

Township Cemetery Ordinance

PIERSON TOWNSHIP MONTCALM COUNTY, MICHIGAN Ordinance No. 2010-01

An ordinance to protect the public health, safety and general welfare by establishing regulations relating to the operation, control, maintenance and management of cemeteries owned, controlled or operated by the Township of Pierson in Montcalm County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

THE TOWNSHIP OF PIERSON, COUNTY OF MONTCALM, MICHIGAN ORDAINS:

Section 1. Title

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

Section 2. Purpose and Intent

The Pierson Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery owned and controlled by the Township is an important function of the government of the Township. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The Township Board finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the Township.

Section 3. Definitions

(a) A “cemetery plot” shall consist of an area in a Township cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area at least thirty-eight (38) inches wide and ninety-six (96) inches in length. Exceptions may be made with Township permission to accommodate infant burial or the burial of cremains.

(b) “Township” means Pierson Township.

(c) “Township cemetery” or “cemetery” means any cemetery owned, operated and/or controlled by the Township

Section 4. Sale of Cemetery Plots; Nontransferable

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the Township for the purpose of burial for the purchaser of a cemetery plot, his or her immediate family or relative. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the Township Board and signed by the designated Cemetery Administrator, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the designated Cemetery Administrator and shall constitute a permit when approved.
- (c) Cemetery plots may be sold by the Township to any resident or nonresident who discloses sufficient personal reason for burial within the Township through previous residence in the Township or relationship to persons interred in the Township cemetery involved. Any such decision by the Cemetery Administrator (either granting or denying such variance) may be overturned by the Township Board pursuant to Section 23 hereof.
- (d) Cemetery plots are nontransferable without prior written approval by the Township. There will be a \$500.00 fee when transferring a plot from a resident to a non-resident.

Section 5. Purchase Price for Cemetery Plot; Indigent Burials

- (a) Each cemetery plot shall cost the sum of \$50.00 per grave for residents and \$500.00 per grave for non-residents. The lawful owner of any cemetery plot within the Township shall promptly provide the Cemetery Administrator with any change in that owner's mailing address.
- (b) All charges shall be paid to the Township Treasurer.
- (c) The Cemetery Administrator may waive some or all fees for the burial of indigent persons at his/her discretion.
- (d) The Township Board may by resolution periodically alter the foregoing fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Section 6. Grave Opening Charges

- (a) The cost of a grave opening is \$450.00 per grave and \$150.00 for cremains. Such fees shall be set from time to time by resolution of the Township Board, payable to the Township.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the Township Sexton or such other individual as is designated by the Township Board. This subsection B shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the Township Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur

Section 7. Markers or Memorials; No Monuments

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them.
- (b) Except for monuments that existed in a Township cemetery before the effective date of this Ordinance, no monument will be allowed or erected in a cemetery. For purposes of this Ordinance, "monument" shall be defined as any marker, memorial, statue or similar item which exceed thirty (30) inches in height above normal ground level or which has a ground surface area exceeding thirty (30) inches in width (or forty-eight (48) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation. Only one (1) marker or memorial shall be permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial.
- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Sextant. Fees for such work shall be set from time to time by resolution of the Township Board, payable to the Township.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child, two (2) children, or Three (3) cremains
- (b) The Sextant shall be given not less than 48 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the Sextant.
- (c) The appropriate permit or form issued by the health department or funeral home with identification of the person to be buried therein shall be presented to the Township Sexton.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

Section 9. Disinterments

- (a) No disinterment or the digging up of an occupied grave shall occur without a Township disinterment permit and permission of the lot owner or next of kin to the deceased.

Section 10. Grounds Maintenance

- (a) The Township Board reserves 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.
- (b) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus, are prohibited.
- (c) A designated Township Official or Cemetery Administrator shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly.
- (d) No glass containers or items are allowed.

Section 11. Disclaimer of Township Liability and Responsibility

Every person who enters, remains in and travels within a 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 a Township cemetery. Furthermore, the Township is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a Township cemetery.

Section 12. Forfeiture of vacant cemetery plots or burial spaces

Cemetery plots or burial spaces sold after the effective date of this Ordinance and remaining vacant for 60 years or more from the date of their sale shall automatically revert to the Township upon the occurrence of the following events:

- (a) Notice shall be sent by the Cemetery Administrator by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 60-year period and that all rights with respect to said plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the Cemetery Administrator within sixty(60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Cemetery Administrator from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 13. Repurchases of Plots or Burial Spaces

The Township may repurchase any cemetery plot from the owner for a price set by the Township Board, upon the written request of said owner or his/her legal heirs or representatives.

Section 14. Records

The Cemetery Administrator shall maintain records concerning all burials, cemetery plots, issuance of burial certificates, and receipts related to the Township cemetery.

Section 15. Prohibited uses and Activities

The following prohibitions shall apply within the Township cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a Township cemetery.
- (b) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any Township cemetery.
- (c) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc. of any tree or plant within a 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 cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no motorcycles, snowmobiles, four-wheelers, go-carts or similar vehicles.
- (l) There shall be no gathering of persons in excess of 75 people without prior Township approval (except during or incidental to a funeral occurring concurrent with burial).
- (m) There shall be no disinterment or grave openings unless approved by the Township
- (n) There shall be no possession or consumption of any alcoholic beverage.
- (o) There shall be no picnicking or consumption of food without prior Township approval.
- (p) 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 a funeral.

- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles or open flames.
- (v) No children under twelve (12) years of age shall be allowed in any Township cemetery unless accompanied by an adult and are properly supervised by an adult.
- (w) There shall be no exceeding of posted speed limits.
- (x) 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.
- (y) No firearms or archery arrows shall be discharged or shot except that military or other veterans organizations may carry arms for the purpose of firing over the grave at the burial of a member
- (z) No person shall engage in any fight, quarrel or disturbance.
- (aa) Cremains or ashes of a deceased person shall not be scattered or dispersed
- (bb) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.
- (cc) No person shall possess or consume any alcoholic beverage.

Section 16. Authority of the Township Sexton

- (a) The Township Board shall appoint a Township Sexton, who shall serve at the discretion of the Township Board.
- (b) The Township Sexton may be a Township employee or independent contractor for the Township at the discretion of the Township Board.
- (c) The Township Sexton shall assist other Township officials with the enforcement and administration of this Ordinance.

Section 17. Applicability of this Ordinance

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by the Township.
- (b) The provisions of this Ordinance shall not apply to Township officials or their agents or designees involved with the upgrading, maintenance, administration or care of a 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 18. 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 Sexton or any Township official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a 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 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.

Section 19. 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 any Township cemetery in violation of this Ordinance, any Township rule or regulation regarding Township cemeteries, 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 the 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 a 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 a Township cemetery.

Section 20. Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to 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 (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the 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 certificate or certificate condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 21. 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 authority to enforce this Ordinance and to issue municipal civil infraction citations/tickets pursuant to this Ordinance:

- Township Supervisor
- Township Clerk
- Township Sexton
- Township Zoning Administrator
- Township Ordinance Enforcement Officer
- Any deputy of the county sheriff’s department
- Any State Police officer

Section 22. 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 23. Effective Date; Conflicts

This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by Township Board Member Vukin and was seconded by Township Board Member Bryant, the vote being as follows:

YEAS:

NAYS:

ABSENT/ABSTAIN;

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Pierson Township Board at a regular meeting held on January 5, 2010, at the Pierson Township Hall, pursuant to the required statutory procedures.

Dated January 5, 2010

Respectfully submitted,

By _____, Pierson Township Clerk