

TOWNSHIP OF PENTWATER
COUNTY OF OCEANA, MICHIGAN

At a regular meeting of the Township Board of the Township of Pentwater, held at 500 Hancock Street in the Township on the 13th day of October, 2021, at 6:00 p.m.

PRESENT: Members: Cavazos, Johnson, Holub, Douglas and Flynn

ABSENT: Members: None

The following ordinance was offered by Member Douglas and supported by Member Holub:

ORDINANCE NO. 2021-01

AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL AND MANAGEMENT OF THE CEMETERY OWNED BY THE TOWNSHIP OF PENTWATER, OCEANA COUNTY, MICHIGAN. TO PROVIDE PENALTIES FOR THE VIOLATION OF SAID ORDINANCE; AND TO REPEAL ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH.

TOWNSHIP OF PENTWATER, COUNTY OF OCEANA, MICHIGAN ORDAINS:

Section 1. Amendment and Restatement of the Pentwater Cemetery Ordinance. The Pentwater Township Cemetery Ordinance, Ordinance No. 14-1 (the "Cemetery Ordinance"), is hereby amended and restated in its entirety and shall read as follows:

Section I: TITLE

This ordinance shall be known and cited as the Pentwater Township Cemetery Ordinance.

Section II: DEFINITIONS OF CEMETERY LOTS, BURIAL SPACES AND COLUMBARIUM

- A. A cemetery lot shall consist of burial spaces sufficient to accommodate from two to four burial spaces.
- B. An adult burial space shall consist of a land area four (4) feet wide and twelve (12) feet in length.

- C. A cremation or infant burial space shall be four (4) feet by eight (8) feet.
- D. Columbarium niches for the interment of cremains are eleven and one half (11 ½") inches square at the front, eleven and one half (11 ½") inches deep, and ten and one half (10 ½") inches square at the back. One or two cremains may be interred in a niche.
- E. Immediate family is defined as a parent; sibling; child by blood, adoption, or marriage; spouse or partner; grandparent or grandchild; aunt, uncle or cousin.

Section III: SALE OF LOTS OR BURIAL SPACES

- A. Cemetery lots or burial spaces may be sold to any Township property taxpayer or non-property taxpayer of the Township for the purpose of the burial of the purchaser and/or his or her immediate family members. The Township shall establish a separate fee for property taxpayers and non-property taxpayers for the purchase of a cemetery lot or burial space.
- B. All such sales shall be made on a form approved by the Township Board, which grants a right of burial only and does not convey any other title to the lot or burial space sold. The Township Clerk shall execute such form.
- C. If the owner of a cemetery lot or burial space desires to transfer or re-assign a lot or burial space to another person, the owner must (1) sell the lot or burial space back to the Township at the original price at which the lot or burial space was purchased; and (2) repurchase that cemetery lot or burial space in the name of another eligible person at the then-current price for a Township lot or burial space. Cemetery lots or burial spaces, once assigned in accordance with this subsection C., are nontransferable (which includes a prohibition on donating a cemetery lot or burial space to another person) but may be sold back to the Township at the original purchase price paid to the Township (for resale by the Township). Transfer or assignment of a cemetery lot or burial space shall be approved by the Township Clerk and entered upon the official records of the Clerk in accordance with this Ordinance.

Section IV: FEES

- A. The Township Board by Resolution may periodically alter Cemetery lot fees to accommodate changes in costs and needed reserve funds for Cemetery maintenance and acquisition.
- B. The fees are subject to change upon approval of the Township Board.
- C. Charges shall be paid to the Township Clerk and shall be deposited in the Cemetery Fund.
- D. Any transfer of one or more burial spaces from an original purchaser shall

be in accordance with Section III.C of this Ordinance.

Section V: GRAVE/COLUMBARIUM OPENINGS AND CHARGES

- A. The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by Resolution of the Township Board, payable to the Township Cemetery.
- B. No burial space shall be opened and closed except under the direction and control of the Cemetery Sexton. This provision shall not apply to proceedings for the removal and reinterment of bodies and remains, which matters are under the supervision of the local health department. The cost of disinterment and reinterment shall be borne by the lot owner at the cost of two (2) grave openings.
- C. Opening and Closing of any Columbarium will be for Inurnment purposes only.

Section VI: MARKERS, MEMORIALS and COLUMBARIUM EMBLEMS

- A. All markers or memorials must be of stone or other equally durable composition.
- B. Any large upright monument must be located upon a suitable foundation to maintain the same in an erect position.
- C. Only one upright monument, marker or memorial shall be permitted per traditional burial space. If a second marker is used it shall be flush with the ground.
- D. The footing or foundation upon which any monument, marker or memorial is placed shall be constructed with the approval of the Township Cemetery Sexton at cost to the owner of the burial site.
- E. Monuments or markers in the cremation burial areas must be flush with the ground with the exception of American Flags for veterans installed by the Township.
- F. Flush markers are required in lots 1, 4, 6, & 9 in Blocks 16, 17, & 18 in the square burial areas. Other lots in the square areas may have an upright monument, marker or memorial.
- G. Up to two (2) emblems per Columbarium Niche may be purchased through the Pentwater Township Cemetery. Emblems will be adhered by epoxy to the plaque and/or face of the niche by the Cemetery Sexton. Fee per emblem is subject to change pending increase in fees from the vendor.

Section VII: INTERMENT REGULATIONS

- A. Only one person may be buried in a burial space except for a mother and infant or two infants buried at the same time.
 - 1. The cremains of a spouse, son, daughter or grandchild may be buried in the space with a spouse, father, mother or grandparent.
- B. Cremation remains are limited to two (2) per traditional burial space.
- C. Not less than a 36-hour advance notice of a funeral shall be given to allow for the opening of the burial space.
- D. The appropriate permit for the burial space involved, together with appropriate identification of the person to be buried therein, where necessary shall be presented to either the Cemetery Sexton or the Township Clerk prior to interment. Where such permit has been lost or destroyed, the Township Clerk shall be satisfied, from his or her records, that the person to be buried in the burial space is an authorized and appropriate one before any interment is commenced or completed.
- E. All graves shall be located in an orderly and neat appearing manner within the confines of the burial space involved.
- F. No burials shall be allowed for other than human remains.
- G. Weather conditions may prevent burials during the winter. When this occurs remains will be stored in the Cemetery Chapel until spring when weather conditions will allow for burials.
- H. Should it become necessary to make a winter burial, additional charges will be applied by the Township to cover all costs entailed in said burial.
 - 1. If committal services are needed at the Cemetery for winter burials, they will be held in the Cemetery Chapel, not at the grave site.

Section VIII: GROUND MAINTENANCE

- A. The following are special rules for Blocks 1 (one) through 14 (fourteen) which consist of the original Cemetery plat.
 - 1. Because of the hilly terrain in this portion of the cemetery, there will be no prohibition against the construction of curbs to surround lots or the construction of walls for terracing the hillside, providing that such structures must not encroach onto areas of adjacent drives, walkways or of abutting lots. Such construction

must be approved by the Cemetery Sexton.

2. The construction, care and maintenance of these curbs and walls will be the responsibility of the lot owner or their heir who holds the burial rights permit to a given lot.
3. Should it be necessary for the Township Cemetery to repair walls or curbing, the cost of these repairs will be billed to the burial rights permit holder.

B. The following rules apply to Blocks fifteen (15) through twenty-five (25):

1. No grading, leveling or excavating upon a burial space shall be allowed without the permission of the Cemetery Sexton or the Township Board.
2. No shrubs, trees, or vegetation of any type shall be planted without the approval of the Cemetery Sexton or the Township Board. Any of the foregoing items planted without such approval may be removed by the Township or the Cemetery Sexton.
3. Mounds or above ground structures other than memorials are prohibited.
4. Surfaces of other than earth or sod are prohibited.
5. Blocks 21, 23 and 25 are two-space cremain lots.

C. The Township Board reserves the right to remove or trim any trees, plant or shrub located within the cemetery in the interest of maintaining proper appearance, safety and use of the cemetery.

D. The Cemetery Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays or containers that, through decay, deterioration, damage or otherwise, in the Sexton's sole discretion become unsightly, a source of litter, or a maintenance problem.

E. No decoration or display that creates a hazard to maintenance workers will be permitted in the cemetery.

F. All material used for grave decorations such as: flowers, wreaths, paper and flower containers shall, upon removal, be deposited in trash containers located within the cemetery.

G. No dogs are allowed to run loose or unleashed within the cemetery.

H. The disposal of trash, leaves, brush or other refuse from outside the Cemetery is prohibited.

- I. Use of the cemetery for any other than the customary purpose is prohibited. Specifically prohibited are hunting, snowmobiling, the consumption of alcoholic beverages, skateboarding, rollerblading and snow skiing.

Section IX: FORFEITURE OF VACANT CEMETERY LOTS OR BURIAL SPACES

Cemetery lots or burial spaces sold after February 15, 2014, and remaining vacant 40 years from the date of their sale may automatically revert to the Township upon occurrence of the following events:

- A. Notice, as well as a notice published in a local newspaper, shall be sent by the Township Clerk by First Class mail to the last known address of the last owner of record informing him or her of the expiration of the forty (40) year period and that all rights with respect to said lots or spaces may be forfeited if he or she does not affirmatively indicate in writing to the Township Clerk within sixty (60) days from the date of mailing of the written notice of his or her desire to retain said burial rights.
- B. No written response to said notice indicating a desire to retain the Cemetery lots or burial spaces in question is received by the Township Clerk from the last owner of record of said lots or spaces or his or her heirs or legal representative within sixty (60) days from the date of mailing of said notice.
- C. Reverted burial spaces will be sold at current cost.

Section X: RECORDS

The Township Clerk shall maintain records concerning all burials, issuance of burial permits separate and apart from any other records of the Township and the same shall be open to public inspection during all reasonable business hours.

Section XI: VAULTS

All traditional and cremain burials shall be within a standard or oversized concrete, metal, fiberglass or other similar material vault installed in each burial space before interment. *Exception: If an urn is made of metal (e.g., iron, gold, silver, copper and aluminum and alloys such as brass and steel) a vault is not required.*

Section XII: CEMETERY HOURS

- A. The Cemetery shall be open to the general public from the hours of 8:00 a.m. to dusk, from April 1st to October 31st, weather permitting. If the Sexton determines that opening the cemetery could endanger the safety of

visitors, the opening of the Cemetery could be delayed until a later date.

- B. No person shall be permitted in the Township Cemetery during the hours of darkness. When the cemetery gates are locked November through March of each year, persons may walk in to visit gravesites during daytime hours.

Section XIII: AUTHORITY OF THE CEMETERY SEXTON

- A. The Township Board shall appoint a Cemetery Sexton who shall serve at the discretion of the Township Board. The Cemetery Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- B. The Cemetery Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.
- C. The Cemetery Sexton shall have such duties and obligations with regard to the Township Cemetery as may be specified from time to time by the Township Board.

Section XIV: INTERPRETATION/APPEALS TO THE TOWNSHIP BOARD

- A. The Township Board shall have the authority to render binding interpretation 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 is also authorized to waive application of the strict letter of any provision of this Ordinance, or any rule 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 Cemetery Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to the Township Cemetery, rights to a cemetery plot, 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 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 file 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 XV: PENALTIES

A violation of this Ordinance constitutes a municipal civil infraction. 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. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent 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 adjudged 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 XVI: SEVERABILITY

The provisions of the within Ordinance are hereby declared to be severable and should any provision, section, or part thereof be declared 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 such Ordinance which shall continue in full force and effect.

Section 2. Publication. A true copy or a summary of this Ordinance shall be published in the *Oceana's Herald-Journal*, a newspaper of general circulation within the boundaries of the Township qualified under state law to publish legal notices within thirty (30) days after the adoption of the Ordinance by the Township. This Ordinance shall be recorded in the minutes of the Township Board of the meeting at which this Ordinance was adopted and, in addition, shall be recorded in the Ordinance Book of the Township.

Section 3. Effective Date and Repealer. This Ordinance shall become effective thirty days after its publication or thirty days after the publication of a summary of its provisions in a newspaper of general circulation. All Ordinances or parts of ordinances in conflict herewith, including but not limited to Ordinance No. 14-1, are hereby repealed.

AYES: Members: Douglas, Holub, Flynn, Cavazos and Johnson

NAYS: Members: None

ABSTAIN: Members: None

ORDINANCE DECLARED ADOPTED.

Sue Ann Johnson, Township Clerk
Township of Pentwater

STATE OF MICHIGAN)
) ss.
COUNTY OF OCEANA)

I hereby certify that the foregoing is a true and complete copy of the Ordinance adopted by the Township Board of the Township of Pentwater at a regular meeting held on the date first stated above, and I further certify that public notice of such meeting was given as provided by law.

I hereby certify pursuant to MCL 41.184 that Township Ordinance No. 2021-01 or a summary thereof was published in the *Oceana's Herald-Journal* on October 28, 2021.

Dated: 11-3, 2021

Sue Ann Johnson, Clerk
Township of Pentwater