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City of Laingsburg Cemetery Ordinance

**CITY OF LAINGSBURG
SHIAWASSEE COUNTY, MICHIGAN
(Ordinance No. 01.2017)**

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 City of Laingsburg, in Shiawassee County, Michigan; to provide penalties for the violation of said ordinance, and to repeal all ordinances or parts of ordinances in conflict therewith.

THE CITY OF LAINGSBURG (“City”), COUNTY OF SHIAWASSEE, MICHIGAN ORDAINS:

Section 1. Title

This Ordinance shall be known and cited as the “City of Laingsburg Cemetery Ordinance.”

Section 2. Purpose and Intent

The City of Laingsburg recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the City is an important function of the government of the City. It is also important that burials, disinterments and other matters associated with a municipal cemetery are handled in a respectful and proper way in order to promote the safety, public health and general welfare of the community. The City Council finds that the adoption and enforcement of this Ordinance is in the best interests of the property owners and residents of the City.

Section 3. Definitions

- (a) A “cemetery plot” shall consist of an area in a City cemetery sufficient to accommodate one burial space for one deceased person. It shall consist of a land area at least thirty-eight (38) inches wide and ninety-six (96) inches in length. Exceptions may be made with City permission to accommodate infant burial or the burial of cremains.
- (b) “City” means City of Laingsburg.
- (c) “City cemetery” or “cemetery” means any cemetery owned, operated and/or controlled by the City. This would include Laingsburg Cemetery.

Section 4. Sale of Cemetery Plots

- (a) After the effective date of this Ordinance, cemetery plots shall be sold by the City for the purpose of burial for the purchaser of a cemetery plot, or his or her immediate family. No sale shall be made to funeral directors or others, except for those acting as an agent for an eligible purchaser.
- (b) All sales and transfers of cemetery plots shall be made on a form approved by the City Council and signed by the designated City official, which grants a right of burial only and does not convey any other title or right to the cemetery plot or burial space sold. Such forms shall be signed by the City Clerk or Deputy City Clerk, and shall constitute a permit when approved.
- (c) Cemetery plots may be sold by the City to any resident or nonresident of the City.
- (d) At the time of purchase from the City, each cemetery plot shall be assigned the name of the specific person(s) who shall be interred in that cemetery plot upon death. If the owner of a cemetery plot desires to effectuate a name change regarding the assigned cemetery plot, that person must contact the City Clerk.
- (e) Cemetery plots are nontransferable without prior written approval by the City. The possession of a burial rights certificate is not itself sufficient evidence on which to record the transfer of ownership of a lot or grave. Legal right to ownership should be established and recorded at the City Clerk’s Office. A

certified copy of the will and probate proceedings would afford evidence of ownership or heirship. Owners of cemetery plots can sellback lots to the City for 100% of the amount originally paid, proof of purchase price required.

- (f) The City Council shall have the authority to place a limit on the number of cemetery plots sold to a particular person, as well as such person's family and relatives. Furthermore, the City shall have the absolute right and discretion to determine whether a particular cemetery plot or plots will be sold to a specific person and where such cemetery plot or plots will be located within the City cemetery. Such decision shall be based upon reasonable factors, including, but not limited to, the number of vacant cemetery plots available and whether family or relatives of the person seeking to purchase a cemetery plot or plots are buried adjacent or nearby the cemetery plot or plots requested.
- (g) The City shall have the right to correct any errors that may be made concerning interments, disinterments, or in the description, transfer or conveyance of any cemetery plot, either by canceling the permit for a particular vacant cemetery plot or plots and substituting and conveying in lieu thereof another vacant cemetery plot or plots in a similar location within the cemetery at issue or by refunding the money paid for the cemetery plot to the purchaser or the successor of the purchaser. In the event that an error involves the interment of the remains of any person, the City shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same City cemetery in accordance with law.
- (h) The lawful owner of any cemetery plot within the City shall promptly provide the City Clerk with any change in that owner's mailing address.

Section 5. Purchase Price for Cemetery Plots;

- (a) All charges shall be paid to the City Treasurer.
- (b) The City Council may by resolution periodically alter the purchase prices to accommodate increased costs and needed reserve funds for cemetery maintenance and acquisition.

Indigent Burials

- (a) The City Council shall set the cost for Indigent Burial.
- (b) The City Council may waive some or all fees for the burial of indigent persons. Furthermore, the City Council may set aside a portion of a City cemetery or cemeteries for the burial of indigent persons.
- (c) The City Council has the right to place a marker for an Indigent Burial.

Section 6. Grave Opening Charges

- (a) The City may charge reasonable fees for the opening and closing of any cemetery plot, prior to and following a burial therein, and including the interment of ashes. Such fees shall be set from time to time by resolution of the City Council, payable to the City.
- (b) No cemetery plot shall be opened or closed except under the direction and control of the City Sexton or such other individual as is designated by the City Council. This subsection B shall not apply to any grave opening, disinterment, or similar matter which is done pursuant to a valid court order or under the supervision and direction of local or state health department authorities; however, even in such cases, the City Sexton shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.

Section 7. Markers or Memorials; No Monuments

- (a) All markers and memorials must be comprised of stone or other equally durable composition and shall face the same direction as the markers and memorials around them. Monument companies are responsible for all damages to the cemetery grounds and surrounding monuments and markers occurring during installation.
- (b) Except for monuments that existed in a City cemetery before the effective date of this Ordinance, no monument will be allowed or erected in a cemetery. For purposes of this Ordinance, "monument" shall be defined as any marker, memorial, statue or similar item which exceeds thirty (30) inches in height above normal ground level or 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 no more than thirty (30) inches above ground level, including the foundation. Only one (1) marker or memorial shall be

permitted per cemetery plot, or one marker or memorial in total where two adjoining plots share that one marker or memorial. Markers 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. Individual markers for cremains shall be flush with the ground and shall be no more than twelve (12) inches by twenty-four (24) inches in size.

- (c) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the City, or such person(s) as may be designated by the City Council. Fees for such work shall be set from time to time by resolution of the City Council, payable to the City.
- (d) Should any monument or memorial (including any monument or memorial that was in place before this Ordinance became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the City Council shall have the right, at the expense of the owner of the cemetery plot, if living, to correct the condition or remove the same. The City shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (e) The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item are the responsibility of the heirs or family of the person buried at that location. The City has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.
- (f) Foot stones are strictly prohibited within Cemeteries owned by City of Laingsburg. Veteran Flat markers are not considered footstones.

Section 8. Interment Regulations

- (a) Only one (1) person shall be buried in a cemetery plot, except for a parent and infant child, two (2) children buried at the same time or one interment and one cremains when approved by the City.
- (b) The City shall be given not less than 36 hours' prior notice in advance of any funeral to allow for the opening of the cemetery plot. The opening and closing of cemetery plots shall be done only by the City or such person or persons as are designated by the City.
- (c) The appropriate permit or form issued by the City for the cemetery plot involved, together with appropriate identification of the person to be buried therein and the burial-transit permit from the health department, shall be presented to either the City Sexton or the City Clerk (or designated City official) prior to interment. Where such permit or form has been lost or destroyed, the City Clerk must be satisfied, from his or her records, that the deceased person to be buried in the cemetery plot is an authorized and appropriate person for that space before any interment is commenced or completed.
- (d) The surface of all graves shall be kept in an orderly and neat-appearing manner within the confines of the cemetery plot involved.

Section 9. Disinterments

- (a) No disinterment or digging up of an occupied grave shall occur until and unless any and all permits, licenses and written authorizations required by law for such disinterment or digging up of an occupied grave have been obtained from any applicable state or county agency, governmental unit or official, and a copy of the same has been filed with the City.
- (b) The City Council shall have the authority to refuse to allow a disinterment or the digging up of an occupied grave (and to refuse to issue a City disinterment permit for the same) if the disinterment or digging up of an occupied grave is not done pursuant to a court order (issued by a court of competent jurisdiction) or does not have a reasonable basis.

Section 10. Winter Burials

- (a) The City may charge additional fees for winter burials.
- (b) If a winter burial cannot occur due to inclement weather, frozen ground or similar condition, the deceased person may be kept in winter storage until a spring burial can occur. Written permission by the next of kin or authorized agent must be obtained prior to winter storage. All such winter storage costs shall be paid by the estate of the deceased person or the person's next of kin.
- (c) No winter burials shall occur without the prior consent of the City Sexton.

Section 11. Cremains

- (a) Cremains may only be buried, by the City Sexton, in a container approved by the City in a cemetery plot or in a columbarium that has been installed by the City within a City cemetery.
- (b) No cremains shall be scattered or dispersed within a City cemetery.
- (c) Two cremains are allowed on one cemetery lot.

Section 12. Grounds Maintenance

- (a) Flowers and grave decorations may be placed and maintained at the head stones of graves. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the City Sexton or the City Clerk. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the City Sexton or the City Clerk.
- (c) Flowers may be planted only within 6" from the east side of the headstone on the grave side only. Nothing shall be placed on the ends of the headstone except for urns. Under no circumstance will such planting be allowed outside the boundaries of the owner's burial space(s). Any of the foregoing items not adhering to the above rules may be removed by the City or the City Sexton.
- (d) The City reserves the right to remove or trim any existing trees, plants or shrubs located within a cemetery in the interest of maintaining proper appearance and the use of the cemetery.
- (e) Mounds, bricks, blocks and any borders that hinder the free use of a lawn mower or other gardening apparatus are prohibited.
- (f) The City Sexton shall have the right and authority to remove and dispose of any and all growth, emblems, displays, containers and other items that through decay, deterioration, damage or otherwise become or are unsightly, a source of litter or a maintenance problem.
- (g) Surfaces other than earth or sod are prohibited.
- (h) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, papers and plastic flower containers must be removed from the cemetery within 10 days after a burial.
- (i) No glass containers or items are allowed.
- (j) Except for markers, memorials, flowers, and urns expressly allowed by this Ordinance, and veteran flags as authorized by law, no other item (including, but not limited to, ornaments, signs, trellises, statues, benches, landscaping, bricks, stones, grave border materials or other structures) shall be installed or maintained within a City cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Ordinance or by the City.

Section 13. Disclaimer of City Liability and Responsibility

Every person who enters, remains in and travels within a City cemetery does so at their own risk. The City is not responsible for any injury, accident or other calamity that might occur to any person present in a City cemetery. Furthermore, the City is not responsible for any damage or vandalism to, theft of or deterioration of any burial monument, headstone, flower urn or other item placed at or near a cemetery plot, burial site or anywhere in a City cemetery. The purchaser or transferee of any cemetery plot or the equivalent (and all subsequent transferees, assigns, heirs, or beneficiaries) hereby releases, waives, indemnifies and holds harmless the City for, from and against any injury, damages, causes of action, claims, costs and expenses associated with, relating to and/or involving the cemetery plot or similar right, any headstone, monument or similar items, and any matter related to the cemetery involved. Such waiver, release and hold harmless provision shall apply not only to the City, but also as to the City Sexton and any City employee, officer, official or agent.

Section 14. Forfeiture of vacant cemetery plots or burial spaces

Cemetery plots or burial spaces sold and remaining vacant for fifty (50) years or more from the date of their sale shall automatically revert to the City upon the occurrence of the following events:

- (a) Notice shall be sent by the City Clerk by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 50-year period and that all rights with respect to said plots or spaces will be forfeited if he/she does not affirmatively indicate in writing to the City Clerk within

sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and if no known address is on file a public notice will be posted.

- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the City Clerk from the last owner of record of said plots or spaces, or his/her heirs or legal representative, within sixty (60) days from the date of mailing of said notice.

Section 15. Repurchases of Plots or Burial Spaces

The City may repurchase any cemetery plot from the owner for a price set by the City Council, upon the written request of said owner or his or her legal heirs or representatives.

Section 16. Records

The City Clerk shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the City related to City cemeteries, and the same shall be open to public inspection at all reasonable business hours.

Section 17. Vaults

- (a) All burials shall be within a standard concrete vault (which meets all applicable laws) installed or constructed in each cemetery plot before interment. Vaults of other suitable materials may be allowed at the discretion of the City.
- (b) Cremains shall be in a container approved by the City.

Section 18. Cemetery Hours

Unless otherwise specified by the City Council by resolution, all City cemeteries shall be closed dusk until dawn. During those hours, no person shall be present in a City cemetery. Such prohibition on being present in a City cemetery during the time when a City cemetery is closed shall not apply to the City Sexton, any City official, a person accompanied by the City Sexton or other City official, or any law enforcement or firefighting official when engaged in the lawful duties of any such office or position.

Section 19. Prohibited Uses and Activities

The following prohibitions shall apply within any City cemetery:

- (a) No person shall destroy, deface, apply graffiti to or otherwise injure any monument, sign, tree or other lawful item located within a City cemetery.
- (b) No person shall disturb the peace or unreasonably annoy, harass or disturb any other person who is lawfully present on the grounds of any City cemetery.
- (c) No vehicles shall be permitted to drive on lawns or cemetery plots in a cemetery.
- (d) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (e) There shall be no destruction of cemetery property.
- (f) There shall be no destruction, defacing, cutting, etc., of any tree or plant within a cemetery.
- (g) There shall be no headstones, ornaments, vases, plastic flowers, fences, benches, trellises, statues, signs or any other item placed, kept, installed or maintained in a cemetery except those expressly allowed by this Ordinance.
- (h) There shall be no disturbing of the peace or engaging in any loud or boisterous conduct.
- (i) There shall be no digging, grading or mounding unless expressly authorized by this Ordinance.
- (j) There shall be no driving of an automobile, truck or any vehicle on any portion of a cemetery except the designated roads or drives.
- (k) There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles.
- (l) There shall be no gathering of persons in excess of 75 people without prior City approval (except during or incidental to a funeral occurring concurrent with burial).
- (m) There shall be no disinterment or grave openings unless approved by the City.
- (n) There shall be no possession or consumption of any alcoholic beverage/illegal narcotics.

- (o) There shall be no picnicking or consumption of food without prior City approval.
- (p) There shall be no music, playing of any radio, or the use of any amplification device or similar item, except pursuant to a military ceremony or a funeral.
- (q) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (r) There shall be no littering or dumping.
- (s) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (t) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (u) There shall be no fires, candles or open flames.
- (v) No children under twelve (12) years of age shall be allowed in any City cemetery unless accompanied by an adult and are properly supervised by an adult.
- (w) There shall be no exceeding of posted speed limits.
- (x) There shall be no domestic animals of any kind or pets allowed within the cemetery grounds. However, this prohibition shall not apply to dogs assisting handicapped persons.
- (y) No firearms or archery arrows shall be discharged or shot except that military or other veterans organizations may carry arms for the purpose of firing over the grave at the burial of a member.
- (z) No person shall engage in any fight, quarrel or disturbance.
- (aa) Cremains or ashes of a deceased person shall not be scattered or dispersed.
- (bb) There shall be no dumping, vandalizing or tipping over of any lawful garbage container or receptacle.

Section 20. Authority of the City Sexton

- (a) The City Council shall appoint a City Sexton, who shall serve at the discretion of the City Council. The City Sexton may be a City employee or independent contractor for the City at the discretion of the City Council.
- (b) The City Sexton shall assist other City officials with the enforcement and administration of this Ordinance.
- (c) The City Sexton shall have such duties and obligations with regard to City cemeteries as may be specified from time to time by the City Council.

Section 21. Fees

The City Council shall have the authority to set fees pursuant to this Ordinance from time to time by resolution. Such fees can include, but are not limited to, a fee or fees for a burial permit, disinterment permit, grave opening, setting of foundations, grave closing, winter or holiday burial, the price for a new cemetery plot, transfer fees for cemetery plots, and other matters.

Section 22. Applicability of this Ordinance

- (a) This Ordinance shall apply only to cemeteries owned, controlled or operated by the City.
- (b) The provisions of this Ordinance shall not apply to City officials or their agents or designees involved with the upgrading, maintenance, administration or care of a City cemetery.
- (c) The provisions of this Ordinance shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

Section 23. Interpretation/Appeals to the City Council

- (a) The City Council 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 City Council (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. Any such waiver, however, must be of such a character as it will not impair the purposes and intent of this Ordinance.

- (b) Any party aggrieved by any interpretation or decision made by the City Sexton or any City official, agent or contractor pursuant to this Ordinance, as well as any matter relating to a City 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 City Council. Any such appeal shall be in writing and shall be filed with the City within thirty (30) days of the date of the decision, determination or other matter being appealed from. The City shall give the aggrieved party who filed the written appeal with the City at least ten (10) days' prior written notice of the meeting at which the City Council will address the matter unless an emergency is involved, in which case the City shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the City Council at which the matter will be addressed. Pursuant to any such appeal, the decision of the City Council shall be final.
- (c) The City Council may set a fee or fees for any such appeal from time to time by resolution.

Section 24. Authority of the City to Remove Unauthorized or Unlawful Items from a City Cemetery

Any monument, marker, planting, trellis, personal item, urn, flowers or foliage (whether real or artificial), structure, flag (except for lawful veterans flags), or other item that has been placed, installed, left or maintained in any City cemetery in violation of this Ordinance, any City rule or regulation regarding City cemeteries, or any county, state or federal law, statute or regulation may be removed by the City from the City cemetery at any time and destroyed or disposed of by the City without any prior notice to, permission from, or liability or obligation to the person or persons who left, installed, maintained or kept such item in the City cemetery. No such item (including, but not limited to, a monument, marker, planting, trellis, personal item, urn, flowers or foliage, structure, flag, or similar item) can be installed, placed, maintained or kept in a City cemetery unless expressly authorized by this Ordinance or a written rule or policy of the City.

Section 25. Penalties

A violation of this Ordinance (or of any rule or regulation adopted pursuant to this Ordinance) constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Ordinance, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100) for the first offense and not less than two hundred dollars (\$200) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by 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.

A violation of any permit or permit condition issued pursuant to this Ordinance shall also constitute a violation of this Ordinance.

Section 26. City Officials Who Can Enforce this Ordinance

Unless otherwise specified by the City Council by resolution, the following officials or officers shall have the authority to enforce this Ordinance:

- City Clerk
- City Sexton
- Any sworn/certified Police Officer, may issue municipal civil infraction citations/tickets pursuant to this Ordinance:

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 28. Effective Date; Conflicts

This Ordinance shall become effective thirty (30) days after a copy of this Ordinance (or summary thereof) appears in the newspaper. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

The above Ordinance was offered for adoption by City Council Member Rhodabeck and was seconded by City Council Member L.C. Sparkes, the vote being as follows:

YEAS: Culpepper, Nickols, L.C. Sparkes, Rhodabeck, Ducastel, and L.L. Sparkes

NAYS: None

ABSENT/ABSTAIN: Fredline

ORDINANCE DECLARED ADOPTED.

CERTIFICATION

I hereby declare that the above is a true copy of an ordinance adopted by the Laingsburg City Council at a regular meeting held on February 6th at the Laingsburg City Hall, pursuant to the required statutory procedures.

Dated: February 6, 2017

Respectfully submitted,

By Paula Willoughby, Laingsburg City Clerk