

PORT SHELDON TOWNSHIP
OTTAWA COUNTY, MICHIGAN

ORDINANCE NO. 2018-01

2018 RESTATED CEMETERY ORDINANCE

AN ORDINANCE TO AMEND AND RESTATE IN ITS ENTIRETY THE PORT SHELDON TOWNSHIP CEMETERY ORDINANCE (ORDINANCE NO. 2005-02), AS AMENDED, BEING AN ORDINANCE TO PROTECT THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE BY ESTABLISHING REGULATIONS RELATING TO THE OPERATION, CONTROL AND MANAGEMENT OF CEMETERIES OWNED BY THE TOWNSHIP OF PORT SHELDON, OTTAWA COUNTY, MICHIGAN; TO PROVIDE PENALTIES FOR THE VIOLATION OF THE ORDINANCE; AND TO REPEAL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE.

THE TOWNSHIP OF PORT SHELDON, OTTAWA COUNTY, MICHIGAN, ORDAINS:

Section 1. Title.

This Ordinance shall be known as the Port Sheldon Township Cemetery Ordinance.

Section 2. Definitions.

For purposes of this Ordinance, the following terms shall have the following definitions:

- A. Babyland. An area of the Cemetery designated exclusively for the burial of children less than three years of age and including stillborns.
- B. Burial right. The right of burial in a grave site or cremains space in the Cemetery.
- C. Cemetery. Any cemetery owned and operated by the Township.
- D. Cremains space. An area of land four feet wide and three feet long for the burial of the remains of a human body after cremation.
- E. Family monument or family marker. A monument or marker for burials of deceased family members where two or more adjoining grave sites are purchased for such use.
- F. Grave site. An area of land four feet wide and nine feet long, except in Babyland in which a grave site shall be four feet wide and four and one-half feet long, for the interment/burial as provided in Section 7.A.

- G. Marker. A memorial made of durable granite, marble or bronze which is level with the ground surface of a grave site or cremains space. A marker shall not include any temporary or permanent vase or ornament or similar item.
- H. Monument. A tombstone, headstone or grave memorial made of durable granite or marble that extends above the level of the ground surface of a grave site. A monument shall not include any temporary or permanent vase or ornament or similar item.
- I. Purchaser. A natural person acquiring a burial right in the Cemetery by agreement and purchase from the Township. A purchaser shall also include any permitted transferee of a burial right.
- J. Sexton. The person duly appointed by the Township Board to serve in the capacity of Cemetery Sexton, or in the case of a vacancy or a failure to appoint a Sexton, the term shall mean the Township Supervisor.
- K. Township. The Township of Port Sheldon.

Section 3. Designation of Cemetery Areas.

The Township Board, from time to time by resolution, may designate, establish, alter and reserve areas in the Cemetery for use for a Babyland, for cremains spaces only, for grave sites with monuments only, and for grave sites with markers only.

Section 4. Sale of Burial Rights.

The sale of a burial right shall be made on the form approved by the Township Board, which form shall include without limitation, the name of the purchaser, resident, owner of real property in the Township, or nonresident status, and the specific grave site or cremains space acquired under the burial right. Such form shall be signed by the purchaser and by the Township Clerk on behalf of the Township. Any such sale is subject to the following regulations and restrictions:

- A. The burial rights may be used only for the burial of one of the following:
 - i. The purchaser, or
 - ii. The purchaser's spouse, parents, children, grandchildren, and a spouse of a child or grandchild.

A purchaser may acquire more than one grave site or cremains space to provide for those listed in 4.A.ii above; however, each grave site or cremains space shall require a separate purchase of a burial right.

- B. No sale of burial rights shall be made to funeral directors in their role as funeral directors. Any sale to a funeral director shall be to the funeral director as an individual, to provide for burial of those listed in 4.A.i and ii.
- C. The sale of a burial right does not convey any title to, ownership of, or property interest in the grave site or cremains space; only a right of burial is granted.
- D. The completed purchase form shall constitute a burial permit for the burial of an eligible deceased person or of cremated remains of an eligible deceased person. The original burial permit shall be delivered to the purchaser and the Township Clerk shall retain a copy in the Township records.

Section 5. Transfer of Burial Rights.

A burial right may be transferred. A transfer may be effected only upon the written approval of the Township Clerk after receiving a written transfer request signed by the current owner of the burial right and the proposed transferee. The original burial permit shall be submitted with the request, along with the payment of the transfer fee as well as the payment of an adjusted fee if current owner is resident or property owner in the Township and transferring to a non-resident, non-property owner at the fee schedule amount in effect at time of transfer. Upon approval, the Township Clerk shall note the transfer on the original burial permit, shall attach the written transfer request and approval to the original burial permit, shall enter the transfer in the official records of the Township Clerk, and shall issue a new burial permit form to the transferee purchase.

Section 6. Purchase Price and Transfer Fees.

To provide for costs of acquisition, construction, administration, operation, and maintenance, the Township Board, from time to time, shall establish by resolution a schedule of prices and fees for the purchase of a burial right, for the transfer of a burial right, for the renewal of a burial right, for the opening and closing of a grave site or cremains space (includes disinterment, removal or reinterment), and for the repurchase of burial rights.

The purchase price and all fees shall be paid in full at the time of purchase, transfer, or grave site or cremains opening, as the case may be. Payments shall be made to the Township Treasurer and shall be deposited in the general fund of the Township.

Section 7. Regulations for Burial.

- A. A grave site shall be used for only one of the following:
 - i. The burial of one deceased person.
 - ii. The burial of one deceased person and the cremated remains of one deceased person.
 - iii. The cremated remains of two deceased persons.

- iv. A mother and her child (children) who die at childbirth.
 - v. Multiple births who are stillborn.
- B. A cremains space shall be used for only one of the following:
- i. The cremated remains of one deceased person.
 - ii. The cremated remains of two deceased persons.
- C. Burial in a grave site shall be with a standard concrete vault installed before burial; except as provided in Section 7.D.
- D. Cremated remains shall be in a properly sealed container for the burial.
- E. Burials in grave sites or cremains spaces, disinterments and removals, and related services shall be prohibited on Sundays and the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve Day, and Christmas Day. Burials, disinterments and removals, and related services held or conducted after 3:00 p.m. Monday through Friday or on a Saturday may be subject to an additional fee established from time to time by Township Board resolution.
- F. Due to the potential for inclement weather, concern for the safety of persons attending burial services, snow-removal requirements, and other related considerations, no burials and related services are permitted from December 1 through March 1, except as may be approved by the Sexton in the Sexton's discretion. In deciding whether to grant or deny a request, the Sexton may consider the following factors: weather conditions, site conditions, including snow cover and ground frost, the ability to accurately locate the grave site or cremains space, the snow-plowing requirement, and the safety of persons attending the burial services. The Township may charge an additional fee as established from time to time by resolution for burials during such months. Further, at other times of the year, the Sexton may deny a request for burial and/or services, where weather and site conditions present health and safety concerns or the potential for damage to the Cemetery.
- G. Not less than 36 hours' notice shall be given in advance of the time requested for burial to allow adequate time to open the grave site or cremains space. Such notice shall be given to the Township Clerk or the Township Sexton and, prior to the date of burial, the Township Clerk must be provided with the burial permit for the grave site or cremains space, together with a Certificate of Death of the deceased person to be buried. The Township Clerk shall be satisfied that the deceased persons is eligible for burial in the grave site or cremains space and shall notify the person promptly of any determination that the burial is unauthorized. In the event that the

original burial permit of the purchaser has been lost or destroyed, the Township Clerk may consult the Township records to determine the eligibility for such burial.

- H. Except as to proceedings for the removal, exhumation, and reinterment under supervision of the local health department or under court order, no grave site or cremations space shall be opened or closed without the direction and control of the Township Sexton.

Section 8.1. Monuments and Markers.

All monuments and markers must be approved by the Sexton and shall be placed on the grave site or cremains space in the location specified by the Sexton.

- A. Monuments may only be placed on grave sites within an area of the Cemetery designated for monuments only. The following regulations shall apply:
 - i. Only one monument shall be permitted for a grave site and shall be located on the grave site of the deceased persons listed on the monument. However, if a monument is intended to be used as a memorial for two deceased individuals having grave sites side-by-side, then the monument shall be placed to straddle both grave sites. The location of such a family monument shall be determined by the Sexton.
 - ii. No monument for a single grave site shall be larger than 36 inches long by 16 inches wide by 36 inches in height. No monument for two or more adjacent grave sites (a family monument) shall be larger than 60 inches long by 16 inches wide by 36 inches in height.
 - iii. All monuments must be set upon a solid concrete foundation which must have a minimum depth of 18 inches below ground and which must extend two inches beyond all sides of the monument. The Sexton may require a deeper foundation if determined necessary to provide adequate support for the monument. The foundation shall be level with the surface of the ground.
- B. Markers shall be placed on grave sites within the area of the Cemetery designated for markers only. The following regulations shall apply:
 - i. Only one marker shall be permitted for a grave site and shall be located on the grave site of the deceased person(s) cited on the marker. However, if a marker is intended to be used as a memorial for two deceased individuals having grave sites side-by-side (a family marker), then the marker shall be placed to straddle both grave sites. The location of a family marker shall be determined by the Sexton.
 - ii. A marker for a single grave site shall not exceed 36 inches in length by 14 inches in width. A marker for two or more adjacent graves sites (a family marker) shall not exceed 60 inches in length by 14 inches in width.

- iii. A marker shall be installed to be level with the ground.
 - iv. A marker shall have a concrete foundation which shall have a minimum depth of 18 inches below ground level and which shall extend a minimum of two inches beyond the marker on all sides.
- C. Only markers shall be placed on cremains spaces within the area of the Cemetery designated for the burial of cremains. The markers shall conform to the provisions of Section 8.1.B.ii-iv. Only one marker shall be permitted for a cremains space.
 - D. One veteran memorial marker shall also be permitted on the grave site or cremains space of a deceased veteran. The Sexton shall place such veteran memorial marker.
 - E. All monuments and markers, together with their foundations, shall be maintained and kept in a proper position by the family of the deceased person(s) buried in the grave site or cremains space. The Township shall have no responsibility to maintain, repair, or replace any monument, marker, or foundation.

Section 8.2. Private Columbariums. This Section provides for the permitting of the installation of private columbariums in a Cemetery and the regulations applicable to private columbariums. To the extent the provisions of this Section 8.2 conflict with or are inconsistent with the provisions of any other sections of this Ordinance, the provisions of this Section shall control as to private columbariums.

- A. Definitions. As used in this Section 8.2, the following definitions shall apply.
 - i. Columbarium space: An area of land 10 feet long and seven feet in depth upon which a private columbarium may be installed.
 - ii. Columbarium burial right: The right to install a private columbarium in and on a columbarium space to inter or deposit the cremated remains of deceased persons within the private columbarium enclosures or compartments.
 - iii. Private Columbarium: A small, privately-owned building or structure that is used, or is intended to be used, for the interment or deposit of the cremated remains of deceased persons.
- B. Designation of Cemetery Areas for Columbariums. The Township Board may designate, establish, alter, and reserve areas in a Cemetery for columbariums in the same manner as provided in Section 3 of this Ordinance.
- C. Sale of Columbarium Burial Rights. The sale of a burial right shall be made on the form approved by the Township Board, which form shall include, without limitation, the name of the purchaser, status as a resident owner of real property in the Township, or nonresident status, and the specific columbarium space acquired

under the burial right. Such form shall be signed by the purchaser and by the Township Clerk on behalf of the Township. Any such sale is subject to the following regulations and restrictions:

- i. Any columbarium installed on a columbarium space shall be privately-owned and shall only be used for the interment of the cremated remains of the purchaser, the purchaser's spouse, parents, children, grandchildren and a spouse of a child or grandchild.
- ii. No sale of burial rights shall be made to funeral directors in their role as funeral directors. Any sale to a funeral director shall be to the funeral director as an individual, to provide for burial of those listed in C.i above.
- iii. The sale of a burial right does not convey any title to, ownership of or property interest in the columbarium space; only a right of burial is granted.
- iv. The completed purchase form shall constitute a burial permit for the interment within the private columbarium of the cremated remains of deceased persons or identified in C.i above. The original burial permit shall be delivered to the purchaser, and the Township Clerk shall retain a copy in the Township records.

D. Transfer of Columbarium Burial Rights. A columbarium burial right may be transferred; provided that such transfer may only be permitted upon the removal of the private columbarium from the columbarium space. No compartment or portion of a private columbarium can be transferred. To effect a transfer, the provisions of Section 5 of this Ordinance apply generally.

E. Purchase Price and Transfer Fees. The Township Board, from time to time, shall establish by resolution a schedule of prices and fees for the purchase of and for the transfer of a columbarium space. Any fees to be charged for the placement or removal of cremated remains in the private columbarium shall be established in the fee schedule adopted from time to time by the Township Board. The purchase (transfer) price shall be paid in full at the time of purchase or transfer of the columbarium space. Payment shall be made to the Township Treasurer.

F. Columbarium Design Regulations.

- i. A private columbarium shall not exceed four feet high, eight feet wide, and three feet in depth.
- ii. A private columbarium shall be constructed of granite or marble or other comparable material approved by the Township Board, and it shall be installed in the center of the columbarium space as nearly as practicable.
- iii. A private columbarium must be set upon a solid concrete foundation which must have a minimum depth 24 inches below the ground and must extend

three inches beyond all sides of the columbarium placed upon it. If the manufacturer or provider of the columbarium recommends a depth greater than 24 inches, the greater depth shall be required.

- iv. A private columbarium shall have not less than six compartments for the placement of cremated remains.
- v. Cremated remains shall be in a properly sealed container for placement in a compartment of the private columbarium, and no more than the cremains of two deceased persons may be placed in a compartment of the private columbarium.
- vi. Each compartment of the private columbarium shall be enclosed at all times other than proceedings for the deposit or removal of the cremated remains are held. Each compartment shall be locked or otherwise secured, and the Township shall be provided a key or tool to access compartments.
- vii. No other monuments or markers are permitted on the columbarium space.

G. Regulations for Interments in Private Columbariums.

- i. Section 7.E of this Ordinance shall apply generally as to the dates and times when the interment or removal of cremated remains in or from a private columbarium, and the related services, may occur.
- ii. Section 7.F of this Ordinance concerning weather conditions shall apply generally to interments in or removals from a private columbarium, and related services, for purposes of this Section 8.2.
- iii. The notice provisions of Section 7.G of this Ordinance shall apply generally to this Section 8.2
- iv. Except as to proceedings for the removal and reinterment of cremated remains under the supervision of the local health department or under court order, no compartment containing cremated remains shall be opened or closed without the approval, direction and control of the Township Sexton.

Section 9. Grounds Maintenance.

Grading, leveling, excavating, and maintenance upon the Cemetery grounds shall be allowed only as authorized by the Township Board.

No cement, brick, stone, fencing, vases, ornaments, or other materials shall be allowed on any grave site or cremains space. Only grass may be used to cover a grave site and a cremains space.

No flowers, shrubs, trees, or vegetation of any type, and no artificial flowers or plants, shall be planted or placed on or around any grave site or cremains space. Funeral flowers and temporary memorials may be displayed temporarily only and must be removed by one week after the burial. One green cemetery pail with a floral liner for live flowers only may be set by the monument or marker during the months of April through September. Any items placed or planted in violation of this Ordinance shall be removed by the Township or the Sexton.

To maintain proper appearance and use of the Cemetery, the Township Board reserves the right to plant, remove, or trim any tree, plant, or shrub located within the Cemetery.

Section 10. Forfeiture of Burial Rights.

A burial right sold after the effective date of this Ordinance for which the grave site or cremains space remains unused for 80 years from the date of sale, may be renewed or may revert to ownership by the Township as outlined below:

- A. At least 90 days prior to the expiration of the 80-year period, the Township Clerk shall send notice by certified mail to the last known purchaser at the last known address, informing the purchaser of the expiration of the 80-year period and outlining the following options:
 - i. That the purchaser may send a written response, to the Township within 60 days of receipt of the notice, indicating a desire to retain the burial right, with the payment of the fee for renewal. The purchaser's rights are renewed for the following 80 years.
 - ii. That the purchaser may send a written response to the Township within 60 days of the receipt of the notice, relinquishing interest in the burial right. Upon receipt of the response, the Township shall reimburse to the purchaser the original purchase price charged for the burial right and the Township shall regain possession of the rights to the grave site or cremains space.
- B. In the event that the purchaser (owner-of-record) is deceased, the heir or legal representative must update the ownership records with the Township Clerk, bearing in mind the restrictions in Section 4 above.
- C. In the event that the Township, after due diligence, is unable to locate the purchaser (owner-of-record), and is unable to determine the purchaser's heirs or legal representative, ownership of the grave site or cremains space shall immediately revert to the Township without payment at the expiration of such 80-year period.
- D. Any grave site or cremains space that reverts to the Township's possession under this Section may be resold by the Township.

Section 11. Repurchase of Burial Rights.

A purchaser or the purchaser's heirs or legal representatives may request the Township to repurchase a burial right. Such request shall be written and shall identify the specific burial right involved. The Township Board, in its discretion, may decide whether to repurchase such right and, if it approves the request, it shall repurchase the burial right for the original price paid to the Township less any fee established from time to time by the Township Board.

Section 12. Records.

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

Section 13. Cemetery Regulations.

- A. Cemetery hours: The Cemetery shall be open to the general public daily from sunrise to sunset. Any person found on the Cemetery grounds when the Cemetery is not open may be treated as a trespasser.
- B. Cemetery Roads and Vehicles:
 - i. The roads and parking areas within the Cemetery shall not be considered a public roadway for vehicles or pedestrians. Such roads and parking areas are devoted only for access to locations in the Cemetery for purposes of burial services and of visiting grave sites or cremains spaces.
 - ii. No person may drive a vehicle in excess of 10 miles per hour in the Cemetery.
 - iii. Vehicles shall use and remain on the established Cemetery roads and parking areas, except vehicles necessary for opening and closing grave sites and cremains spaces. Pedestrians shall use the Cemetery roads; however, a person may walk upon or across grave sites, cremains spaces, and lawn areas when necessary to gain access to a grave site or cremains space.
 - iv. No person may operate a vehicle in the Cemetery for recreational purposes.
- C. Pets: No person shall allow a pet or other animal to run loose and no person shall walk or exercise a pet within the Cemetery.
- D. Cemetery vegetation and wildlife: Other than maintenance or as otherwise authorized by the Township, no person shall plant, pick, or remove any flowers, wild or cultivated. No person shall break, injure, trim, or remove any tree, shrub, or plant on the Cemetery grounds. No person shall hunt, destroy, or otherwise disturb animal life within the Cemetery.

- E. Monuments, Marker and Structures: No person shall move, destroy, deface, write upon, or otherwise damage any monument, marker, building, fence, water piping, or other structure in the Cemetery.
- F. Conduct: No person shall loiter, litter, engage in recreational activities, use profane language, or bring or consume alcoholic beverages in the Cemetery.
- G. Signs: No person or entity shall place or cause to be placed in the Cemetery any sign, advertisement, or notice of any kind, unless authorized by the Sexton.

Section 14. Penalties.

Any person or entity violating any provision of this Ordinance shall be subject to a penalty consisting of a fine not to exceed \$500.00 and/or imprisonment not exceeding 90 days as may be determined by a court of competent jurisdiction as in a misdemeanor proceeding. Each day that a violation continues shall constitute a separate offense. The penalties under this Section shall be cumulative and shall not prevent a civil action by the Township for appropriate injunctive relief and/or damages caused by any violation.

Section 15. Liability for Damages.

No officer, agent, sexton, or employee of the Township shall be liable for any damage that may occur to any persons or property as a result of any act, decision, omission, or other consequence or occurrence arising out of the discharge of duties or responsibilities pursuant to this Ordinance or the normal course of cemetery operations. The Township shall not be held responsible for damages by the elements, acts of God, common enemies, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or the order of any military or civil authority, whether the damages may be direct or collateral.

Section 16. Severability.

The provisions of this Ordinance are declared to be severable. Should any provision, section, or part of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such decision shall only affect the particular provision, section, or part involved in such decision and shall not affect or invalidate the remainder of this Ordinance, which shall continue in full force and effect.

Section 17. Repeal.

Ordinance 2005-02 and any subsequent amendments to it are amended and restated in their entirety by this amending ordinance. All other ordinances, resolutions, orders, or parts thereof in conflict with this Ordinance, in whole or in part, are repealed to the extent of any such conflict.

Section 18. Effective Date.

This Ordinance shall take effect on June 16, 2018, being a date 30 days after the first publication in the Holland Sentinel, a newspaper having general circulation in the Township, pursuant to the provisions of MCL 41.184, as amended.

Howard Baumann,
Township Supervisor

Teresa De Graaf,
Township Clerk

PS 32 Restatement of Cemetery Ordinance 05112018

CERTIFICATE

I, Teresa De Graaf, Clerk for the Township of Port Sheldon, Ottawa County, Michigan, certify that the foregoing Ordinance was adopted at a regular meeting of the Township Board held on May 10, 2018. The following members of the Township Board were present at that meeting: Howard Baumann, Jr., Teresa De Graaf, Esther Van Slooten, Gerald Smith, and Bill Monhollon. The following members of the Township Board were absent: None. The Ordinance was adopted by the Township Board with members of the Board: Baumann, De Graaf, Van Slooten, Smith, and Monhollon, voting in favor, and members of the Board: None, voting in opposition. The Ordinance was published on May 17, 2018 in the Holland Sentinel.

Teresa De Graaf, Township Clerk