

**PINCONNING TOWNSHIP  
BAY COUNTY, MICHIGAN  
CEMETERY ORDINANCE**

Ordinance No. 22-01

At a duly scheduled meeting of the Township Board of Pinconning Township, Bay County, Michigan, held at the Pinconning Township Hall on April 12, 2022, at 4 p.m., Township Board Member Whitney moved to introduce the following Ordinance, which motion was seconded by Township Board Member Hribek:

*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 Pinconning, Bay County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.*

PINCONNING TOWNSHIP, COUNTY OF BAY, MICHIGAN ORDAINS:

**SECTION 1. TITLE.** This Ordinance shall be known and cited as the "Pinconning Township Cemetery Ordinance."

**SECTION 2. PURPOSE AND INTENT.** The Township is authorized under the Cemetery or Burial Grounds Act, Act 215 of 1937 to own or control cemetery or burial grounds and to provide for perpetual care and maintenance. The Pinconning Township Board recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned, controlled, or operated by the Township is an important function of the government of the Township. It is also important that burials, disinterment's and other matters associated with these cemeteries 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.**

**BURIAL SPACE** means a portion of a Cemetery designed and intended for the interment of human bodies or of a human body, or the cremains of a human body, but not used for such purpose. It shall be an area in a Township Cemetery sufficient to accommodate:

- a. An Infant Space;
- b. One deceased adult;
- c. One deceased adult and an infant buried at the same time;
- d. One deceased adult and two (2) cremains;
- e. Up to six (6) cremains; or
- f. Two (2) children buried at the same time.

**BURIAL PLOT** means a Burial Space that has been used for the interment of human bodies or of a human body, or the cremains of a human body, which has been used for such purpose.

**CEMETERY** means any Cemetery owned, managed or controlled by the Township.

**“NEW” CEMETERY** means the Cemetery located at Parcel No. 120-026-200-080-00 on E Pinconning Road.

**“OLD CEMETERY”** Closed for burial

**CEMETERY SEXTON** means the person appointed by the Township Board to be responsible for the maintenance of the cemetery grounds, ground preparation before and after Interment, setting or coordinating gravestone Foundations or enforcement of this Ordinance or any cemetery rules and regulations.

**CREMAINS** means cremated human remains.

**DISINTERMENT** means the authorized digging up, disinterring, removing, or conveying away a human body, or the remains or cremains thereof, from the place where the body had been interred.

**FOUNDATION** means a concrete structure that supports a Marker.

**HOLIDAY** means Memorial Day, Independence Day, Labor Day, Thanksgiving, Christmas, New Year’s Day and Election Days.

**IMMEDIATE FAMILY** means a spouse, parent, grandparent, great-grandparents, children, grandchildren and great-grandchildren of the Original Space Owner(s).

**INFANT SPACE** means a Burial Space or Burial Plot consisting of a land area at least three feet wide (3) and three and a half feet (3 ½ feet) long in an area set aside specifically for the burial of an infant or at the foot of a parent or relative.

**INTERMENT** means the burial of the remains of a deceased person, or the remains or cremains thereof.

**MARKER** means headstone, tombstone, gravestone, memorial, or bench used for marking purposes.

**MONUMENT** means any marker, memorial, statue, or similar item 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 more than thirty (30) inches above ground level, including the foundation, such as but not limited to mausoleums.

**ORIGINAL SPACE OWNER(S)** means the purchaser of a Burial Space from the Township.



**PRIVATE BURIAL GROUND** means a burial ground located within the Township not owned, managed or controlled by the Township.

**RESIDENT** means a person whose true, fixed and permanent home is in the Township to which he or she has the intention of returning whenever he or she is absent and where or she exercises his or her voting rights.

**TOWNSHIP, TOWNSHIP CLERK, or TOWNSHIP BOARD** means Pinconning Township, Bay County, Michigan, the Pinconning Township Clerk or the Pinconning Township Board, respectively.

**SECTION 4. ORDINANCE APPLICABILITY.** All Burial Spaces, Burial Plots, Interment, Disinterments and reinterments in a Township Cemetery shall be subject to this Ordinance and any rules and regulations adopted by the Township Board.

**SECTION 5. SALE, TRANSFER, OR REPURCHASE OF BURIAL SPACES.** After the effective date of this Ordinance, Burial Spaces within Township Cemeteries shall be sold or transferred in accordance with the following provisions:

- A. As of the effective date of this Ordinance, Burial Spaces may only be sold in the New Cemetery. Burial Spaces are to be sold in areas in the New Cemetery designated by the Cemetery Sexton and approved by the Township Clerk.
- B. Burial Spaces shall be sold only to eligible purchasers with appropriate documentation. Eligible purchasers shall include Township residents and immediate family of an original space owner(s). Appropriate documentation includes, but is not limited to: driver's license or identification issued by the State of Michigan, utility bill showing name, address, and date, voter registration records, and other documentation as approved by the Clerk.
- C. The Township Board is granted the authority to waive the eligibility restrictions on sales of Burial Spaces found in this Section of the Ordinance where the purchaser discloses enough personal reason(s) for burial within a Township Cemetery.
- D. The sale of a Burial Space grants only a right of Interment and does not convey absolute title to the Burial Space or any other interest in real property.
- E. The Pinconning Township Board of shall have the authority to place a limit on the number of Burial Spaces sold to a particular person, where such Burial Space(s) will be located, and within which Township Cemetery they will be located. Such decision shall be based upon reasonable factors, including, but not limited to: the number of vacant Burial Spaces available, and whether family or relatives of the person seeking to purchase the Burial Space(s) are buried adjacent or nearby the Burial Space(s) requested.
- F. No sale for a Burial Space shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.



- G. All Burial Space sales shall be recorded on a Cemetery Space Certificate form approved by the Township Board and signed by the Township Clerk. This grants a right of Interment only and does not convey any other title or right to the Burial Space sold. A copy of this Certificate will be given to the purchaser and a copy will be retained in the Township records.
- H. The right to be Interred in a Burial Space or to assign the right to another to be Interred in a Burial Space rests with the holder of the Cemetery Space Certificate for the specified Burial Space. To transfer the right of Interment:
  - i. The Certificate holder, or the heirs, or representative of the Certificate holder if original holder is deceased or incapacitated, of any space shall first submit the appropriate form, appropriate documentation, and fee showing their right to ownership of a Burial Space(s) to the Township Clerk;
  - ii. After right of ownership over a Burial Space(s) has been established, transfer may be affected by the Township Clerk's endorsement on an assignment of the original Cemetery Space Certificate, or other original burial permit, through a Burial Space Assignment Form, which shall be entered upon the Township's official records by the Clerk;
  - iii. Upon such assignment, endorsement and record, the Township Clerk shall issue a new Cemetery Space Certificate in the new holder's name.
  - iv. Any transfers not approved by the Township Clerk will not be recognized.
  - v. The cost for the transfer of ownership and preparation of a new ownership Certificate will be charged according to a fee structure as provided by Section 7 of this Ordinance. This fee may be waived by the Township Clerk, with the Township Board's approval.
- I. The Certificate holder of a Burial Space(s) shall be responsible for notifying the Township whenever that person's mailing address changes.
- J. The Township shall have the right to correct any errors that may be made concerning the description, transfer or conveyance of any Burial Space, either by cancelling the Cemetery Space Certificate for a particular Burial Space(s), and substituting and conveying in lieu thereof another Burial Space(s) within the Cemetery at issue, or by refunding the money paid for the Burial Space to the Original Space Purchaser(s) or the successor(s) of the purchaser.
- K. The Township may repurchase any Burial Spaces from the holder of a Cemetery Space Certificate or any other burial permit for a Burial Space within a Township Cemetery. The person(s) claiming ownership of the Burial Space(s) must submit the appropriate form, documentation, and any other requirements, to show proof of ownership. The cost of repurchase will be charged according to a fee structure as provided by Section 7 of this Ordinance. This Subsection shall not be construed to require the Township to repurchase Burial Spaces but, be given first the right to buy them back at their cost at time of purchase.

## **SECTION 6. INTERMENT, DISINTERMENT AND REINTERMENT.**

- A. No Burial Space shall be opened or closed, or be used for Interment, Disinterment or reinterment except under the direction, control, and supervision of the Cemetery Sexton or



any other individual as designated by the Township Board. This provision shall not apply for proceedings for the Disinterment and reinterment of bodies and remains which are under the supervision of the local health department or a court order.

- B. The Cemetery Sexton shall be given not less than thirty-six (36) hours prior notice in advance of any opening of a Burial Space, regardless of the reason for the opening of the Burial Space. Arrangements for the opening of a Burial Space shall be made for any day except Saturdays, Sundays, or a holiday. These restrictions may be waived at the discretion of the Cemetery Sexton.
- C. The appropriate Cemetery Space Certificate and any other burial permit, or state permit, together with appropriate identification of the person to be buried therein if an Interment is taking place, where necessary, shall be presented to the Cemetery Sexton and the Township Clerk prior to the opening or Internment.
  - i. If a Burial Space is being opened for an Internment, the Cemetery Space Certificate's heirs or representative shall submit appropriate documentation showing the right to ownership of a Burial Space(s) to the Township Clerk. Where such documentation has been lost or destroyed, the Township Clerk must be satisfied, from his or her records, that the deceased person to be buried in the burial space is an authorized and appropriate person for that space before any interment is commenced or completed.
- D. The Township may charge reasonable fees for the opening and closing of any Burial Space, as well as for Interment, Disinterment or reinterment. Such fees shall be set as provided by Section 7 of this Ordinance. The Township may charge additional fees for winter burials.
- E. Burial in a Cemetery shall be within a standard funeral-director-approved durable vault installed or constructed in each Burial Space before Interment.
  - i. A vault is not required under this Subsection for cremains, but is allowed with the consent of the Cemetery Sexton. A vault for cremains may be required as determined by the Sexton or the Township Board. If a vault is not used, cremains shall be in a container provided by the crematory or a reputable cremains container provider, or approved by the Cemetery Sexton.
- F. Cremains may be Interred above ground in the Columbarium, in an appropriate sealed container and secured in a marker designed to hold cremains. The fee for this service will be determined by the Township Board as provided in Section 7 of this Ordinance.
- G. No cremains shall be scattered or dispersed within a Township Cemetery.
- H. No disinterment shall occur until and unless any and all permits, licenses, and written authorizations required by law for such disinterment have been obtained from an applicable state or county agency, governmental unit or official, or family member(s), and a copy of the same has been filed with the Township. The Township Board shall have the authority to refuse to allow a disinterment of a Burial Plot if the disinterment is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.



- I. Arrangements during extreme weather conditions will be at the discretion of the Cemetery Sexton. If a winter burial cannot occur due to inclement weather, frozen ground, or similar conditions, the Cemetery Sexton shall obtain written authorization for delayed interment signed by the next of kin or authorized agent. The authorization shall specify the appropriate hour and date of interment and place of temporary storage. Alternate storage arrangements, costs, transportation, and any other requirements are the responsibility of the next of kin, authorized agent, estate, or heir.

**SECTION 7. FEES.** All fees related to the administration of this Ordinance, including without limitation the fees for the purchase, opening, or closing of a Burial Space, Interment, Cemetery Space Certificate, transfer, repurchase, Foundation, cremains, or Disinterment, shall be established by resolution of the Township Board. The Township Board, by resolution, may periodically alter the fees to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition. The fees shall be paid to the Township Treasurer and shall be deposited in the cemetery general fund. All fees must be paid in full to the Township before purchase, opening, or closing of a Burial Space, delivery of a Cemetery Space Certificate, Interment, transfer, repurchase, Foundation, cremains, or Disinterment, or any other action requiring a fee be paid under this Ordinance. The cost and payment for perpetual care shall not apply to this provision of the Ordinance.

#### **SECTION 9. FORFEITURE OF VACANT BURIAL SPACES.**

Burial Spaces sold after the effective date of this Ordinance and remaining vacant for forty (40) 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 40-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 sixty (60) days from the date of mailing of such 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 sixty (60) days from the date of mailing of said notice.

**SECTION 10. CEMETERY GENERAL FUND.** In accordance with the Township's duty to provide care and maintenance to its Township Cemeteries, the Township shall establish a cemetery general fund. Any fees owed and paid under this Ordinance shall be deposited in the cemetery general fund as provided by Section 7 of this Ordinance.

**SECTION 11. FOUNDATION AND MARKERS.** Except for Markers existing in a Township Cemetery before the effective date of this Ordinance, all Markers must conform to the following provisions:

- A. No Marker may be installed, moved, altered, or removed at any Cemetery until the Cemetery Sexton has been notified by the individual(s) requesting a Foundation to be prepared and the Foundation has been installed.
  - i. The Foundation shall be constructed by the Township. The Township may charge reasonable fees for the construction of the Foundation. Such fees shall be set as provided by Section 7 of this Ordinance.
  - ii. All Foundations shall extend three (3) inches beyond the base of the Marker.
  - iii. Foundations for a Marker shall be twelve (12) inches thick, with corner piers. They shall extend a minimum of three (3) inches around each side of the Marker.
- B. All Markers in a Township Cemetery shall be comprised of stone or other equally durable composition and shall face the same direction as the Markers around them.
- C. A Monument and other similar markers or burial options in style or use, are prohibited unless approved by the Township Board.
- D. One (1) Marker shall be permitted per Burial Space or Burial Plot. The Marker shall be no more than 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.
  - i. One (1) Marker shall be permitted where there are two (2) adjoining Burial Spaces, i.e. a double Marker. The Marker permitted on two (2) adjoining Burial Spaces shall not exceed forty-eight (48) inches in width and shall not exceed an overall height of no more than thirty (30) inches above ground level, including the Foundation.
- E. Markers for cremains or Markers placed flush with the ground shall be no more than twelve (12) inches by twenty-four (24) inches in size.
- F. Before a Marker is placed, the proper form and documentation must be submitted to the Cemetery Sexton or Township Clerk.
- G. A Marker will be allowed on a Burial Space where there is no remains or cremains buried. The name(s) of the individual(s) to be buried in the Burial Space must be on the Marker. If not placed before interment, a Marker must be placed on the Burial Plot within one (1) year of interment.



**SECTION 12. RECORDS.** The Township Clerk shall maintain records concerning all issuances of Cemetery Space Certificates, or other burial permits or assignments relating to burial rights in a Burial Space or Plot, Internments, disinterment and reinterments, any perpetual care fund, and other cemetery-related documents separate and apart from any other records of the Township. These same records shall be open to public inspection at all reasonable business hours.

**SECTION 13. GENERAL RULES AND PROHIBITIONS.**

- A. Township Cemeteries shall be open to the public from the hours of 8:00 a.m. to 8:00 p.m. each day. No person shall enter, be present, or be permitted to enter the Township Cemeteries at any other time other than the foregoing hours, except when accompanied by the Cemetery Sexton or other Township official, any law enforcement or firefighting official when engaged in the lawful duties of any such office or position, or a person who has been provided written permission by the Township Board, Township Clerk, or Cemetery Sexton.
- B. All labor and work performed in conjunction with maintenance, construction, repairs and improvements on the grounds of the Cemetery of any kind and nature shall be performed by the persons designated by the Township Board.
- C. All of the following are prohibited from taking place within any Township Cemetery:
  - i. Vandalizing, Destruction, defacing, applying of graffiti to, cutting, or otherwise injuring to any Marker, Monument, sign, tree, plant, or other cemetery property;
  - ii. Disturbing of the peace or unreasonably annoying, harassing, or disturbing any other person who is lawfully present on the grounds of any Township Cemetery;
  - iii. Unlawful interference with or disruption of a lawful funeral or funeral procession;
  - iv. Playing of music, a radio, or the use of any amplification device or similar item, except pursuant to a funeral or a military ceremony;
  - v. Driving of any vehicle on any portion of a Cemetery except the designated roads or drives except by the Cemetery Sexton or other authorized person for the purpose of cemetery services;
  - vi. Exceeding of posted speed limits;
  - vii. Use of recreational vehicles such as motorcycles, snowmobiles, four-wheelers, go-carts, golf carts, or similar vehicles;
  - viii. Possession or consumption of any alcoholic beverage;
  - ix. Picnicking or consumption of food without prior Township approval in a Cemetery;
  - x. Littering or dumping;
  - xi. Solicitation or peddling of services or goods;
  - xii. Fires, candles, smoking, or open flames;
  - xiii. Children under twelve (12) years of age unless accompanied by an adult;



- xiv. Domestic animals or pets, except as permitted under Michigan and federal law;
- xv. Use or discharge of firearms or archery arrows, except by military personal or other veterans' organization in connection with military burials or by a duly authorized police officer.

#### **SECTION 14. PRIVATE BURIAL GROUNDS**

- A. Private Burial Grounds must be established according to state and local law, including but not limited to receiving approval from the local health department, prior to any body being interred there.
- B. Private Burial Grounds are permitted only insofar as the Township Zoning Ordinance permits.

#### **SECTION 15. INTERPRETATIONS.**

- 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. An individual seeking a waiver pursuant to this Section must satisfy the following requirements:
  - a. The problem is unique to the individual, and not shared by others.
  - b. A grant of a waiver would do substantial relief to the individual.
  - c. A grant of a waiver would not unreasonably, adversely affect other Burial Spaces or Plots.
  - d. 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 any interpretation or 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 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. The Township Board may set a fee for such appeal as provided by Section 7 of this Ordinance.

#### **SECTION 16. ENFORCEMENT AND PENALTIES.**

- A. The Township Supervisor, Cemetery Sexton, Township Zoning Administrator, or Township Code Enforcement Officer, police officer or other personnel authorized by the Township shall be authorized to issue municipal civil infraction citations or municipal civil infraction notices.
- B. Any person, firm, or corporation who violates any of the provisions of this Ordinance is responsible for a municipal civil infraction and is subject to a civil fine of not less than \$100.00 for the first offense and not less than \$200.00 for subsequent offenses, plus costs, which may include all direct or indirect expenses which the Township has incurred in connection with the violation, including attorney's fees. A violation of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as authorized under Michigan 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.

**SECTION 17. 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 18. EFFECTIVE DATE.** This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper.

**SECTION 19. REPEAL.** All ordinances or parts of ordinances in conflict herewith are hereby repealed, including Ordinance No. 14-02 adopted November 25, 2014.

On a roll call vote:

YEAS: 4  
NAYS: 0  
ABSENT/ABSTAIN: 0



ORDINANCE DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify that:

1. The above is a true copy of the said ordinance, adopted by the Pinconning Township Board at a duly scheduled and noticed meeting of that Township Board held on 4, 12, 2022, pursuant to the required statutory procedures.

2. A summary of this ordinance was duly published in the Pinconning Journal, a newspaper that circulates within Pinconning Township, on 4/10, 2022.

3. Within 1 week after such publication, I recorded this ordinance in a book of ordinances kept by me for that purpose, including the date of passage of the ordinance, the names of the members of the township board voting, and how each member voted.

4. I filed an attested copy of this ordinance with the Bay County Clerk on \_\_\_\_\_, 2022.

Beverlene Hrubek  
\_\_\_\_\_, Pinconning Township Clerk

**PINCONNING TOWNSHIP  
BAY COUNTY, MICHIGAN**

**NOTICE OF ADOPTION OF THE PINCONNING  
TOWNSHIP CEMETERY ORDINANCE**

**ORDINANCE NO. 22-01**

On April 12, 2022, the Township Board of Pinconning Township adopted Ordinance No. 22-01, which establishes regulations relating to the operation, control, maintenance and management of cemeteries owned, controlled or operated by the Township of Pinconning, Bay County, Michigan, provides penalties for the violation of said ordinance, and repeals all ordinances or parts of ordinances in conflict therewith.

The Ordinance has the following sections and catch lines: Section 1. Title, which is the Pinconning Township Cemetery Ordinance; Section 2. Purpose and Intent; Section 3. Definitions; Section 4. Ordinance Applicability; Section 5. Sale, Transfer, or Repurchase of Burial Spaces; Section 6. Interment, Disinterment, and Reinterment; Section 7. Fees; Section 8. Indigent Persons; Section 9. Forfeiture of Vacant Burial Spaces; Section 10. Cemetery General Fund; Section 11. Perpetual Care; Section 12. Foundation and Markers; Section 13. Cemetery Maintenance and Decorations; Section 14. Records; Section 15. General Rules and Prohibitions; Section 16. Private Burial Grounds; Section 17. Interpretations; Section 18. Enforcement and Penalties; Section 19. Severability; Section 20. Effective Date, which is thirty (30) after publication of this notice; and Section 21. Repeal.

Copies of the complete text of the Ordinance are available at the Township Hall, located at 1751 Cody Estey Rd., Pinconning, MI 48650.

Published by order of the Township Board  
Beverlene Hribek  
Pinconning Township Clerk  
Phone: 989-879-4018

Publication Date: 4/20/, 2022