

# PENINSULA TOWNSHIP CEMETERY ORDINANCE NO. 58 OF 2023

## Section 1. – Title

This article shall be known and cited as the Peninsula Township Cemetery Ordinance.

## Section 2 – Purpose and Intent

The township board recognizes that the proper and reasonable maintenance, appearance, and use of the cemetery or cemeteries owned or controlled by the township is an important governmental function. 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 enforcements of this ordinance are in the best interests of the property owners and residents of the township.

## Section 3 – Definitions

As used in this article, the following words shall have the following definitions:

*Biodegradable Burial Container*, often made of plant or animal fiber, means a casket or shroud capable of being decomposed or biodegraded by bacteria or other living organisms. A container shall not be considered biodegradable if it contains metals, glues, resins, plastics, or other similar synthetic material.

*Burial Rights Permit* is the permit allowing an individual to use a specific area of the cemetery called a plot. While the individual purchases a burial right in an individual plot or plots, the ownership of the plot is not transferred from the township to the individual.

*Cemetery Plot* shall consist of an area in a township cemetery sufficient to accommodate the standard burial of a deceased person. The dimensions of this cemetery plot shall be 6 x 12 feet.

*Columbarium* shall mean a building or structure that is used, or is intended to be used, for the interment or deposit of the cremated remains of deceased persons.

*Green Plot* or *Green Burial* is a type of cemetery plot and shall mean those plots and burials occurring in any such designated area within a township cemetery that are intended exclusively for non-toxic burials that will experience natural decomposition. The dimensions of a green cemetery plot shall be identical to the dimensions of a conventional cemetery plot.

*Non-Resident* shall mean any individual who is not a registered voter of the township and is not qualified to be a registered voter of the township.

*Pet Cemetery* means that area of Peninsula Township Cemetery exclusively set aside for the burial of deceased bodies or cremated remains of cats, dogs, and other small mammals. The dimensions of each pet cemetery plot are 6 x 6 feet.

*Resident* shall mean any individual who is a registered voter or qualified to be a registered voter of the township.

*Township* means Peninsula Township in Grand Traverse County, Michigan.

*Township Cemetery* or *Cemetery* means any cemetery owned, operated, and/or controlled by the township, including but not limited to Ogdensburg Cemetery, Bohemian Cemetery, and Peninsula Township Cemetery, and any such cemetery that the township may establish from time to time.

*Township Sexton* means an employee or independent contractor appointed at the discretion of the township board who shall have those duties and obligations with regard to township cemeteries as assigned by the township board.

*Vault* means a box or container used at the place of interment to permanently surround or enclose a casket, coffin, or other similar container and to support the earth above the casket after burial. A vault does not include a biodegradable burial container.

#### **Section 4 – Sale of Cemetery Permits and Transfer of Permit Ownership**

- (a) Cemetery permits shall be sold to residents and non-residents by the township for the purpose of burying human and/or pet remains only. 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 permits shall be made on a form approved by the township board and signed by the designated township official, 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 township clerk, deputy township clerk, or designated township official and shall constitute a burial rights permit when approved.
- (c) The township board shall have the authority to place a limit on the number of cemetery permits sold. Furthermore, the township shall have the absolute right and discretion to determine which particular cemetery permits are available for purchase in each township cemetery. Such decision shall be based upon reasonable factors, including but not limited to the number of vacant cemetery permits available and whether family or relatives of the person seeking to purchase a cemetery permit are buried adjacent to or near the cemetery permits requested.
- (d) The township shall have the right to correct any errors it may have made without liability to the township concerning interments, disinterments, or in the description, transfer, or conveyance of any burial rights permit, either by canceling the burial rights permit for a particular vacant plot or plots and substituting and conveying in lieu thereof another

vacant plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the permit to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the township shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same township cemetery in accordance with law at no cost to the parties involved and without further liability to the township.

- (e) The owner(s) of every burial rights permit shall be responsible for notifying the township whenever the person's mailing address changes.
- (f) Unused burial rights permits shall become an asset of the owner's estate, and their respective burial right permits must be deeded and/or sold to a family member or the township upon the passing of such owner. Permits that are not deeded and/or sold to a family member must be sold back to the township. **All burial right permits deeded and/or sold must be transferred through the township clerk's office so that township records remain accurate.**
  - a. Burial rights permits sold after the effective date of this ordinance and remaining vacant for 30 years or more from the date of their sale shall automatically revert to the township upon the occurrence of the following events:
    - i. Notice shall be sent by the township clerk by first-class mail to the last known address of the last owner of record informing them of the expiration of the 30-year period and that all rights with respect to said burial space(s) will be forfeited if they do not affirmatively indicate in writing to the township clerk within 60 days from the date of mailing this notice of their desire to retain such burial rights; and
    - ii. No written response to said notice indicating a desire to retain the burial space(s) in question is received by the township clerk from the last owner of record of said space(s), or his/her heirs or legal representative, within 60 days from the date of mailing of said notice.
- (g) Notwithstanding (f) above, any owner of a cemetery burial rights permit who elects to sell any such permit prior to use must sell the permit to the township, which will purchase the same at one-half (50 percent) the applicable current purchase price under Section 5(a) as may be amended from time to time.

### **Section 5 – Purchase Price for Cemetery Permits, Permit Transfers, and Indigent Burials**

- (a) Each cemetery permit and permit transfer shall be sold in accordance with the fee schedule adopted by the township board. The lawful owner of any burial rights permit within the township shall promptly provide the township clerk with any change in that owner's mailing address.

- (b) At its discretion, the township board may waive some or all fees for the burial of indigent persons. Furthermore, at its discretion, the township board may set aside a portion of a township cemetery or cemeteries for the burial of indigent persons.
- (c) The township may, from time to time, alter cemetery rates to accommodate increased maintenance, associated cemetery costs, and other relevant factors.

### **Section 6 – Grave Opening and Closing and Charges**

- (a) No cemetery plot shall be opened or closed except under the direction and control of the township sexton or other township designated person(s), if any. Any such opening, closing, interment, or other access to the plot not exclusively meant for visitation post-burial or interment must be scheduled and coordinated through the township sexton. This subsection shall not apply to any grave opening, disinterment, or similar matter that is done pursuant to a valid court order or at the direction and under the supervision of local, state, or federal authorities. In any case, the township sexton shall be given no fewer than 48 hours' prior notice for any interment and at least seven days' notice prior to any disinterment or removal.
- (b) The township may charge reasonable fees and establish permissible dates and times for the opening and closing of any cemetery plot, prior to and following a burial therein, including the interment of ashes.
- (c) The township cemeteries are open for interments year round for full-body burials and from spring thaw to fall freeze for interment of cremated remains subject to subsection (b) of this section. Such dates and times are subject to change by the township at its reasonable discretion based upon weather, acts of god, factors affecting operation of the cemetery, or other reasonable factors beyond the township's control.
- (d) Interments involving the use of a non-biodegradable casket, coffin, or other similar container shall require the use of a vault. This requirement does not apply to green burials.
- (e) The township sexton and/or township clerk are authorized to make temporary rules concerning township cemeteries in the event of emergencies that are not otherwise covered by the provisions of this ordinance. The temporary rules shall last only for as long as necessary under the circumstances and may be reversed by action of the township board.

### **Section 7 – Markers, Memorials, and Monuments (Excluding Green Section)**

- (a) All markers, memorials, and monuments must be placed on a cement foundation, be

comprised of stone or other durable composition, and face the same direction as the markers and memorials around them. Such markers, memorials, and monuments are limited to one family marker per set of lots/plots and one marker per individual plot.

- (b) All foundations must be approved and installed by the sexton. Foundations shall be flush with the ground and have a four-inch perimeter around the individual marker. In addition, all foundations require a six-inch setback from the edge of the burial plot.
- (c) Generally, individual plantings are not allowed with the exception of spring bulbs, which may be planted at or near a cemetery plot. All other proposed individual plantings must be approved by the sexton and/or maintenance personnel because each individual gravesite has both needs and limitations. Neither the township nor the sexton is responsible for maintaining individual plantings.
- (d) No statues, embellishments, effigies, artifacts, lights, wildlife feeders, wind chimes, flags (with the exception of flags placed for veterans), or artificial decorations of any kind are permitted. Pots or urns of living flowers may be placed immediately beside a headstone but not in front of or behind the headstone.
- (e) The township has no responsibility or liability regarding the repair, maintenance, or upkeep regarding such markers, memorials, urns, or similar items unless damage is caused by said township or its designated employees or contractors.
- (f) Notwithstanding subsection (c) of this section, the general care of the township cemeteries is assumed by the township. This includes the township sexton maintaining the trees and shrubberies that have been left in place or planted by the township.

## **Section 8 – Interment**

- (a) The township sexton shall be given not fewer than 48 hours' notice in advance of any burial to allow for the opening of the cemetery plot unless religious or extenuating circumstances necessitate a shorter notice period. The opening and closing of cemetery plots shall be done only by the township sexton or other person(s) designated by the township.
- (b) The burial rights permit, along with the appropriate permit or form issued by the state or health department for the cemetery plot involved, together with appropriate identification of the person to be buried therein, shall be presented to the township sexton or other designated person(s) of the township prior to the interment. In the event of a lost or destroyed permit or form, the township clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is the appropriate person for that space before any interment is to commence.

- (c) In the event of unforeseen circumstances, the township reserves the right to reschedule any interment it deems necessary to ensure the safety of its employees or agents.
- (d) When multiple permits are owned, the location of interments is designated by the owner(s) or, if the owner(s) is deceased, by the individual or entity with the legal right and power to make decisions concerning the disposition of the deceased individual's remains.

### **Section 9 – Disinterment**

No disinterment or digging up of an occupied grave shall occur until and unless a permit has been obtained in accordance with applicable Michigan law or a valid order of a court of competent jurisdiction and such permit or order is presented to the township.

### **Section 10 – Cremated Remains**

- (a) Cremated remains shall be buried in a container and in a cemetery plot or columbarium within the township cemetery, specifically subject to section 6(a) or section 11, and shall require contact with the township sexton or approval prior to burial as specified in this ordinance.
- (b) No cremated remains shall be scattered or dispersed within a township cemetery.

### **Section 11 – Columbarium Rules and Regulations**

- (a) Upon written request by a resident of the township or by its own initiative, the township board may designate, establish, alter, and reserve areas in a cemetery for use of a columbarium. The township shall have the absolute right and discretion to determine whether to designate, establish, alter, and reserve areas in a cemetery for use of a columbarium. Such decision shall be based upon reasonable factors, including but not limited to the number of burial permits available, an applicant's stated need (if any), the township or public's need (if any), costs related thereto, and the location and size of the proposed columbarium in light of its surroundings, including other burials.
- (b) No columbarium niche shall be used for any other purpose than for the burial of human remains.
- (c) This ordinance's regulations concerning cemetery plots related to the sale and transfer thereof, opening and closing, and interment and disinterment shall apply generally to columbariums approved under this section 11.

## Section 12 – Additional Rules and Regulations for Green Burials and Associated Plots

- (a) Green burials will only be allowed in a township cemetery in areas designed by the township board. Landscape in such designated areas will be minimally maintained, and a rough, unpaved walkway through sections will be minimally maintained for use by burial equipment, passenger vehicles, and pedestrians.
- (b) All materials for a green burial, including but not limited to clothing and mementos, must be biodegradable, with the exception of non-biodegradable medical implants. Conventionally embalmed bodies are prohibited.
- (c) Permanent grave markers are permitted for green burials and associated plots. Notwithstanding any other provision of this ordinance, markers for green plots must not exceed 10 x 20 inches for a single marker or 12 x 30 inches for two people. These markers must lie flush with the ground and be constructed of granite. Green burial plot markers may be engraved but must remain simple in appearance. The final location and appearance of a marker is subject to the sexton's approval.
- (d) No enclosure of any kind, such as fences, copings, hedges, or ditches, shall be allowed around any green plots. Planting trees, shrubs, or other individual plantings shall be prohibited unless approved pursuant to section 7(c) of this ordinance. Packets of native wildflower seeds may be sprinkled onto the grave in the green section at the time of interment if desired. *Only native wildflower seeds are allowed.* All seed packets must be approved by the sexton before being sprinkled. No statues, embellishments, effigies, artifacts, lights, wildlife feeders, wind chimes, flags, or artificial decorations of any kind will be permitted unless erected by the township.
- (e) Vaults are prohibited in green plots. Green burials shall require a biodegradable burial container. Remains shall be wrapped in a shroud, quilt, or blanket and/or placed in a container that includes a board, integrated or separate, for stability. Shrouds, quilts, and blankets used for burial without a casket shall have a natural wood backer (plywood and OSB are not acceptable) no less than one-half-inch thick and the length of the body in order to stabilize the descent during the burial process.
- (f) If an owner of a burial right in a green plot is not permitted by state law or this ordinance to use or be interred in a green plot, the owner or his or her agent may sell the green burial right back to the township consistent with section 4(g) of this ordinance.

## Section 13 – Disclaimer of Township Liability

Individuals who enter, remain in, and travel within a township cemetery do so at their own risk. The township is not responsible for any injury, accident, property damage, or other damage 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 marker, columbarium, monument, memorial, or other item placed at or near a cemetery plot, burial site,

or anywhere in a township cemetery. The purchaser or transferee of any cemetery burial right or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries of the same) hereby releases, waives, indemnifies, and holds harmless the township for, from, and against any injury, damages, causes of action, claims, costs, and expenses associated with, relating to, and/or involving the cemetery burial right or similar right, any headstone, any columbarium, any monument, or similar items, and any matter related to the cemetery involved. Such waiver, release, and hold harmless provision shall apply to both the township and its employees, offices, elected or appointed officials or representatives, boards or committees, and agents.

#### **Section 14 – Prohibited Uses and Activities**

The following prohibitions shall apply within any township cemetery:

- (a) No person shall destroy, deface, apply graffiti to, or otherwise damage, injure, or remove any columbarium, monument, marker, memorial, 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 automobile, truck, or any vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery. Vehicles shall be permitted to drive only on the designated roads or drives established in each cemetery except for the purpose of maintenance or authorization by the cemetery sexton.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed except as indicated in section 15.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no interment, disinterment, or grave opening unless approved by the township sexton or other designated township person(s).
- (g) There shall be no possession or consumption of any alcoholic beverage, illicit drugs, or controlled substances on cemetery property.
- (h) There shall be no littering or dumping. Any and all waste shall be placed in conveniently located receptacles.
- (i) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (j) No person shall engage in any fight, quarrel, or disturbance on cemetery property.
- (k) Any and all conduct unbecoming of a sacred place is prohibited.



- (l) Mausoleum(s), above ground casket(s), columbarium(s), and other similar markers or burial options in style or use are prohibited unless approved by the township board.

### **Section 15 – Cemetery Hours**

Unless otherwise specified by the township board by resolution, all township cemeteries shall be open from dawn until dusk. Such prohibition on being present in a township cemetery during the time when a township cemetery is closed shall not apply to any township official, a person accompanied by a township official, a person having been granted written permission by the township to enter, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

### **Section 16 – Perpetual Care**

One-half of the revenues resulting from the sale of cemetery burial rights shall be placed in a perpetual care fund. The township board may authorize the township treasurer to faithfully invest the monies contained in the perpetual care fund in accordance with the law. The revenues deposited in the perpetual care fund and the interest earned thereon shall be expended for the perpetual care, maintenance, and improvement to township cemeteries by or under the direction of the township board.

### **Section 17 – Applicability**

This ordinance shall apply only to township cemeteries, i.e., those cemeteries owned, controlled, or operated by the township. The provisions of this ordinance shall not apply to township officials or their agents involved in the upgrade, maintenance, administration, or care of a township cemetery.

### **Section 18 – Waiver**

- (a) The township clerk is 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. An individual seeking a waiver pursuant to this section must satisfy the following requirements:
  - i. The problem is unique to the individual and not shared by others.
  - ii. A grant of a waiver would do substantial relief to the individual.
  - iii. A grant of a waiver would not unreasonably adversely affect other cemetery plots.

- iv. A waiver can be granted in such fashion that the spirit of this ordinance will be observed and public safety and welfare secured.
- (b) Any party aggrieved by a decision made 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 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 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. The township board may set a fee for such appeal in accordance with the fee schedule adopted by the township board.

### **Section 19 – Penalties**

Violation of this ordinance shall be a municipal civil infraction punishable, upon conviction, as follows:

- (a) Any person who violates any provision of this ordinance, or any rule or regulation adopted or issued pursuant thereto, shall be responsible for a municipal civil infraction and subject to a civil fine of not less than \$500.00 for the first offense and not less than \$500.00 for subsequent offenses, plus costs, which may include all direct or indirect expenses the township has incurred in connection with the violation, including attorney's fees, or by imprisonment for a term not exceeding 90 days, or both. Each act of violation and every day upon which any such violation shall occur shall constitute a new and separate offense.
- (b) In addition to the penalties provided by subsection (a) of this section, the township may enjoin or abate any violation of this ordinance by appropriate action as authorized under Michigan law.
- (c) A violation includes any act that is prohibited or made or declared to be unlawful by this ordinance and any omission or failure to act where the ordinance requires such action.

### **Section 20 – Township Official Enforcement**

Unless otherwise specified by the township board by resolution, the following officials or officers have the authority to enforce this ordinance and to issue municipal civil tickets/citations pursuant to the same:

- The township ordinance enforcement officer, the director of planning and zoning, and the zoning administrator
- Any Grand Traverse County sheriff, Grand Traverse County deputy sheriff, or Michigan State police trooper


Ordinance effective on \_\_\_\_\_ upon being signed below.


\_\_\_\_\_  
Isaiah Wunsch, Township Supervisor

\_\_\_\_\_  
Rebecca Chown, Township Clerk

- The township ordinance enforcement officer, the director of planning and zoning, and the zoning administrator
- Any Grand Traverse County sheriff, Grand Traverse County deputy sheriff, or Michigan State police trooper

Ordinance effective on September 15, 2023 upon being signed below.

  
Isaiah Wunsch, Township Supervisor

  
Rebecca Chown, Township Clerk