

Use of alcohol in township cemeteries?



township clerk

Thu, Sep 17, 12:45 PM
(5 days ago)

to Bryan, me, township, Tammy, Richard, Jill, Kathy, bthedochalliday, zoning.clt

Greetings, Bryan,

We are in the middle of a very contentious and public debate over whether or not alcohol can or should be allowed in our township cemeteries. There is a very strong contingent of residents who want to prohibit any use of alcohol. Others would like to accommodate those who would (1) "allow communion wine as part of a memorial/burial service" or (2) offer a "toast ... at the graveside of a dearly departed individual".

If it helps, the following is my attempt to draft language that would allow alcohol under limited circumstances:

Use of alcohol in the cemeteries is prohibited unless (1) approved in advance, (2) in writing, and (3) limited in both quantity and (4) to graveside occasions honoring a specific individual. Use of alcohol or unlawful drugs in any other circumstances than these are prohibited and may result in calls to law enforcement authorities.

I should mention that we have a fairly serious problem with after-hours partying, drinking, and drug use in the part of North Cemetery that is behind most of the graves. That conduct is already prohibited in the part of our Ordinance that prohibits after-hours activities and I believe we need to take separate security/outside enforcement steps to address it.

However, we need to know if allowing alcohol under any circumstances would open the township to liability. **Is there any possibility you could send a written response before our Board meets with our Cemetery Committee next Wednesday at 1:00 pm?**

I look forward to your response.

Sue Sullivan, Clerk

Bryan E. Graham

Thu, Sep 17, 1:03 PM
(5 days ago)

to township, me, township, Tammy, Richard, Jill, Kathy, bthedochalliday, zoning.clt

Dear Sue:

I can have a response to early next week.

Bryan

Bryan E. Graham

Sep 21, 2020, 3:14 PM
(22 hours ago)

to Sue, me

Dear Sue:

Here is a memo addressing the question you posed last week concerning alcohol and the township cemeteries. Please call with any questions.

M E M O R A N D U M

TO: Sue Sullivan, Clerk VIA EMAIL Crystal Lake Township

FROM: Bryan E. Graham

DATE: September 21, 2020

SUBJECT: Use and possession of alcohol in the township cemeteries

You have asked me to address whether the township can legally prohibit the use and possession of alcohol in the township cemeteries. Except for the limitation noted in this memo, whether the township prohibits the use and possession of alcohol in the township cemeteries is a policy choice. If the township does prohibit alcohol in the township cemeteries, then it is my advice that an exception be made for the possession and use of alcohol in conjunction with a bona fide religious ceremony or service. If the township totally prohibits alcohol in the cemeteries, then it could face a lawsuit for violating the First Amendment's free exercise of religion clause. This would be eliminated by making an exception for a bona fide religious ceremony or service. I would note, however, that having the ability to offer an alcohol toast at a graveside is different than using alcohol during a religious ceremony or service. First, the religious ceremony or service is protected by the First Amendment, while merely offering a toast at the graveside is not a protected activity. In addition, there would be difficulty enforcing a regulation that permits individuals to offer a toast at a graveside. What constitutes a toast? Is there a limit on the number of individuals participating in the toast and a limit on the number of times those individuals can offer the toast? I can easily see this "toasting" turning into a party. Finally, I would like to comment on

whether the prohibition of alcohol in the cemetery is the true problem to be addressed. You indicated in your message to me that there was a serious problem with after-hours partying, drinking, and drug use in at least one of the cemeteries. Section IX (B) of the cemetery ordinance provides some hours when the cemeteries are open. If the partying problem is occurring when the cemetery is closed, then enforcement of the cemetery ordinance might curtail the alcohol problem. I would, however, amend the regulations in Section IX (B) to tighten up the language when the cemeteries would be closed. 1 If there are further questions related to this matter, please let me know.

BEG

cc: Amy Ferris, Supervisor (via email)

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Bryan E. Graham

township clerk

Sep 21, 2020, 5:10 PM
(20 hours ago)

to township, Tammy, Richard, Jill, Kathy, bthedochalliday, Bryan, me

Dear Bryan,

Thanks for the quick and clear response. Just two more questions - hopefully quick ones:

(1) Would the Township run the risk of incurring any liability if we chose to make no mention of either allowing or prohibiting alcohol at all?

(2) If I understand your advice in your final paragraph, we could address the abuse of alcohol issues by tightening up our language about after-hours access in section IX(B). Would there be a problem if we addressed inappropriate daytime conduct by changing section IX(G) to the following: "There shall be no disturbing of the peace or engaging in loud or boisterous conduct."

I look forward to hearing from you and will pass your response on to both the Board and the Cemetery Committee for consideration at our Wednesday meeting.

Thank you again,

Sue Sullivan, Clerk

Sep 21, 2020, 5:46 PM
(19 hours ago)

township supervisor <supervisor.clt@gmail.com>

to township clerk

Sue, you have not answered my email that is pertinent to this continuing dialog with the attorney. I clearly objected to you doing this. Under what authority are you going out and communicating with Graham? Does your precedent allow anyone to contact the attorney on their own? May I now assume I can start emailing him all my possible alternatives and rewording and personal opinions on how the proposed ordinance should read?

--

Amy Ferris



township clerk

Mon, Sep 21, 6:13 PM
(19 hours ago)

to township, Tammy, Richard, Jill, Kathy, bthedochalliday, me

Jill pointed out that my last email on this subject did not contain the memo from the attorney that he sent earlier today, Please find it attached below. Sorry about the omission.

Amy, the reason I took the liberty of contacting the attorney is because someone had to get an answer to the question of liability that was raised consistently in people's emails and in the comments at the Board meeting. You have had plenty of opportunity to do so and have not. We need guidance on this issue before Wednesday's meeting or we will continue to talk in uninformed circles.

I have not presented "all my possible alternatives and rewording and personal opinions on how the proposed ordinance should read" nor do I encourage others to do so at this point. I have framed my questions in a manner which I hope will provide us with a general framework for what is legally possible. Beyond that, it is still up to the Committee and the Board to determine the policies we want the ordinance to include. Then, we can submit the approved draft to the attorney for his review.

Sue Sullivan, Clerk

township supervisor <supervisor.clt@gmail.com>

Sep 21, 2020, 7:00 PM
(18 hours ago)

to township

Sue. Please do not reply to all when I am sending an email to you and no one else.

In answer to your comment about I having plenty of time to contact the attorney on my own, you've missed the point. I did not think it was appropriate for me to do that on my own initiative and at this juncture in the process time line. Otherwise, I would have.

Bryan E. Graham

8:44 AM (4 hours ago)

to township, Tammy, Richard, Jill, Kathy, bthedochalliday, township, me

Dear Sue:

If I understand your first question correctly, if the cemetery ordinance remains silent concerning the possession and use of alcohol, the township would not have any liability.

Concerning your second question, if the township desire to address inappropriate daytime conduct, then I suggest the following language:

No person shall cause or create and no person shall knowingly allow another person to cause or create within the Cemetery any loud or boisterous noise, as well as profane language, that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of any reasonable person of normal sensitivities.

If there are further questions, please let me know. Also, please let me know whether the township wants me to prepare any amendments to the cemetery ordinance.

Bryan

township clerk

11:07 AM (2 hours ago)

to Bryan, me, township, Tammy, Richard, Jill, Kathy, bthedochalliday

Thank you Bryan. That answers all my questions for now. I am sure we will have more to send you once we have met, but at least we have a framework for discussion now.

Sue Sullivan, Clerk