

JACKSON TOWNSHIP BOARD OF TRUSTEES, STARK COUNTY, OHIO  
RESOLUTION

RESOLUTION NO. 15-064

ADOPTED: 10/13/15

SUBJECT: Regulations Prohibiting the Burial of Human Remains in a Family or Private Cemetery.

The Board of Trustees of Jackson Township, Stark County, Ohio, met in regular session on the 13th day of October, 2015 with the following members present:

James N. Walters  
John E. Pizzino  
Todd J. Hawke

Trustee Walters moved for the adoption of the following resolution:

WHEREAS, the Board of Trustees is authorized to pass and enforce necessary resolutions which are necessary for the promotion of the public health, safety and general welfare; and

WHEREAS, Jackson Township is a large Urban Township with a population of 40,373; and

WHEREAS, the Board of Trustees has determined that establishment of family and private cemeteries that would allow families to bury deceased members of their family in such cemeteries poses a substantial risk to public health, safety, general welfare and adversely affects real property values within the unincorporated areas of the Township; and

WHEREAS, Jackson Township is a limited home rule government pursuant to Ohio Revised Code Chapter 504; and

WHEREAS, Ohio Revised Code Section 504.04(A) permits the Board of Trustees to adopt and enforce within the unincorporated area of the Township police regulations.

NOW THEREFORE, BE IT RESOLVED THAT, pursuant to Ohio Revised Code Sections 504.04 (A)(1) and (2), 504.05, 504.06, and 504.07 we hereby adopt the attached Regulations Prohibiting the Burial of Human Remains in a Family or Private Cemetery, effective 30 days from the adoption of this Resolution.

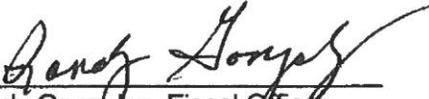
BE IT FURTHER RESOLVED THAT, the Board of Trustees determines this Resolution is in the best interest of the public health, safety, and general welfare of the public, and that this Resolution is reasonable and consistent with constitutional limitations.

BE IT RESOLVED that, pursuant to ORC Section 504.10, we hereby dispense with the requirement that this resolution be read on two separate days and authorize the passage of this resolution upon its first reading and authorize the Law Director to publish the attached notice.

Trustee HAWKE seconded the motion and upon roll call the vote resulted as follows:

Mr. Walters	<u>YES</u>
Mr. Pizzino	<u>YES</u>
Mr. Hawke	<u>YES</u>

The foregoing is a true and correct counterpart of Resolution Number 15- 064, duly adopted on October 13, 2015 and filed with me as the Township Fiscal Officer on October 14, 2015.

  
\_\_\_\_\_  
Randy Gonzalez, Fiscal Officer

The foregoing resolution is approved as to form:

  
\_\_\_\_\_  
Michael B. Vaccaro, Law Director

## NOTICE

Notice is hereby given that the Board of Trustees of Jackson Township, Stark County, Ohio, by Resolution No. 15-064, adopted on October 13, 2015, effective November 12, 2015, has adopted the following legislation:

### REGULATIONS PROHIBITING THE BURIAL OF HUMAN REMAINS IN A FAMILY OR PRIVATE CEMETERY

Notice is further given that a complete text of the above resolution of the Jackson Township Board of Trustees may be obtained or inspected at the Office of the Township Fiscal Officer, 5735 Wales Avenue NW, Jackson Township, Ohio from 8:00 a.m. to 4:30 p.m., Monday through Friday.

This advertisement is also posted on the state public notice web site ([www.publicnoticesohio.com](http://www.publicnoticesohio.com)) established under section 125.182 of the Revised Code and on the Jackson Township web site ([www.jacksontwp.com](http://www.jacksontwp.com)).

Randy Gonzalez, Fiscal Officer  
BOARD OF TRUSTEES OF JACKSON TOWNSHIP, STARK COUNTY, OHIO

Published in The Massillon Independent October 19 and 26, 2015.

**JACKSON TOWNSHIP, STARK COUNTY, OHIO**  
**REGULATION PROHIBITING THE BURIAL OF HUMAN REMAINS**  
**IN A FAMILY OR PRIVATE CEMETERY**

Section 100. DEFINITIONS.

- A. "Family Cemetery" means a cemetery containing the human remains of persons, at least three-fourths of whom have a common ancestor or who are the spouse or adopted child of that common ancestor." The burial of a single deceased family member on privately owned, family property constitutes a "family cemetery" (See O. R.C. 4767.02(C)).
- B. "Private Cemetery" means real property owned and devoted to the burial of the members of a family, or relatives bound by family or similar personal ties, to the exclusion of the public. (See 2014 Op. Att'y Gen. No. 2014-041).
- C. "Interment" means the disposition of human remains by earth burial, entombment, or inurnment.
- D. "Burial right" means the right of earth interment.
- E. "Entombment right" means the right of entombment in a mausoleum.
- F. "Columbarium right" means the right of inurnment in a columbarium for cremated remains.
- G. "Person" means any corporation, company, partnership, individual, or other entity owning real estate or possessing a legal interest in real estate located with the unincorporated area of Jackson Township, Stark County, Ohio.

Section 101. BURIAL PROHIBITION.

- A. No person shall operate, consent to, create or establish a private cemetery or family cemetery upon or within the territorial limits of the unincorporated area of Jackson Township.
- B. No person shall permit or engage in the burial of human remains in or upon a private cemetery or family cemetery in the unincorporated area of Jackson Township.
- C. No person shall sell, purchase, give or offer a burial lot, burial right, interment right, entombment right, or columbarium right in or upon a private cemetery or family cemetery in the unincorporated area of Jackson Township.

- D. No person shall permit, grant, engage in or offer the right to spread cremated remains of a human in a private cemetery or family cemetery upon or within the territorial limits of the unincorporated area of the Township

Section 102. PENALTY.

- A. Whoever violates this Legislation shall be issued a civil citation in the amount of five hundred dollars (\$500.00) on the first offense and a civil citation in the amount of one thousand dollars (\$1,000.00) for each subsequent offense under this Section. All fines collected for violation of this Resolution shall be paid into the General Fund.

Section 103. SEVERABILITY.

- A. If any of the provisions in any of the sections of the above legislation should be rendered invalid or unenforceable by the enactment of statutory law or by a Court of competent jurisdiction from whose final judgment or decree no appeals have been taken within the time provided thereof or by any administrative or executive official having authority to rule in the matter, such legislation, decision or ruling shall not affect the validity of the surviving portions of this legislation which shall remain in full force and effect as if such invalid portion thereof had not been included therein.

Section 104. EFFECTIVE DATE.

- A. This Legislation shall be effective thirty (30) days after passage by the Board of Trustees.

**REGULATIONS GOVERNING BURIAL OF HUMAN REMAINS IN A FAMILY OR PRIVATE  
CEMETERY**

JACKSON TOWNSHIP LIMITED SELF-GOVERNMENT RESOLUTION NO. \_\_\_\_\_  
\$500 fine for the first violation  
\$1,000 fine for each subsequent violation

You are hereby cited for a violation of a Jackson Township, Stark County, Ohio resolution as follows:

Location of Violation \_\_\_\_\_ Date \_\_\_\_\_

Time \_\_\_\_\_ Officer \_\_\_\_\_ Viol. No. \_\_\_\_\_

Violation description \_\_\_\_\_

Resolution Number and Section \_\_\_\_\_ Fine: \$ \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

You are required to answer this violation citation within (14) days after service of the citation. The following answers can be made:

1. AN ADMISSION THAT YOU COMMITTED THE VIOLATION, BY PAYMENT OF THE FINE ARISING FROM THE VIOLATION, PAYABLE TO THE FISCAL OFFICER OF JACKSON TOWNSHIP.
2. A DENIAL THAT YOU COMMITTED THE VIOLATION. IF THE VIOLATION IS DENIED, YOU WILL BE AFFORDED A HEARING IN MASSILLON MUNICIPAL COURT.

Fines can be paid by mailing this citation along with a MONEY ORDER or CERTIFIED CHECK payable to the Jackson Township Fiscal Officer, 5735 Wales Avenue N.W., Massillon, Ohio 44646 Phone: 330-832-5886. If you deny the violation, please circle No. 2 above and mail this violation citation to the above address. Citations may also be answered or paid in cash at the Office of the Township Fiscal Officer located at the above address during the hours of 8:00 a.m. - 4:30 p.m., Monday through Friday.

If the fine is not paid within (14) days of the service of this summons or you deny the violation, a hearing upon the violation will be scheduled in Massillon Municipal Court of which you will be notified. Attached ORC Section 504.07 describes the citation procedures and the procedures for any hearing conducted in Massillon Municipal Court.

I hereby affirm the facts contained herein.

\_\_\_\_\_  
Issuing Officer

**SERVICE OF CITATION**

The foregoing citation was served on \_\_\_\_\_ by:  
(Date)

Certified mail, return receipt requested, addressed to the person named above at the address shown (affix return receipt).

Personal service by the undersigned on the person named.

Residence service by the undersigned, by leaving a copy of the citation at the usual place of residence of the person named above, at the address shown, with some person of suitable age and discretion residing therein.

Other: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Issuing Officer/Fiscal Officer

**FISCAL OFFICER'S CERTIFICATE OF ACTION ON CITATION**

The person named in the foregoing citation:

Appeared before me on \_\_\_\_\_  
(Date)

By mail addressed to me received on \_\_\_\_\_  
(Date)

And

paid the fine.

denied the violation.

OR

Failed to answer the citation.

Failed to pay the fine within fourteen days after service of the citation.

\_\_\_\_\_  
Randy Gonzalez  
Fiscal Officer  
Jackson Township Board of Trustees

**NOTICE TO COURT OF VIOLATION OF TOWNSHIP RESOLUTION**

To Massillon Law Director:

Please be notified that the person named in the enclosed citation, within fourteen days after service of the citation:

- Paid the specified fine.
- Answered and denied the citation.
- Failed to answer the citation.
- Failed to pay the specified fine.

A copy of the township resolution described in the citation is attached.

The court is requested to commence proceedings on the citation pursuant to **Ohio Revised Code Section 504.07**.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Randy Gonzalez  
Fiscal Officer  
Jackson Township Board of Trustees

Cc: Massillon Clerk of Courts

R.C. § 504.07

504.07 Citation proceedings

(A)(1) A person who is served with a citation pursuant to division (B) of section 504.06 of the Revised Code shall answer the charge by personal appearance before, or by mail addressed to, the township fiscal officer, who shall immediately notify the township law director. An answer shall be made within fourteen days after the citation is served upon the person and shall be in one of the following forms:

(a) An admission that the person committed the violation, by payment of any fine arising from the violation. Payment of a fine pursuant to division (A)(1)(a) of this section shall be payable to the fiscal officer of the township and deposited by the fiscal officer into the township general fund.

(b) A denial that the person committed the violation.

(2) Whenever a person pays a fine pursuant to division (A)(1)(a) of this section or whenever a person answers by denying the violation or does not submit payment of the fine within the time required by division (A)(1) of this section, the township fiscal officer shall notify the court having jurisdiction over the violation.

(B) If a person answers by denying the violation or does not submit payment of the fine within the time required by division (A)(1) of this section, the court having jurisdiction over the violation shall, upon receiving the notification required by division (A)(2) of this section, schedule a hearing on the violation and send notice of the date and time of the hearing to the person charged with the violation and to the township law director. If the person charged with the violation fails to appear for the scheduled hearing, the court may hold the person in contempt, or issue a summons or a warrant for the person's arrest pursuant to Criminal Rule 4. If the court issues a summons and the person charged with the violation fails to appear, the court may enter a default judgment against the person and require the person to pay the fine arising from the violation.

(C) The court shall hold the scheduled hearing in accordance with the Rules of Civil Procedure and the rules of the court, and shall determine whether the township has established, by a preponderance of the evidence, that the person committed the violation. If the court determines that the person committed the violation, it shall enter a judgment against the person requiring the person to pay the fine arising from the violation.

If the court determines that the township has not established, by a preponderance of the evidence, that the person committed the violation, the court shall enter judgment against the township whose resolution allegedly was violated, shall dismiss the charge of the violation against the person, and shall assess costs against the township.

(D) Payment of any judgment or default judgment entered against a person pursuant to this section shall be made to the clerk of the court that entered the judgment, within ten days after the date of entry. All money paid in satisfaction of a judgment or default judgment shall be disbursed by the clerk as required by law, and the clerk shall enter the fact of payment of the money and its disbursement in the records of the court. If payment of a judgment or default

judgment is not made within this time period, execution may be levied, and such other measures may be taken for its collection as are authorized for the collection of an unpaid money judgment in a civil action rendered in that court. The municipal or county court shall assess costs against the judgment debtor, to be paid upon satisfaction of the judgment.

(E) Any person against whom a judgment or default judgment is entered pursuant to this section and any township against which a judgment is entered pursuant to this section may appeal the judgment or default judgment to the court of appeals within whose territorial jurisdiction the resolution allegedly was violated. An appeal shall be made by filing a notice of appeal with the trial court and with the court of appeals within thirty days after the entry of judgment by the trial court and by the payment of reasonable costs as the court requires. Upon the filing of an appeal, the court shall schedule a hearing date and notify the parties of the date, time, and place of the hearing. The hearing shall be held by the court in accordance with the rules of the court. Service of a notice of appeal under this division does not stay enforcement and collection of the judgment or default judgment from which appeal is taken by the person unless the person who files the appeal posts bond with the trial court, in the amount of the judgment, plus court costs, at or before service of the notice of appeal.

Notwithstanding any other provision of law, the judgment on appeal of the court of appeals is final.