

**GLEN ARBOR TOWNSHIP  
LEELANAU COUNTY, MICHIGAN**

**ORDINANCE #4-2021**

**GLEN ARBOR TOWNSHIP CEMETERY ORDINANCE**

**Preamble**

An ordinance to establish a Glen Arbor Township Cemetery Advisory Board under the Michigan Township Ordinances Act, Public Act 246 of 1945, MCL 41.181, *et seq.*; provide for the composition of said Cemetery Advisory Board; provide for the powers, duties and limitations of said Cemetery Advisory Board; establish regulations relating to the preservation, control and management of the historic Glen Arbor cemetery owned by the Township of Glen Arbor, in Leelanau County, Michigan; and, to provide penalties for the violation of said ordinance.

GLEN ARBOR TOWNSHIP, LEELANAU COUNTY, MICHIGAN ORDAINS:

**Section 1. Title**

This Ordinance shall be known and cited as the “Glen Arbor Township Cemetery Ordinance.”

**Section 2. Purpose and Intent**

The Glen Arbor Township Board recognizes and concludes that proper and reasonable maintenance, preservation, and use of the historic Glen Arbor Cemetery is an important function of the Township government. As a historical cemetery, no burials or disinterments will occur at the cemetery. It is important that all activities occurring at the cemetery are handled in a respectful and proper way in order to protect and preserve this historical community site. The Township Board finds the adoption and enforcement of this Ordinance necessary to preserve the historically significant cemetery as a cultural resource for the community.

The purpose of this ordinance is to provide that the Glen Arbor Township Board shall hereby establish under the Michigan Township Ordinances Act, Public Act 246 of 1945, MCL 41.181, *et seq.*, the Glen Arbor Township Cemetery Advisory Board; to establish the appointments, terms, and membership of the Cemetery Advisory Board; to identify the officers and the minimum number of meetings per year of the Cemetery Advisory Board; to prescribe the authority, powers and duties of the Cemetery Advisory Board; to establish regulations relating to the preservation, control and management of the historic Glen Arbor Cemetery; and, to provide penalties for the violation of said ordinance.

**Section 3. Definitions**

- (a) “Cemetery Advisory Board” means the board established by this ordinance consisting of members appointed by the Glen Arbor Township Board.
- (b) “Township” means Glen Arbor Township.
- (c) “Township Cemetery” or “Cemetery” means any cemetery owned, operated and/or controlled by Glen Arbor Township.

**Section 4. Establishment of Cemetery Advisory Board**

The Glen Arbor Township Board hereby under the Michigan Township Ordinances Act, Public Act 246 of 1945, MCL 41.181, *et seq.* establishes the Glen Arbor Township Cemetery Advisory Board. The Cemetery Advisory Board shall have five (5) members.

### **Section 5: Board Membership**

Membership of the Cemetery Advisory Board shall be comprised as follows:

1. One member of the township board shall be appointed to the Cemetery Advisory Board as an ex officio member. The Township Supervisor shall not serve as the ex officio member.
2. All other Cemetery Advisory Board members shall be qualified electors of Glen Arbor Township.
3. No other elected official or employee of the township is eligible to be a member of the Cemetery Advisory Board.

### **Section 6: Board Member Appointments and Terms**

- A. The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall appoint all Cemetery Advisory Board members, including the ex officio member, in accordance with the following:
  1. A member serves at the pleasure of the Township Board.
  2. The Cemetery Advisory Board members, other than the ex officio member, serving initially shall be three (3) members for two (2) year terms, and two (2) members for one (1) year terms. The successors thereof shall each be appointed to two (2) year terms.
  3. The ex officio member shall serve for a term of 1 year and may be reappointed.
  4. A Cemetery Advisory Board member, other than the ex officio member, shall hold office until his or her successor is appointed.
  5. The ex officio member's term shall expire with his or her term on the township board to which he or she was elected.
  6. Vacancies shall be filled for the unexpired term in the same manner as the original appointment.
- B. All members, excluding the ex officio member, shall have full voting rights on recommendations to be made to the Township Board.

### **Section 7: Solicitation for Board Membership**

- A. By November of each year, the township board shall determine which members' terms of office expire.
- B. In December of each year, the township board shall appoint members to the Cemetery Advisory Board by a majority vote. All two-year terms shall expire on December 31.
- C. A board member whose term is expiring may be reappointed to the Cemetery Advisory Board.

### **Section 8: Board Officers and Committees**

The Cemetery Advisory Board shall elect a chairperson and a secretary from its members, and may create and fill other offices as it deems necessary. The ex officio member of the Cemetery Advisory Board is not eligible to serve as an officer of the Cemetery Advisory Board. The term of each office shall be 1 year, with opportunity for reelection as specified in the Cemetery Advisory Board Bylaws.

The Cemetery Advisory Board may appoint ad hoc and citizen committees as specified in the Cemetery Advisory Board Bylaws.

### **Section 9: Removal**

The Township Board may remove a member of the Cemetery Advisory Board for misfeasance, malfeasance, or nonfeasance in office. Failure to attend Cemetery Advisory Board meetings as specified in the Cemetery Advisory Board Bylaws shall be considered nonfeasance in office.

### **Section 10: Conflict of Interest**

Before participating in Cemetery Advisory Board deliberations or casting a vote on a matter on which a Cemetery Advisory Board member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Cemetery Advisory Board. Failure of a member to disclose a potential conflict of interest as required by this ordinance constitute malfeasance in office. Each Cemetery Advisory Board member must sign the Township's Conflict of Interest Policy Statement.

### **Section 11: Board Compensation**

Cemetery Advisory Board members shall serve without compensation. Additionally, the ex officio member, ad hoc and citizen committee members shall serve without compensation.

### **Section 12: Board Bylaws, Meetings, and Records**

- A. The Cemetery Advisory Board Bylaws and this ordinance shall govern the workings of the Cemetery Advisory Board.
- B. The Cemetery Advisory Board shall hold a least 4 regular meetings each year as outlined in the Cemetery Advisory Board Bylaws.
- C. The business that the Cemetery Advisory Board may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261, *et seq.*

### **Section 13: Annual Report**

The Cemetery Advisory Board shall make an annual written report to the township board concerning its operations and the status of the township cemetery, including recommendations regarding actions by the township board related to cemetery planning.

### **Section 14: Board Responsibilities**

It shall be the responsibility of the Cemetery Advisory Board to:

1. Advise the township board concerning any township cemetery as specified in the Cemetery Advisory Board Bylaws.
2. Make recommendations to the Township Board regarding the preservation, use, and maintenance of the Township cemetery in accordance with and as provided for in this Ordinance and as specified in the Cemetery Advisory Board Bylaws.

### **Section 15. Markers or Memorials**

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall be similar in structure to those currently present in the cemetery.
- (b) Should any marker or memorial (including any monument or memorial that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Township Board shall have the right to correct the condition.
- (c) The Township has the responsibility regarding the preservation, repair, maintenance or upkeep of markers, memorials, or similar items.

### **Section 16. Grounds Maintenance**

- (a) Decorations at grave sites are not permitted except those placed by Township Officials or Cemetery Advisory Board members under the direction of the Township Board. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling, digging, excavating or similar alteration of the ground or earth shall occur within the cemetery except as authorized by this Ordinance or by the Township. Furthermore, no tree, shrub, landscaping or similar plantings shall occur unless authorized by the Township Board. Any of the foregoing items planted without Township approval will be removed by the Township or Cemetery Advisory Board.
- (c) The Cemetery Advisory Board has 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.
- (d) Surfaces other than earth or woodland ground cover are prohibited.
- (f) Except for markers 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 except those placed by the Township.

### **Section 17. 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, all persons entering the cemetery 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 any matter related to the cemetery. Such waiver, release and hold harmless provision shall apply not only to the Township, but also to any Cemetery Advisory Board member and any Township employee, officer, official or agent.

### **Section 18. Records**

The Township Clerk shall maintain all available records related to the Township cemetery, and the same shall be open to public inspection at all reasonable business hours.

### **Section 19. Cemetery Hours**

Unless otherwise specified by the Township Board by resolution, a township cemetery shall be closed from sunset to sunrise the next morning. During those hours, no person shall be present in a township cemetery. Such prohibition on being present in a township cemetery during the time when a township cemetery is closed shall not apply to any Township official, Cemetery Advisory Board member, a person accompanied by a Township Official or Cemetery Advisory Board member, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

### **Section 20. Prohibited Uses and Activities**

The following prohibitions shall apply within a Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any marker, monument, sign, tree or other lawful item located within a Township cemetery.
- (b) No person shall disturb the peace, engage in any loud or boisterous conduct, or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of a Township cemetery.

- (c) No vehicles including automobiles, trucks, motorcycles, snowmobiles, four-wheelers, go-carts, or similar vehicles shall be permitted to drive on burial spaces, or any portion of the cemetery.
- (d) There shall be no entry or presence in a Township cemetery by any person not authorized by this ordinance when the cemetery is closed.
- (e) There shall be no destruction of Township cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc., of any tree, shrub, or plant within a Township cemetery.
- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a Township cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (i) There shall be no gathering of persons in excess of 30 people without prior Township approval.
- (j) There shall be no burials or disinterment.
- (k) There shall be no possession or consumption of any alcoholic beverage.
- (l) There shall be no smoking of any kind.
- (m) There shall be no picnicking or consumption of food.
- (n) 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 Township authorized event.
- (o) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (p) There shall be no littering or dumping.
- (q) There shall be no fires or open flames.
- (r) No children under twelve (12) years of age shall be allowed in the Township cemetery unless accompanied and properly supervised by an adult.
- (s) 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.
- (t) No firearms or archery arrows shall be discharged or shot within a Township cemetery.
- (u) Cremains or ashes of a deceased person shall not be scattered or dispersed.

**Section 21. Applicability of this Ordinance**

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by Glen Arbor Township.
- (b) The provisions of this Ordinance shall not apply to Township officials, including Cemetery Advisory Board members or their agents or designees involved with the preservation, maintenance, 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 carrying out their official duties.

**Section 22. 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 (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 Board or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a Township cemetery 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 23. 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 the Township cemetery in violation of this Ordinance, any Township rule or regulation regarding a 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 a 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 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 the Township cemetery.

**Section 24. Ordinance Violation Penalties**

A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction as defined by Michigan law. 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 and shall be punishable by a civil fine determined in accordance with the following schedule .

<u>Offense</u>	<u>Minimum Fine</u>	<u>Maximum Fine</u>
First	\$ 150.00	\$ 500.00
Second	\$ 225.00	\$ 500.00
Third	\$ 350.00	\$ 500.00
Forth +	\$5 00.00	\$ 500.00

Additionally, the violator shall pay all other costs, damages, expenses, direct and indirect which Glen Arbor Township has incurred, and remedies provided by law. For purposes of this section, “second – forth + 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 judged 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 citations/tickets pursuant to this Ordinance:

- Township Zoning Administrator
- County Sheriff or any deputy of the county sheriff’s department
- 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, which shall continue in full force and effect.

**Section 27. Effective Date; Conflicts**

This ordinance shall take full force and effect on the date of its publication (or summary thereof) appears in the Townships newspaper of record. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

At a regular meeting of the Glen Arbor Township Board held on July 20, 2021, adoption of the foregoing Township Ordinance was moved by board member D. Lewis and supported by board member J. Pepler. Upon Roll Call vote the following voted “Aye”: L. Houtteman, P. Laureto, T. Laureto, D. Lewis, J. Pepler; “Nay”: none; Abstain: none; Absent: none.

The Supervisor declared the ordinance adopted.



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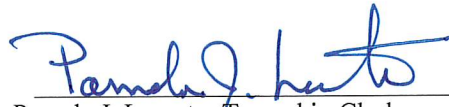
Thomas S. Laureto, Township Supervisor

Date of publication of Notice of Adoption: August 5, 2021

Effective date: August 5, 2021

CERTIFICATION

I, Pamela J. Laureto, the duly elected and acting Clerk of Glen Arbor Township, hereby certify that the foregoing is a true copy of Township Ordinance No. 4-2021 and that said ordinance was adopted by the Glen Arbor Township Board at a regular meeting held on July 20, 2021, at which meeting a quorum was present by a roll call vote of said members as hereinbefore set forth; that said ordinance was ordered to take effect on the date of publication in the Townships newspaper of record.

  
Pamela J. Laureto, Township Clerk