-06 by Ord. No. 13-2006].
 - (3) Under this chapter the Village of Bellaire shall reserve the right to cancel the conveyance of burial rights to any party or representative thereof involved in the conveyance of burial rights if the Village of Bellaire determines that the rules and regulations of the cemetery spelled out in this chapter are not followed.

§ 29-5. Cemetery deeds and records.

- A. The Village of Bellaire shall maintain all records concerning all burials, issuance of burial permits, and any perpetual care fund information separate and apart from other records of the Village and the same shall be open to public inspection at all reasonable business hours.
- B. To each person purchasing lots or gravesites and paying the purchase price, the Village Clerk shall issue a deed signed by the Village President and attested to by the Village Clerk and to which the Village Seal is affixed. The deed shall include the total cost of the graves or lots purchased; the name and address of the purchaser, and a description of the location of the lot or gravesite. The Village Clerk shall record a copy of such deed in the Village offices. [Amended 9-20-06 by Ord. No. 13-2006].
- C. Ownership of burial rights shall descend as directed by will or other suitable document signed and witnessed by the owner. In the event there is no such disposition, then such rights shall descend as real estate passes under the law of descent and distribution of the state.
- D. In the case any original deed is lost or destroyed, any person having an interest therein as appears on the index record may file with the Village Clerk an affidavit showing such loss or destruction, giving the description of the lot or gravesite(s) and showing his interest therein and how such interest was acquired in accordance with the provisions of the law and this chapter. Based upon such affidavit the Village Clerk may issue a duplicate of the original deed and all transfers thereof appearing in the index record to such owner of record. When a duplicate deed is issued it shall be dated and endorsed thereon "duplicate deed issued by order of the

President of the Village of Bellaire.” The Village Clerk shall sign such duplicate and attach thereto or endorse thereon a copy of the record of all transfers appearing on the index record and attach thereto a signed and scaled certificate substantially in the following form:

STATE OF MICHIGAN COUNTY OF ANTRIM VILLAGE OF BELLAIRE
I, _____, Village Clerk of the Village of Bellaire, do hereby certify that the foregoing is a true and correct copy of the original deed issued by the Village of Bellaire for Lot _____ Grave _____, Lakeview Cemetery, in the Village of Bellaire and transfers thereof appearing on record in this office. [Amended 9-20-06 by Ord. No. 13-2006].

§ 29-6. Rules governing interment.

The rules and regulations governing interment are as follows:

- A. The cemetery is open for burials between April 15 and November 1 of each calendar year. Exceptions may be made dependent upon weather conditions or at the discretion of the Cemetery Sexton. The cemetery shall provide and maintain a crypt with all of the necessary holding facilities to ensure proper burials can occur at the most reasonable time.
- B. A licensed funeral director must be in attendance at the time of final interment of a full burial. The funeral director is in charge of the funeral and final interment and shall be responsible for seeing that all fees have been accounted for prior to final interment.
- C. Arrangements for the private burial of cremains shall be made with consultation with the Cemetery Sexton.
- D. All burials shall be within a standard concrete vault installed in each burial space prior to interment. This provision also applies to all cremains. Infant-size caskets are exempt from this regulation.
- E. A maximum of one casket, one casket and one vault-sized cremain, or two vault-sized cremains per gravesite are permitted.

§ 29-7. Cemetery markers and monuments. [Amended 12-01-10 by Ord. No. 2-2010]

All lot or gravesite owners shall consult with the Cemetery Sexton prior to placing a monument or marker in the cemetery to ensure the correct location of said monument or marker. All monuments or markers must conform to the following rules:

- A. No monument or marker shall be placed on any burial unit until a deed has been issued.
- B. All monuments or markers must be constructed of a recognized, durable granite, marble, fieldstone, or bronze.
- C. At no time shall the construction of any mausoleums be permitted.

- D. All monuments, markers, headstones, and footstones shall have a four-inch-thick cement foundation with a minimum four-inch border on all sides.
- E. On cemetery lots 1-775, 779-781, 785-787, 791-793, 797-799, 800, 802-803, 806-807, 810-811, 814-815, 818-819, and 1265-1290, no monument, marker, or headstone shall be larger than 6 feet high, 3 feet wide, and 16 inches deep. On cemetery lots 776-778, 782-784, 788-790, 794-796, 801, 804-805, 808-809, 812-813, 816-817, 820-1264, and 1E-99E, no monument, marker, or headstone shall be larger than 3 feet high, 3 feet wide, and 16 inches deep. [Amended 06-06-12 by Ord. No. 1-2012]
- F. All headstones must run in the same direction.
- G. All footstones must be installed flush with the ground. At no time shall aboveground footstones be permitted.
- H. The Village of Bellaire shall retain the right to remove any monument, marker, effigy, or other structure that it deems improper. Any such removals shall be charged to the owner of the burial unit on a time-and-material basis.
- I. Repair to any existing monument, marker, headstone, and/or footstone now in existence shall be the responsibility of the owner. In the event of failure to make repairs within one year after notice, the Village may order the said monument, marker, headstone, and/or footstone removed at the expense of the owner.

§ 29-8. Perpetual care and ground maintenance. [Amended 12-01-10 by Ord. No. 2-2010; Amended 11-1-2017 by Ord. No. 5 of 2017 are so noted]

The Village of Bellaire Department of Public Works shall perform perpetual care duties of the cemetery. The following rules apply:

- A. Any vegetation, including bushes, shrubs, trees, and/or ornaments placed by the lot or gravesite owner shall be placed within 18” of the headstone. [Amended 11-1-2017 by Ord. No. 5 of 2017]
- B. Any lot or gravesite with plantings, enclosures, or decorations in place beyond 18” of the headstone prior to December 31, 2010 shall be allowed to remain. Any such planting, enclosure, or decoration that hinders the free use of lawn mowers or other maintenance apparatus must be maintained by the lot or gravesite owner or a caretaker appointed by the owner. Any planting, enclosure, or decoration not being maintained shall be removed by cemetery personnel.
- C. No grading, leveling, or excavating upon a burial unit shall be allowed without the permission of the Village of Bellaire.
- D. No fence, railing, coping, curb, wall, hedge, rocks, bricks, stones, or enclosure of any kind shall be placed or erected around any burial unit. [Amended 11-1-2017 by Ord. No. 5 of 2017]
- E. No plastic/artificial flowers are permitted. No glass containers are allowed. Maintenance of all vases, pots, and urns are the responsibility of the lot or gravesite owner. [Amended 11-1-2017 by Ord. No. 5 of 2017]

- F. Surfaces other than earth or sod are prohibited. Landscaping materials are not allowed. [Amended 11-1-2017 by Ord. No. 5 of 2017]
- G. All refuse of any kind or nature including, among others, wreaths, papers, and flower containers, must be removed upon use and/or deterioration and deposited in proper waste disposal facilities.
- H. The Cemetery Sexton shall have the right and authority to remove and dispose of any planting or object that, through decay, deterioration, damage, or otherwise, has become unsightly, a source of litter, or a maintenance problem.
- I. The Village of Bellaire shall retain the right, at any time, to enter upon any lot and cut down or remove any tree, shrub, root, branch, or any part thereof as is deemed detrimental, unsightly, or inconvenient to passers, adjacent lots, or avenues of traffic and is in the interest of maintaining the proper appearance and the use of the cemetery.

§ 29-9. Cemetery administration.

- A. The Superintendent of the Department of Public Works for the Village of Bellaire shall be designated the Cemetery Sexton. The Cemetery Sexton shall have day-to-day management authority over Lakeview Cemetery operations.
- B. The Village Clerk is responsible for cemetery records, issuing deeds, and for the collection and distribution of all cemetery funds. [Amended 9-20-06 by Ord. No. 13-2006].
- C. The cemetery is managed and maintained by the Village of Bellaire. The Village Cemetery Committee makes administrative policy interpretations and policy recommendations regarding the operation of the cemetery. The Cemetery Committee shall be composed of three Village trustees or two Village trustees and one trustee from Forest Home Township, provided that the Village of Bellaire and Forest Home Township have signed an agreement detailing this relationship.
- D. The Cemetery Committee shall have the right to recommend any change or alteration of this chapter and any related rules, regulations, and charges. Any questions regarding this chapter or any related rules, regulations, and charges can be brought before the Cemetery Committee and/or the Village Council for interpretation. Existing state law shall guide the interpretation of this chapter. If no guidance exists then the decision of the Village of Bellaire shall be final.
- E. The Village of Bellaire will forever maintain a perpetual care fund to be held in trust. Annual income (as designated by yearly resolution) of the fund shall be used to defray the costs of care for, maintaining and expanding the cemetery.
- F. The funds received for perpetual care, as designated each year by the Village Council, shall be held in a perpetual care fund and invested as provided by the Village of Bellaire investment policy. The Village of Bellaire may exercise the right, however, either to handle all investments itself or to deposit funds with any person, company, or corporation qualified to act as trustee for such funds. [Amended 6-7-06 by Ord. No. 5-2006.]

§ 29-10. Correction of errors.

The Village of Bellaire reserves, and shall retain, the right to correct any errors that may be made by it either in making interments, disinterment or removals, of the description, transfer, or conveyance of any interment property, either by canceling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible, or as may be selected by the Village, or, in the sole discretion of the Village of Bellaire, refunding the amount of money paid on account of said purchase. In the event such error shall involve the interment of the remains of any person in such property, the Village of Bellaire reserves and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.

§ 29-11. Vandalism and removal of ornaments or other property.

No person, firm, or corporation shall cut, remove, injure, or carry away any flowers, trees, shrubs, plants, or vines being or growing in and upon any cemetery lot, gravesite, or ground used for cemetery purposes owned by the Village of Bellaire; nor shall any person, firm, or corporation deface, injure, or write upon any markers, monuments, headstones, footstones, fence, or structure within cemetery; nor shall any person, firm, or corporation injure or destroy, take or carry away any vases, flower pots, or other ornaments that may have been placed upon the graves or grounds platted and used for cemetery purposes, unless by permission of the Village of Bellaire.

§ 29-12. Penalties.

- A. Municipal civil infractions; penalties. Any person who violates any provision of this chapter shall be responsible for a municipal civil infraction as defined in Public Act 12 of 1994, amending Public Act 236 of 1961, being Sections 600.101 to 600.9939 of Michigan Compiled Laws, and shall be subject to a fine of not more than \$500. Each day this chapter is violated shall be considered as a separate violation.
- B. Enforcement officials. Officers of the Bellaire Police Department, and other Village officials designated by resolution of the Village Council, are hereby authorized to issue municipal civil infractions under this chapter directing offenders to appear in court.
- C. Nuisance per se. A violation of this chapter is hereby declared to be a nuisance per se and is declared to be offensive to the public health, safety and welfare.
- D. Civil remedies. In addition to enforcing this chapter through the use of a municipal civil infraction proceeding, the Village may initiate proceedings in the Circuit Court to abate or eliminate the nuisance per se or any other violation of this chapter.