

## Chapter 96 – MAPLE GROVE CEMETERY ORDINANCE

### Section 1. Title

This Chapter shall be known and cited as the “Maple Grove Cemetery Ordinance.”

### Section 2. Purpose and Intent

The Argos Town Council recognizes and concludes that the proper and reasonable maintenance, appearance and use of the cemetery or cemeteries owned or controlled by the Town is an important function of the government of the Town. 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 Town Council finds that the adoption and enforcement of this Chapter is in the best interests of the property owners and residents of the Town.

### Section 3. Definitions

“Cemetery Plot” shall consist of an area in Maple Grove Cemetery sufficient to accommodate one full burial space for one deceased person. It shall consist of a land area at least forty (40) inches wide and ninety-six (96) inches in length.

### Section 4. Sale of Cemetery Plots and Transfer of Plots

- (a) After the effective date of this Chapter, cemetery plots shall be sold by the Town 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.
- (b) All sales and transfers of cemetery plots will be administered through the Clerk-Treasurer’s office using a form approved by the Town Council and signed by the designated Town 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 Town Clerk or Deputy Town Clerk.
- (c) At the time of purchase from the Town, each cemetery plot shall be assigned the name of the specific person (if available) 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 present the originally issued deed along with a letter stating who and how many plots are to be transferred. At that time, the current fee for recording must be paid for each deed that is to be reissued. The fee will be listed in the most recent cemetery fee schedule resolution.
- (d) The fee needed to record the deed information with the Marshall County Recorder’s Office is included in the price of the cemetery plot. The Clerk-Treasurer’s Office will be responsible for recording the deed prior to it being issued. Once recorded, the deed will be mailed, so a mailing address will be required at the time the plot is purchased.
- (e) Cemetery plots may be sold back for the original purchase price to the Town. Any plot sold back to the Town that is located in the “older sections” of Maple Grove (Plot

numbers between 1 and 999) may or may not be available for resale. The Town Council will be responsible for that determination.

- (f) The Town 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 Town 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 Town 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 Town 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 Town shall have the right to remove and transfer the remains so interred to another cemetery plot in a similar location in the same cemetery in accordance with law.
- (h) The owner of every cemetery plot shall be responsible for notifying the Town whenever that person's mailing address or contact information changes.

**Section 5. Purchase Price for Cemetery Plots; Indigent Burials**

- (a) The fee will be listed in the most recent cemetery fee schedule resolution. The lawful owner of any cemetery plot within the cemetery shall promptly provide the Clerk-Treasurer's office with any change in that owner's mailing address.
- (b) All charges shall be paid to the Clerk-Treasurer.
- (c) A payment contract may be signed for purchasing a cemetery plot. Regular payments must be made (no longer than 30 days lapse between them) on the contract and it must be paid in full within six (6) months. If these conditions are not met, the contract will become void. If the contract is deemed void, the plot will then be forfeited and will then be made available for purchase again and all payments made up to that time will also be forfeited.
- (d) The Town Council may waive some or all fees for the burial of indigent persons.
- (e) The Town Council may by resolution periodically alter the foregoing fees to accommodate increased costs and needed funds for cemetery maintenance and acquisition.

**Section 6. Grave Opening Charges**

- (a) The Town 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 as Attachment A to this ordinance, payable to the Town of Argos,
- (b) No cemetery plot shall be opened or closed except under the direction and control of the Town or a funeral director. 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 Town shall be given at least twenty-four (24) hours' prior notice of when such grave opening or closing will occur.
- (c) Fees for opening and closing for any type of burial must be paid in advance before interment unless the service is conducted by an established funeral home that has included that fee as part of the service.
- (d) The Town Council will designate who is allowed to perform openings and closings. No opening is allowed without the knowledge of the Town Council or the Clerk-Treasurer's office.

**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.
- (b) Temporary markers are considered to be property of the Maple Grove Cemetery.
- (c) Except for monuments that existed in Maple Grove Cemetery before the effective date of this Chapter, no monument will be allowed or erected in the cemetery. For purposes of this Chapter, "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-two (32) inches in width (or sixty (60) 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-two (32) inches in width (or sixty (60) inches in width for a double marker), with an overall height of no more than thirty (30) inches above ground level, including the foundation.
- (d) The footing or foundation upon which any marker or memorial must be placed shall be constructed by the Town, or such person(s) as may be designated by the Town Council. Foundations will only be placed at the approval and instruction of the Town Council or the Clerk-Treasurer's office. Fees for such work shall be set based on the current rate of the contractor, but payable to the Town of Argos.
- (e) No foundations/monuments will be constructed/installed on any plot which has an unpaid balance due to the Cemetery for said plot.
- (f) The Town is no longer allowing the sale of graves in the "Old Section" (which is defined

as Plot #1 – 999), however, any foundations being poured for plots previously purchased in the Old Section will have a wash of four (4) inches around all sides of the base of the monument.

- (g) Foundations in the New Section will already be poured. Any part of the New Section without foundations in place will not be available for sale until they are poured.
- (h) Should any monument or memorial (including any monument or memorial that was in place before this Chapter became effective) become unsightly, broken, moved off its proper site, dilapidated or a safety hazard, the Town Council shall have the right, at the expense of the owner of the cemetery plot, to correct the condition or remove the same. The Town shall make reasonable attempts to contact the owner of the cemetery plot prior to any such work beginning.
- (i) The maintenance, repair and upkeep of a cemetery memorial, marker, urn or similar item is the responsibility of the heirs or family of the person buried at that location. The Town has no responsibility or liability regarding the repair, maintenance or upkeep regarding any such marker, memorial, urn or similar item.

#### **Section 8. Interment Regulations**

- (a) Only human remains are allowed in the cemetery.
- (b) Burial permits are required for all burials.
- (c) Scattering of cremated remains on cemetery property will not be permitted. There will be no exceptions.
- (d) No Sunday burials will be permitted.
- (e) Burial vaults and urn vaults are required for all burials.
- (f) Burial per plot is restricted to:
  - \*\* 1 traditional (casket with vault) and/or 1 cremation (urn vault)
  - \*\* 2 cremations (2 urn vaults)
  - \*\* 1 traditional (casket with vault) & 1 infant (casket/vault combo)
  - \*\* 1 cremation (urn vault) & 1 infant (casket/vault combo)
- (g) The Town 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 Town or such person or persons as are designated by the Town and shall follow all current applicable state statutes, in addition to all other applicable laws regarding any burial, grave opening or memorial service.
- (h) The appropriate identification of the person to be buried therein and the burial- transit permit from the health department, shall be presented to either the Town or the Clerk (or designated Town official) prior to interment.
- (i) 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 the digging up of an occupied grave shall occur without a Town

- disinterment permit.
- (b) 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 Town.
  - (c) The Town 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 Town 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.
  - (d) No disinterment permit shall be issued by the Town until the Town disinterment application form (as authorized by the Town Council) has been fully completed (and signed by a properly authorized person) and filed with the Town.

**Section 10. Winter Burials**

- (a) The Town 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 Town.

**Section 11. Cremains**

- (a) Cremains must be buried in a container approved by the Town in a cemetery plot or in a columbarium that has been installed by the Town within Maple Grove Cemetery.
- (b) No cremains shall be scattered or dispersed within Maple Grove Cemetery.

**Section 12. Grounds Maintenance**

- (a) Flower pots, urns and grave blankets may be placed and maintained at the head stones of graves no earlier than May 1 and must be removed no later than October 1 of each year. Decorations will be permitted for holidays falling outside of these dates, but only for one (1) week prior and one (1) week following the holiday. Veteran flags and flag holders shall be governed by the Veteran's Administration rules and guidelines.
- (b) All ornamental items must be placed on the monument or foundation. One shepherds hook is allowed per gravesite so long as it is in line with the foundation.
- (c) Items that hinder the free use of a lawn mower, other gardening apparatus, or are determined as inconvenient or hazardous to the groundskeeper are prohibited. Items not allowed include but are not limited to aggregate, gravel, borders, bricks, glass, fencing, trellises, and artificial lawn or garden ornaments such as artificial animals,

- potteries, statues, etc.
- (d) The Town Council reserves the right to remove any items which become litter on any plots. This also applies to the removal of old flowers, plants or shrubberies that have not been maintained.
  - (e) No grading, leveling or excavating within a cemetery shall be allowed without the prior permission of the Town Council. Furthermore, no tree, shrub, landscaping or similar plantings shall occur without the prior permission of the Town Council.
  - (f) No flowers, shrubs, trees or vegetation of any type shall be planted outside of an urn. Any of the foregoing items planted without Town approval will be removed by the Town.
  - (g) The Town Council 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.
  - (h) The Town 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.
  - (i) Surfaces other than earth or sod are prohibited.
  - (j) All refuse of any kind or nature including, but not limited to, dried flowers, wreaths, paper and plastic flower containers must be removed from the cemetery within 10 days after a burial.
  - (k) No glass containers or items are allowed.
  - (l) Except for markers, memorials, flowers, and urns expressly allowed by this Chapter, 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 Maple Grove Cemetery, nor shall any grading, digging, mounding or similar alteration of the ground or earth occur except as authorized by this Chapter or by the Town.

**Section 13. Disclaimer of Town Liability and Responsibility**

Every person who enters, remains in and travels within Maple Grove Cemetery does so at their own risk. The Town is not responsible for any injury, accident or other calamity that might occur to any person present in Maple Grove Cemetery. Furthermore, the Town 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 Maple Grove 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 Town 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 Town, but any Town employee, officer, official or agent.

**Section 14. Forfeiture of vacant cemetery plots or burial spaces**

Cemetery plots or burial spaces that have been sold and have remained vacant for forty (40) years or more from the date of their sale shall automatically revert to the Town upon the occurrence of the following events:

- (a) Notice shall be sent by the Clerk-Treasurer by first-class mail to the last known address of the last owner of record informing him/her of the expiration of the 40-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 Town Clerk-Treasurer within sixty (60) days from the date of mailing of such notice of his/her desire to retain such burial rights; and
- (b) No written response to said notice indicating a desire to retain the cemetery plots or burial spaces in question is received by the Clerk-Treasurer 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 Town may repurchase any cemetery plot from the owner for the original purchase amount upon written request of said owner or his or her legal heirs or representatives.

**Section 16. Records**

The Clerk-Treasurer shall maintain records concerning all burials, cemetery plots, issuance of burial permits and any other records of the Town related to the Maple Grove Cemetery, 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.
- (b) Cremains shall be in an urn vault.

**Sections 18. Cemetery Hours**

Unless otherwise specified by the Town Council by resolution, Maple Grove Cemetery shall be closed from sunset to sunup. During those hours, no person shall be present in Maple Grove Cemetery. Such prohibition on being present in Maple Grove Cemetery during the time when Maple Grove Cemetery is closed shall not apply to the Town, any Town official, a person accompanied by the Town or other Town 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 Maple Grove Cemetery:

- (a) No person shall destroy, deface, cut, apply graffiti to or otherwise injure any cemetery property, monument, sign, tree or plant, or any other lawful item located within Maple Grove 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 Town cemetery.
- (c) There shall be no driving of an automobile, truck or any other vehicle on lawns or cemetery plots in the cemetery. All vehicles are to only be on designated roads or drives.
- (d) There shall be no snowmobiles, four-wheelers, go-carts or similar vehicles in the cemetery.
- (e) All vehicles must not drive at a speed exceeding 15 mph.
- (f) There shall be no entry or presence in the cemetery by any person when the cemetery is closed or outside of authorized times.
- (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 Chapter.
- (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 Chapter.
- (j) There shall be no gathering of persons in excess of 75 people without prior Town approval (except during or incidental to a funeral occurring concurrent with burial).
- (k) There shall be no disinterment or grave openings unless approved by the Town.
- (l) There shall be no possession or consumption of any alcoholic beverage.
- (m) There shall be no picnicking or consumption of food without prior Town approval.
- (n) 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.
- (o) There shall be no solicitation or peddling of services or goods or any signs or placards advertising any goods or services.
- (p) There shall be no littering or dumping.
- (q) There shall be no unlawful interference with or disruption of a lawful funeral or funeral procession.
- (r) There shall be no private signs, lighting, moving displays or changeable copy on a sign.
- (s) There shall be no fires, candles or open flames.
- (t) No children under twelve (12) years of age shall be allowed in any Town cemetery unless accompanied by an adult and are properly supervised by an adult.
- (u) 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.
- (v) No firearms or archery arrows shall be discharged or shot except that military or other veteran organizations may carry arms for the purpose of firing over the grave at the burial of a member.

- (w) 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 Town**

- (a) The Town Council shall have all authority in regards to the Maple Grove Cemetery.
- (b) The Town Council shall assist other Town officials with the enforcement and administration of this Chapter.

**Section 21. Fees**

The Town Council shall have the authority to set fees pursuant to this Chapter from time to time by resolution. Such fees can include, but are not limited to, 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. Said fees shall be set as Attachment A to this ordinance, payable to the Town of Argos,

**Section 22. Applicability of this Chapter**

- (a) This Chapter shall apply only to Maple Grove Cemetery, which is owned, controlled and operated by the Town of Argos.
- (b) The provisions of this Chapter shall not apply to Town officials, their agents or designees involved with the upgrading, maintenance, administration or care of Maple Grove Cemetery.
- (c) The provisions of this Chapter shall not apply to police officers or firefighting officials or officers involved in carrying out their official duties.

**Section 23. Interpretation/Appeals to the Town Council**

- (a) The Town Council shall have the authority to render binding interpretations regarding any of the clauses, provisions or regulations contained in this Chapter and any rule or regulation adopted pursuant to this Chapter, as well as their applicability. The Town Council is also authorized to waive application of the strict letter of any provision of this Chapter or any rules or regulations promulgated under this Chapter where practical difficulties in carrying out the strict letter of this Chapter 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 Chapter.
- (b) Any party aggrieved by any interpretation or decision made by the Town or any Town official, agent or contractor pursuant to this Chapter, as well as any matter relating to Maple Grove Cemetery, rights to a cemetery plot, or other matter arising pursuant to this Chapter, shall have the right to appeal that determination/decision or matter to the Town Council. Any such appeal shall be in writing and shall be filed with the Town within thirty (30) days of the date of the decision, determination or other matter being

appealed from. The Town shall give the aggrieved party who filed the written appeal with the Town at least ten (10) days' prior written notice of the meeting at which the Town Council will address the matter unless an emergency is involved, in which case the Town shall utilize reasonable efforts to notify the aggrieved party who filed the appeal of a special or emergency meeting of the Town Council at which the matter will be addressed. Pursuant to any such appeal, the decision of the Town Council shall be final.

- (c) The Town Council may set a fee or fees for any such appeal from time to time by resolution.

**Section 24. Authority of the Town to Remove Unauthorized or Unlawful Items from Maple Grove 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 Town cemetery in violation of this Chapter, any Town rule or regulation regarding Maple Grove Cemetery, or any county, state or federal law, statute or regulation may be removed by the Town from the cemetery at any time and destroyed or disposed of by the Town 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 Town 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 Maple Grove Cemetery unless expressly authorized by this Chapter or a written rule or policy of the Town. Even if such an item is authorized to be installed, kept, maintained or left in Maple Grove Cemetery, the Town shall still have the discretion to remove any such item at any time and dispose of the same without prior notice to, consent from or liability to the person or persons who installed, maintained or left such item in Maple Grove Cemetery.

**Section 25. Town Officials Who Can Enforce this Chapter**

Unless otherwise specified by the Town Council by resolution, the following officials or officers shall have the authority to enforce this Chapter and to issue municipal civil infraction citations/tickets pursuant to this Chapter:

- Town Supervisor
- Town Clerk
- Town Council
- Town Zoning Administrator
- Town Ordinance Enforcement Officer
- Argos Police Department
- Any deputy of the county sheriff's department
- Any State police officer.