

ORDINANCE NO. 10-03-017

TO AMEND TITLE 4 ENTITLED "RESERVED" OF CODE OF ORDINANCES OF THE CITY OF LOCUST GROVE TO PROVIDE FOR A NEW TITLE 4 ENTITLED "CEMETERY"; TO AMEND TITLE 4 TO PROVIDE FOR A NEW CHAPTER 4.02 ENTITLED "CEMETERY REGULATIONS"; TO AMEND CHAPTER 4.02 ENTITLED "CEMETERY REGULATIONS" BY CREATING NEW SECTIONS 4.02.010 THROUGH 4.02.280; TO PROVIDE FOR CODIFICATION; TO PROVIDE FOR SEVERABILITY; TO REPEAL CONFLICTING ORDINANCES; TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES

THE COUNCIL OF THE CITY OF LOCUST GROVE HEREBY ORDAINS

SECTION 1. Title 4 of the Code of Ordinances of the City of Locust Grove is hereby amended by striking the word "Reserved" and inserting there in lieu thereof the word "Cemetery".

SECTION 2. Title 4 of the Code of Ordinances of the City of Locust Grove is hereby amended by creating new Chapter 4.02 entitled "Cemetery Regulations".

SECTION 3. New Code Sections Created. Title 4, Chapter 4.02 of the Code of Ordinances of the City of Locust Grove, is hereby amended by creating new code sections 4.02.010 through 4.02.280 as follows:

Sections:

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| 4.02.010 | Definitions. |
| 4.02.020 | Burials; location restricted. |
| 4.02.030 | Cemetery plots subject to restrictions, covenants, rules and regulations; authority of city manager. |
| 4.02.040 | Purchase price of plots. |
| 4.02.050 | Burial rights in public cemetery; supervision of sale and conveyances, execution, form and conditions of certificate of ownership. |
| 4.02.060 | Ownership construed; use and division; reversion to city. |
| 4.02.070 | Issuance of certificate. |
| 4.02.080 | Owner's change of address, duty to notify city; sufficient and proper legal notification described. |
| 4.02.090 | Certain rights and privileges reserved by city. |
| 4.02.100 | Easements or rights of interment in roads, drives, alleys or walks. |
| 4.02.110 | Transfer or assignment; prerequisite to validity. |
| 4.02.120 | Plots having several owners; representation by designated owner. |
| 4.02.130 | Improvements or alterations of individual property; direction and approval of city; removal when unsightly. |

- 4.02.140 **Right to remove detrimental trees and shrubs.**
- 4.02.150 **Signs, notices or advertisements prohibited.**
- 4.02.160 **Responsibility for damage.**
- 4.02.170 **Interments, disinterments and removals; time,; opening and closing graves; notification.**
- 4.02.180 **Reservation of right to require sufficient notice before interment and verification of ownership.**
- 4.02.190 **Liability for interment permit and identify of person sought to be interred or cremated.**
- 4.02.200 **Responsibility for telephone orders or mistakes caused by vague instructions.**
- 4.02.210 **Disinterment—Notification prerequisite.**
- 4.02.220 **Limitation on number of bodies interred in same cemetery plot.**
- 4.02.230 **Visitation hours; loitering in cemetery.**
- 4.02.240 **Persons within grounds to use only avenues, walks, alleys and roads.**
- 4.02.250 **Motor vehicles regulated.**
- 4.02.260 **Maintenance account.**
- 4.02.270 **Interpretation, application and enforcement of provisions.**
- 4.02.280 **Violation of chapter.**

4.02.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burial space or grave is a location where a dead body (typically that of a human, although sometimes that of an animal) is buried. See *Cemetery Lot or Plot*.

Cemetery plot means and consists of enough land in which a deceased person may be buried in single spaces, as defined in the plat of the cemetery and as described in the deed of the burial rights to the owner thereof. Also known as a *cemetery lot, grave, or burial space*. The parts of a cemetery plot usually consist of the following:

Grave cut. The excavation that formed the grave. This can vary from a shallow scraping, to removal of topsoil to a depth of 6 feet, or more where a vault is to be constructed.

Excavated spoil. The material dug up when the grave is excavated. Often piled up close to the grave for backfilling and then returned to the grave to cover it.

Burial vault. A vault is a structure built within the grave to receive the body as part of the interment. It may be used to prevent crushing of the remains. Sometimes a **crypt** is used and is typically an above-ground or sometimes an in-ground burial chamber often where the body of the deceased is placed.

Interment or burial. The process of placing a deceased person in the cemetery plot, with or without personal possessions of the deceased.

Grave backfill. The soil returned to the grave cut following burial. The fill may be left level with the ground or mounded.

Monument or marker. Headstones are best known but they can be supplemented by decorative edging, foot stones, posts to support items, a solid covering or other options

Disinterment. The process by which a deceased person is removed from a cemetery plot as prescribed herein.

Square means the unit area of land consisting of fourteen feet (14') by twenty feet (20') within the cemetery that contains a minimum of six (6) contiguous cemetery plots,.

4.02.020 Burials; location restricted.

It shall be unlawful for any person to bury any dead body except in a public or private cemetery.

4.02.030 Cemetery plots subject to restrictions, covenants, rules and regulations; authority of city manager.

- A. All cemetery plots owned and purchased within the public cemetery of the city, and all such plots sold, shall be subject to the restrictions, covenants, rules and regulations in this chapter and shall be subject to such other rules, regulations, amendments or alterations and ordinances as shall be adopted and regularly passed by the city from time to time. A reference to such rules and regulations in the deed or certificate of ownership shall have the same force and effect as if fully set forth therein.
- B. The city manager or his authorized designee is authorized to supervise the upkeep, care and operations of city cemetery.

4.02.040 Purchase price of plots.

The purchase price of plots in the public cemetery is nine hundred dollars (\$900) per square of six (6) cemetery plots. The price may change as established by the Mayor and City Council.

4.02.050 Burial rights in public cemetery; supervision of sale and conveyances, execution, form and conditions of certificate of ownership.

- A. Sale of burial rights. The city clerk shall generally supervise the sale and conveyance of burial rights purchased in the public cemetery of the city. The city clerk shall execute to the purchaser of the burial rights a cemetery record "Certificate of Ownership" made in substantially the following form:

"City of Locust Grove, Henry County, Georgia:

This indenture, Made this _____ day of _____, 20__ between the City of Locust Grove, Henry County, Georgia, of the first part, and _____ of the second part.

Witnesseth: That the party of the first part, for and in consideration of the sum of _____ Dollars, to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents doth grant, bargain and sell unto said party of the second part, _____, heirs and assigns, the exclusive rights of interment in and to a certain cemetery plots in the Locust Grove Cemetery, in said city which is known and distinguished in the plan of said cemetery as (description) the number and description of said plot being made with reference

to the surveys and plats on file in the city clerk's office and by which the parties to this conveyance acknowledge themselves bound; to have and to hold said exclusive privilege to the said party of the second part and _____ heirs forever, subject to all the requirements of any ordinance of the Mayor and Council of the City of Locust Grove now in force or hereafter ordained, regulating said cemetery, upon this express condition, nevertheless, that no sale or transfer of the rights of burial and interment in said burial plots _____ shall at any time by party of the second part or by any future owner be valid without the notification of the City of Locust Grove, and an entry of which shall be made on the books of the City of Locust Grove. And provided, that the party of the second part or any future owner of the burial and interment rights in said cemetery plots _____ shall not at any time or times hereafter demand or receive any compensation for an interment in said cemetery plots _____.

And provided also that the rights and premises granted hereby shall be subject to the restrictions, covenants, rules and regulations made and to be made hereafter by said City of Locust Grove for the government of its cemetery, lot holders, visitors to the cemetery and burial of the dead.

The restrictions, covenants, rules and regulations as they appear in Chapter 4.02 of the Code of the City of Locust Grove, Georgia, are hereby specifically included in this certificate by reference as if fully set forth herein.

And the said party of the first part for itself and its successors, the said exclusive privilege, unto the said party of the second part against said party of the first part and its successors, and against all and every person, and persons whomsoever, will warrant and forever defend.

In testimony whereof, the said party of the first part hath hereunto signed its corporate name and affixed its corporate seal the day and year first above written.

The City of Locust Grove

By:

City Clerk of the City of Locust Grove City Manager, City of Locust Grove

Signed, sealed and delivered in the presence of:

Notary Public, Henry Co., Ga."

- B. Conditions, record of transfer. All certificates to burial rights given by the city after March 1, 2010 shall be upon this expressed condition, nevertheless, that no sale or transfer of the rights of burial and interment in such cemetery at any time by the purchaser thereof or by any future owner shall be valid without the notification to the city. The record of transfer shall be kept by the city upon a book, map, plat and or electronic database specifically kept for the purpose of recording such transfers.

4.02.060 Ownership construed; use and division; reversion to city.

Ownership of a plot consists only in the right of interment. The plot can be used for no other purpose and cannot be divided into smaller portions than originally laid down in the plot. Should

a lot holder die without devise of the lot or any known kindred, title to such lot shall revert to the city, for the protection of those who may be interred therein.

4.02.070 Issuance of certificate.

A certificate of ownership shall be issued to each lot holder on full payment of the purchase money of such lot.

4.02.080 Owner's change of address, duty to notify city; sufficient and proper legal notification described.

It shall be the duty of a cemetery plot owner to notify the city of any change in his post office address. Notice sent to a cemetery plot owner at the last address on file in the office of the city clerk shall be considered a sufficient and proper legal notification.

4.02.090 Certain rights and privileges reserved by city.

The following rights and privileges are hereby expressly reserved by the city in its conveyance of any cemetery lot, plot or space: At any time and from time to time, the city may:

- A. Resurvey, enlarge, diminish, replat, alter in shape or size or otherwise change all or any part, portion or subdivision of the property mapped and platted.
- B. File amended maps or plats thereof and use the same for the erection of buildings or for any purposes or uses connected with, incident to, or convenient for the care, preservation or preparation, for the disposal or interment of dead human bodies, or other cemetery purposes, together with easements and rights-of-way over and through such premises for the privilege of, installing, maintaining and operating pipelines, conduits or drains for sprinklers, drainage, electric or communication lines, or for any other like purposes.

4.02.100 Easements or rights of interment in roads, drives, alleys or walks.

No easement or right of interment is granted by the city to any cemetery plot in any road, drive, alley or walk within a cemetery, but such road, drive, alley or walk may be used as long as the city devotes it to that purpose.

4.02.110 Transfer or assignment; prerequisite to validity.

No transfer or assignment of any cemetery lot, space or plot or interest therein shall be valid until the acknowledgement by the city thereon and the same has been recorded on the books, maps, plats or electronic databases of the city.

4.02.120 Plots having several owners; representation by designated owner.

When there are several owners of the rights of interment in a cemetery plot, they may designate one or more persons to represent the cemetery plot and file written notice of designation with the city clerk. In the absence of such notice or of written objection to its so doing, the city is not liable to any owner for interring or permitting an interment or refusing an interment in the cemetery plot upon the request or direction of any co-owners of the cemetery plot.

4.02.130 Improvements or alterations of individual property; notification to city; removal when unsightly.

All improvements or alterations of individual property in the cemetery shall be under the notification to the city; and should they be made without its consent, the city shall have the right to remove, alter or change such improvements or alterations at the expense of the cemetery plot owner, or in any event at any time when, in its judgment, they become unsightly to the eye.

4.02.140 Right to remove detrimental trees and shrubs.

If any tree or shrub, situated in any lot, shall, by means of its roots or branches, become detrimental in any way to the adjoining lot, avenue or walk, it shall be the duty and privilege of the city, and it hereby reserves the right, to enter upon the lot and remove the trees or shrubs, or any part thereof. But no tree growing in any lot or border shall be pruned or removed without the consent of the city.

4.02.150 Signs, notices or advertisements prohibited.

No signs, notices or advertisements of any kind shall be allowed in any cemetery, except by the city.

4.02.160 Responsibility for damage.

The city disclaims all responsibility for loss or damage from causes beyond its reasonable control, and especially from damage caused by the elements, an act of God, a common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots or orders of any military or civil authority, whether the damage is direct or collateral.

4.02.170 Interments, disinterments and removals; time; opening and closing graves; notification.

- (a) All interments, disinterments and removals must be notified to the city.
- (b) All state and local health and safety laws must be complied with prior to any interment in any city cemetery.
- (e) All interments must be inside containers of minimum standard as approved by the city manager or his designee.

4.02.180 Reservation of right to require sufficient notice before interment and verification of ownership.

The right is reserved by the city to require sufficient notice before any interment for the verification of ownership and the proper location of the cemetery plot.

4.02.190 Liability for interment permit and identify of person sought to be interred.

The city shall not be liable in damages for an error in the interment permit nor for a mistake or error in the identity of a person sought to be interred.

4.02.200 Responsibility for telephone orders or mistakes caused by vague instructions.

The city shall not be held responsible for any order given by telephone, or for any mistake occurring from the want of precise and proper instructions as to the particular space, size and location in a plot where interment is desired.

4.02.210 Disinterment—Notification prerequisite.

No disinterment from any lot shall be made except with notification to the city. The city may require that an order from a proper court of law first be secured by those seeking the disinterment.

4.02.220 Limitation on number of bodies interred in same cemetery lot.

Not more than one body, nor the remains of more than one body, shall be interred in any one cemetery plot.

4.02.230 Visitation hours; loitering in cemetery.

(a) City cemetery shall be open for visitation during the following hours, unless otherwise posted: Between one-half hour after sunup and one-half hour before sundown.

(b) Loitering in city cemetery is prohibited. The presence of any person in any of such cemetery during prohibited hours shall be prima facie evidence of loitering.

4.02.240 Persons within grounds to use only avenues, walks, alleys and roads.

Persons within the cemetery grounds shall use only the avenues, walks, alleys and roads and shall not walk, drive or ride upon the cemetery plots.

4.02.250 Motor vehicles regulated.

Motor vehicles shall not be driven through the cemetery grounds at a greater speed than ten miles per hour, and must always be kept on the right-hand side of the cemetery roadway. Motor vehicles are not allowed to park or to come to a full stop in front of an open grave unless such motor vehicles are in attendance at the funeral. No off-road recreational vehicles shall be allowed in city cemetery.

4.02.260 Maintenance account.

The city shall establish a maintenance account for the long-term care and preservation of the city cemetery. The maintenance account established in this section shall be a part of the city's general trust fund and will include all donations and other appropriations relating to the cemetery which the city may deem proper. The city can use only the interest from such maintenance account for the care and preservation of the city cemetery.

4.02.270 Interpretation, application and enforcement of provisions.

This chapter shall be interpreted, applied and enforced by the public works committee. In cases of hardship, necessity or unreasonableness in the application or enforcement of any of the rules and regulations in this chapter, the majority of the public works committee shall have the right to alter the application and enforcement of these rules and regulations so as to relieve the hardship or unreasonableness, and the same shall not constitute forfeiture nor shall it have the effect of changing or abridging any rule, covenant or regulation under this chapter.

4.02.280 Violation of chapter.

Any person performing any act forbidden by this chapter or failing to perform any act required by this chapter shall have breached this chapter and, upon conviction thereof, shall be punished as provided by Section 1.08 of the Code of Ordinances of the City of Locust Grove.

SECTION 4. This ordinance shall be codified in a manner consistent with the laws of the State of Georgia.

SECTION 5. **Severability.** The preamble of this Ordinance is incorporated herein and made a part hereof by reference to same. In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of Locust Grove that such adjudications shall in no manner affect the other sections, sentences, clauses, or phases of this ordinance which shall remain in full force and effect as if the invalid or unconstitutional section, sentence, clause or phrase were not originally part of the ordinance.

SECTION 6. **Repeal of conflicting provisions.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed, except as otherwise provided herein, all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 7. **Effective date.** This ordinance shall become effective immediately upon its adoption by the Mayor and the City Council of Locust Grove.

SO ORDAINED this 1st day of March, 2010.


LORENE LINDSEY, Mayor

ATTEST:

THERESA BREEDLOVE, Clerk
(seal)