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## MEMORANDUM

**TO:** Sue Sullivan, Clerk  
Crystal Lake Township **VIA EMAIL**

**FROM:** Bryan E. Graham *BEG*

**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.

If there are further questions related to this matter, please let me know.

BEG

cc: Amy Ferris, Supervisor (via email)