

Effective Date: July 12, 2021

Berlin Township Board of Trustees Rules and Regulations Governing Fairview Cemetery

Introduction

These Rules and Regulations apply to the following cemetery:

Fairview Cemetery
5079 Columbus Pike
Lewis Center, Ohio 43035

As of the effective date of these Rules and Regulations, Fairview Cemetery is an active cemetery.

Article I Definitions

1.1 Definitions

The following definitions apply to terms used in these Rules and Regulations:

- A. “Board” means the Berlin Township Board of Trustees.
- B. “Cemetery Grave Space” means a plot of real estate intended for the burial of one set of human remains that have not been cremated or up to two (2) sets of human remains that have been cremated. A standard Cemetery Grave Space may be divided into two (2) separate spaces for the burial of cremated remains.
- C. “Cemetery Lot” means a plot of real estate made up of more than one (1) Cemetery Grave Space.
- D. “Companion Cemetery Grave Space Marker” means any Marker centered on one or more Cemetery Grave Space(s). A Companion Cemetery Grave Space Marker with two (2) or more names on it is considered one Marker for each Cemetery Grave Space it is designed to mark.
- E. “County” means Delaware County, Ohio.
- F. “Cremains” means the ashes of a cremated human body.

- G. “Domestic Partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married.
- H. “Immediate Family Member” means a Spouse or Domestic Partner or any of the following who are related by full or half consanguinity or marriage to the Purchaser:
- i. Parent
 - ii. Child
 - iii. Sibling
 - iv. Grandparent
 - v. Grandchild
 - vi. Uncle or Aunt
 - vii. Nephew or Nice
 - viii. Great-Grandparent
 - ix. First Cousin
- I. “Marker” means any permanent marker of a Cemetery Grave Space(s) placed on a foundation and which is flush with the ground.
- J. “Non-Township Resident” means a person who is not a resident of Berlin Township, Delaware County, Ohio.
- K. “Purchaser” means the purchaser of or grantee relative to any purchase of a Cemetery Grave Space.
- L. “Rules and Regulations” means these Berlin Township Board of Trustees Rules and Regulations Governing Fairview Cemetery.
- M. “Single Cemetery Grave Space Marker” means a single Marker placed on a single Cemetery Grave Space.
- N. “Spouse” means a person to whom one is legally married (i.e. a husband or wife).
- O. “Termination Date” means that date which is fifty (50) years from the date of purchase of a Cemetery Grave Space or the expiration of any renewal of such time period.
- P. “Township” means Berlin Township, Delaware County, Ohio.
- Q. “Township Resident” means a person who is a resident of Berlin Township, Delaware County, Ohio.

Article II

Sale of Cemetery Grave Spaces

Rules and Regulations Governing Fairview Cemetery

2.1 Sale

Upon application, the Board shall sell at a reasonable price, such price to be set by the Board, the number of Cemetery Grave Spaces as public wants demand for burial purposes.

2.2 Deed

A Purchaser of a Cemetery Grave Space, upon complying with the terms of sale, shall receive a deed for the Cemetery Grave Space, which the Board shall execute and which shall be recorded by the Township fiscal officer in a book for that purpose. The expense of recording shall be paid by the Purchaser.

2.3 Prices and Fees

- A. All prices and fees shall be as set forth in the effective schedule as approved by the Board.
- B. The Board may distinguish between Township Residents and Non-Township Residents in setting and establishing prices for Cemetery Grave Spaces.
- C. Upon the application of a head of a family living in the Township, the Board shall, without charge, make and deliver to the applicant a deed for a suitable Cemetery Grave Space, for the burial of the applicant's family, if, in the opinion of the Board and by reason of the circumstances of the family, the payment would be oppressive.
- D. Except as otherwise required by the Ohio Revised Code, prices and fees are subject to change.

Article III Terms and Conditions of Sale

3.1 Payment

The Purchaser shall be required to pay the full purchase price of the Cemetery Grave Space, at the time of purchase before receiving a deed.

3.2 Purchaser/Owner Notification Requirements

A. Notification Requirements

The terms of sale and any deed for a Cemetery Grave Space purchased after the effective date of these Rules and Regulations include the following:

1. The Purchaser shall provide to the Board, in writing, a list of the names and addresses of the persons to whom the Purchaser's property would pass by intestate succession.
2. The Purchaser shall notify the Board in writing of any subsequent changes in the name or address of any persons to whom property would descend.
3. Any person who receives a Cemetery Grave Space by gift, inheritance, or any other means other than the original conveyance shall, within one (1) year after receiving the interest, give written notice of the person's name and address to the Board, and shall notify the Board of any subsequent changes in the person's name or address.

The terms of sale and any deed for any Cemetery Grave Space purchased after the effective date of these Rules and Regulations shall state that the Board shall have right of reentry to the Cemetery Grave Space if the above notification requirements are not met.

B. Right of Reentry – Failure to Meet Notification Requirements

The Board shall have right of reentry to any Cemetery Grave Space purchased after the effective date of these Rules and Regulations if the notification requirements as set forth in the terms of sale above (See Article III, Section 3.2(A)) and deed are not met.

At least ninety (90) days before establishing reentry, the Board shall publish a notice on the board's internet web site, and shall send a notice by certified mail to the last known Owner at the Owner's last known address to inform the Owner that the Owner's interest in the Cemetery Grave Space will cease unless the notification requirements are met. If the Owner's address is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the County.

In order to establish reentry, the Board shall pass a resolution stating that the conditions of the sale or of the deed have not been fulfilled, and that the Board reclaims its interest in the Cemetery Grave Space.

3.3 Termination for Lack of Use

A. Time Within Which Cemetery Grave Space Must Be Used

The Owner, a member of the Owner's family, or an Owner's descendant must use the Cemetery Grave Space by the Termination Date (within fifty (50) years of the date of purchase of the Cemetery Grave Space).

The Owner shall have a right to renewal of the time for use of the Cemetery Grave Space. Any such renewal shall be for an additional term of fifty (50) years and be provided to the Owner at no cost.

The terms of sale and any deed for Cemetery Grave Space purchased after the effective date of these Rules and Regulations shall be conveyed with a Termination Date and shall state that the Board shall have right of reentry to the Cemetery Grave Space at the end of the specified time period if the Cemetery Grave Space is not used within this time period or renewed for an extended period.

B. Right of Reentry – Failure to Meet Use Requirements

The Board shall have right of reentry to any Cemetery Grave Space purchased after the effective date of these Rules and Regulations if the Cemetery Grave Space is not used by the Termination Date as set forth in the terms of sale above (See Article III, Section 3.3(A) and deed or renewed for an extended period.

At least ninety (90) days prior to the Termination Date for use of the Cemetery Grave Space, the Board shall publish a notice on the Board's internet web site, and shall send a notice to the Owner to inform the Owner that the Owner's interest in the Cemetery Grave Space will cease on the Termination Date unless the Owner contracts for renewal by that date. The Board shall send the notice by certified mail to the Owner if the Owner is a resident of the township or is a nonresident whose address is known. If the Owner's address is unknown and cannot reasonably be obtained, it is sufficient to publish the notice once in a newspaper of general circulation in the County.

In order to establish reentry, the Board shall pass a resolution stating that the conditions of the sale or of the deed have not been fulfilled, and that the Board reclaims its interest in the Cemetery Grave Space.

The Board shall compensate Owners of unused Cemetery Grave Spaces who do not renew the terms of sale or deed by paying the Owner eighty per cent (80%) of the purchase price for grave sites purchased from Berlin Township.

3.4 Interest Purchased

The Purchaser or Owner of a Cemetery Grave Space shall not receive and shall not possess a fee simple interest in or ownership of the actual real estate itself. The only interest the Purchaser or Owner shall receive in the Cemetery Grave Space shall be a right of burial to use the Cemetery Grave Space for the interment of human remains.

3.5 Transfers

Cemetery Grave Spaces shall not be sold, transferred, or gifted by a Purchaser or Owner to any person or party except an Immediate Family Member or the Board or except as otherwise authorized by the Board.

Cemetery Grave Spaces may be transferred to any person by will, devise, or intestate succession.

Article IV Repurchase by the Board

The Board may repurchase any Cemetery Grave Space sold after the effective date of these Rules from its Owner at any time at a price that is mutually agreed upon by the Board and the Owner.

Article V Burial

5.1 Burial of Human Remains Only

Only human remains are permitted to be buried in Fairview Cemetery. Burial of pets or other animals is not permitted.

5.2 Burial Containers Required

The use of an outside burial container (vault) is required for all burials. The requirement of such container is not solely for protection from the environment, but to insure against cave in, so that the cemetery shall remain safe for maintenance, the general public, and ingress and egress.

Interment of cremated remains in a Cemetery Grave Space must be in a sealed non-biodegradable container.

All burial vaults or other containers intended for the ground must be constructed of concrete or steel or of other composition approved by the Board and Cemetery Sexton.

5.3 Limitation of Burial Container Per Cemetery Grave Space

Only one burial container (vault) for human remains that have not been cremated or up to two (2) cremation burial containers for human remains that have been cremated shall be permitted per one (1) standard Cemetery Grave Space.

5.4 Infant Burial

One entire Cemetery Grave Space shall be purchased for burial of an infant. Only one (1) infant that has not been cremated shall be buried in a single Cemetery Grave Space.

Article VI Cremated Remains

6.1 Burial of Cremated Remains

A standard Cemetery Grave Space may be divided into two (2) separate spaces for the burial of cremated remains. One entire Cemetery Grave Space shall be purchased whether the Cemetery Grave Space will be used for the burial of one (1) set or two (2) sets of cremated remains.

6.2 Scattering of Cremated Remains

Scattering of cremated remains (ashes) over the main cemetery or over a specific Cemetery Grave Space is prohibited. Scattering of cremains inside the “Scattering Garden” is permitted with prior approval of the Board or the Cemetery Sexton and payment of fees, if applicable.

Article VII Purchase Limitations

Individuals may purchase up to five (5) Cemetery Grave Spaces per person. Cemetery Grave Space purchases exceeding the above limit must be requested in writing and approved by The Board.

Article VIII Interments

8.1 Payment for Cemetery Grave Space Required Before Interment

No interments shall be permitted until the Cemetery Grave Space has been paid for in-full.

8.2 Payment for Opening and Closing

Except where other payment arrangements have been made and accepted by the Board, opening and closing charges are due and must be paid in-full by the interment date. Absent payment in-full by the interment date or other approved payment arrangements, the interment will not be made.

8.3 Interment

An Owner may permit any person to be buried in any Cemetery Grave Space which he or she owns. To transfer the burial right to another person, the Owner shall submit to the Board and the Cemetery Sexton an original signed writing evidencing the Owner's intent to transfer the burial rights to another person. Such writing shall be notarized.

To transfer the burial right to another person where the Owner is deceased, each heir of the Owner who has inherited an interest in the Cemetery Grave Space must submit to the Board and the Cemetery Sexton an original signed writing evidencing the intent to transfer the burial rights to another person. Such writing shall be notarized.

It is recommended that any transfer of burial rights be coordinated with the Cemetery Sexton and Township Fiscal Officer.

8.4 Above Ground Interments Prohibited

All above-ground interments are prohibited, including, but not limited to, all above ground mausoleums and all above ground burial containers.

Article IX Funerals

9.1 Confirmation of Funeral Times Required

The Cemetery Sexton shall be notified forty eight (48) hours in advance of any funeral service. All funeral service times must be confirmed by the Cemetery Sexton. Failure to confirm funeral service times with the Cemetery Sexton will not guarantee the desired time for the funeral service will be available.

Article X Disinterment

Disinterment will be permitted in accordance with O.R.C. § 517.23 or pursuant to the order of any court having competent jurisdiction.

Disinterment, except as otherwise required by a court of competent jurisdiction, shall occur only Monday through Friday during established hours and shall not occur on any legal holidays.

Charges for disinterment shall be as stated in the Board approved pricing and fee schedule.

Article XI Markers

11.1 Requirement of Foundation

All Markers shall be placed on a foundation of a size and type approved by the Board and the Cemetery Sexton.

11.2 Placement

Markers must be placed at the head or the foot of the Cemetery Grave Space.

11.3 Marker Placement and Size

All Markers shall be flush to the ground and centered on the Cemetery Grave Space(s) intended to be marked. The size of Marker is restricted as follows:

- A. **Single Cemetery Grave Space Markers.** A Single Cemetery Grave Space Marker shall not exceed thirty-six (36) inches in length and eighteen (18) inches in width. Individual Markers in lieu of a Companion Cemetery Grave Space Marker may be placed on contiguous Cemetery Grave Spaces under common ownership. Individual Markers so placed are restricted to the size requirements listed in this section for a Single Cemetery Grave Space Marker.
- B. **Companion Cemetery Grave Space Markers.** The maximum length of a Companion Cemetery Grave Space Marker is six (6) inches less in length than the width of the Cemetery Grave Spaces it is intended to mark. (Example: two (2) Cemetery Grave Spaces are eighty-four (84) inches in width, thus the Companion Cemetery Grave Space Marker shall not exceed forty-eight (48) inches in length.) The maximum width of a Companion Cemetery Grave Space Marker is sixteen (16) inches.

Article XII Planting

12.1 Planting Guidelines

Placement of all plantings and flowers shall be limited to the owned Cemetery Grave Space(s) and shall not intrude upon any adjoining Cemetery Grave Spaces(s) unless the adjoining Cemetery Grave Spaces(s) is/are of the same ownership.

Plantings and flowers are permitted to be planted only within twelve (12) inches around the Monument or Marker at the head of a Cemetery Grave Space. It is suggested a bed be prepared in which to place such plantings and flowers.

12.2 Destruction and/or Removal of Plantings

If flowers or plantings become overgrown or overgrown with grass and/or weeds the area will be mowed when it becomes unsightly.

Any plantings or flowers may be removed if deemed unsightly, a nuisance, a hazard, or if plantings or flowers are infringing upon other Cemetery Grave Spaces. The Board reserves the right to remove any plantings or flowers at any time it deems necessary.

The Board assumes no responsibility financial or otherwise for any plants or flowers mowed-over, removed, or damaged.

12.3 Cut Flowers

Cut flowers are permitted in unbreakable containers. Cut flowers shall only be placed at the head of the Cemetery Grave Space. Cut flowers shall not be placed behind or at the side of the Cemetery Grave Space.

12.4 Prohibited Items

Glass containers and above ground borders or fencing are not permitted and will be removed and disposed of immediately. The Board assumes no responsibility financial or otherwise for any items so removed and disposed of.

Trees, rose bushes, shrubs and similar plantings are prohibited.

12.5 Seeding

Due to settling of the soil, seeding of Cemetery Grave Spaces will be done as needed by maintenance personnel after interment.

Article XIII Grave Blankets and Wreaths

Grave blankets and wreaths are permitted on Cemetery Grave Spaces from November 1st to March 15th. Any grave blankets, wreaths, or other decorations left on Cemetery Grave Spaces after March 15th will be removed. Maintenance personnel will dispose of any items so removed. The Board assumes no responsibility financial or otherwise for any items so removed and disposed of.