

ORDINANCE NO. 668

**AN ORDINANCE REGARDING GRACE LAWN CEMETERY
AND ITS GOVERNING RULES, REGULATIONS, AND FEES**

WHEREAS Indiana Code Sections 36-1-3 et seq. permit any town in the State of Indiana to exercise any power or perform any function necessary to the public interest in the context of its municipal or internal affairs, which is not prohibited by the Constitution of the United States or of the State of Indiana, or denied or pre-empted by any other law, or is not expressly granted by any other law to another governmental entity;

WHEREAS Indiana Code Sections 23-14-65 et seq. authorize the establishment of this Ordinance and allow the Town Council of the Town of Middlebury, Indiana to make all necessary rules and regulations for the management of Grace Lawn Cemetery and to sell lots or parts of lots at prices that the Town Council considers reasonable;

NOW, THEREFORE, pursuant to Indiana Code Sections 36-1-3 et seq. and Indiana Code Sections 23-14-65 et seq., it is hereby ORDERED, ESTABLISHED, AND ORDAINED by the Town Council of the Town of Middlebury, Indiana, as follows:

Section 1. Ordinance. This Ordinance may be referred to as the Town of Middlebury Grace Lawn Cemetery Ordinance.

Section 2. Sales Price for Cemetery Lots. Beginning on and after the effective date of this Ordinance, all remaining and available cemetery burial spaces in Grace Lawn Cemetery shall be priced and sold at Five Hundred Thirty Dollars (\$530.00) per burial space in 2018. Effective January 1, 2019 and January 1 of each year thereafter through January 1, 2025, the remaining and available cemetery burial spaces in Grace Lawn Cemetery shall be priced and sold at the prices indicated for the respective year as shown under "Burial Lots" on Exhibit A. On and after January 1, 2026, the remaining and

available cemetery burial spaces in Grace Lawn Cemetery shall be priced and sold at Six Hundred Fifty Dollars (\$650.00) per burial space until amended by ordinance of the Town of Middlebury, Indiana.

Section 3. Permanent Maintenance Fund. On and after January 1, 2021 until December 31, 2023, the Clerk-Treasurer of the Town of Middlebury, Indiana shall allocate and deposit to the permanent maintenance fund or endowment fund for Grace Lawn Cemetery Thirty-five Dollars (\$35.00) out of the purchase price collected for the sale of each cemetery burial space sold in Grace Lawn Cemetery. On and after January 1, 2024, the Clerk-Treasurer of the Town of Middlebury, Indiana shall allocate and deposit to the permanent maintenance fund or endowment fund for Grace Lawn Cemetery Forty Dollars (\$40.00) out of the purchase price collected for the sale of each cemetery burial space sold in Grace Lawn Cemetery.

Section 4. Interments and Disinterments.

a. Interment Fees. Beginning on and after the effective date of this Ordinance, the interment fees for burials at Grace Lawn Cemetery shall be as reflected under “Interments” for the respective type and time on Exhibit A for 2018. Beginning on and after January 1, 2019 and January 1 of each year thereafter through January 1, 2025, the interment fees for burials at Grace Lawn Cemetery shall be as reflected under “Interments” for the respective type and time on Exhibit A for each respective year. On and after January 1, 2026, the interment fees for burials at Grace Lawn Cemetery shall be as reflected under “Interments” for the respective type and time on Exhibit A for the fees provided under 2026 until amended by ordinance of the Town of Middlebury, Indiana.

b. Disinterment Fees. Beginning on and after the effective date of this Ordinance, the disinterment fees for previous burials at Grace Lawn Cemetery shall be as reflected under “Disinterments” for the respective type and times on Exhibit A for 2018. Beginning on and after January

1, 2019 and January 1 of each year thereafter through January 1, 2025, the disinterment fees for previous burials at Grace Lawn Cemetery shall be as reflected under “Disinterments” for the respective type and time on Exhibit A for each respective year. On and after January 1, 2026, the disinterment fees for previous burials at Grace Lawn Cemetery shall be as reflected under “Disinterments” for the respective type and time on Exhibit A for the fees provided under 2026 until amended by ordinance of the Town of Middlebury, Indiana.

c. Scheduling. Interments and disinterments must be scheduled with the Superintendent of Public Works but shall not be available to be scheduled on Sundays and the following holidays recognized by the Town of Middlebury:

- New Year's Day
- Good Friday
- Memorial Day
- Independence Day (4th of July)
- Labor Day
- Thanksgiving Day and the day following Thanksgiving
- Christmas Day

In the event that interments are scheduled with the Superintendent of Public Works on a Sunday or holiday due to requirements for religious reasons, disability reasons, and other legal accommodations, the fees applicable will be those for the respective type for the respective year as shown on Exhibit A for the pricing under “Evening after 3pm and Saturdays after Noon.”

Section 5. Payment of Fees. All fees due and payable under this Ordinance shall be payable to the Town of Middlebury and shall be delivered to the Clerk-Treasurer for the Town of Middlebury.

Section 6. Rules and Regulations. On and after the effective date of this Ordinance, the following rules and regulations shall be applicable to Grace Lawn Cemetery:

- a. All funerals on reaching Grace Lawn Cemetery shall be under the supervision of the Grace Lawn Cemetery Sexton.
- b. Once a funeral service is completed and the casket is placed in the vault, the Grace Lawn Cemetery Sexton has the right to refuse permission to anyone to open the casket or to touch the body without the consent of the legal representative of the deceased or without a court order.
- c. All interments and disinterments are subject to the orders and laws of the Town of Middlebury, County of Elkhart, and State of Indiana.
- d. When instructions from the cemetery lot owner regarding the location of an interment space in a cemetery lot cannot be obtained, or are indefinite, or for any other reason the space cannot be opened where specified, the Grace Law Cemetery Sexton may, in the Sexton's discretion, open the space in such location as the Sexton deems best and proper so as to not to delay the funeral.
- e. Grace Lawn Cemetery and its management reserves and shall have the right to correct any errors that are made either in making interments or disinterments and removals.
- f. Grace Lawn Cemetery and its management shall exercise reasonable care in making a disinterment and removal.
- g. All decorations or personal property left at a burial lot must be placed within sixteen (16) inches of the base of the grave marker and within the boundary lines of the burial lot property. Grace Lawn Cemetery and its management shall have the authority to remove all floral designs, flowers, trees, shrubs, plants, weeds, or herbage of any kind as well as all decorative landscaping stones and other decorative items of any kind from Grace Lawn Cemetery as soon as such have become unsightly, improperly placed, damaged, dangerous, detrimental, or diseased, in the Sexton's discretion. No glass shall be allowed.

- h. Grace Lawn Cemetery shall not be liable for floral pieces, baskets, frames to which they are attached, or other items of personal property left in Grace Lawn Cemetery.
- i. No person whatsoever shall be allowed in Grace Lawn Cemetery after sunset or before sunrise.
- j. No alcoholic beverages shall be allowed in Grace Lawn Cemetery.
- k. There shall be no public dumping in Grace Lawn Cemetery.
- l. Grace Lawn Cemetery shall be cleaned twice a year. Each cleaning will occur during designated periods, each period being a full week in duration. The biannual cleanings will occur during the second full week in April and the second full week in November. All decorations and personal property (including, but not limited to, flowers, plantings, and vases) shall be removed before the applicable biannual cleaning period.
- m. All burials of any type or character, including cremations, shall require the usage of a vault or vaults surrounding each casket or other legally permissible container for the remains of the deceased person.
- n. All such burial vaults shall be made of cement, steel, or copper and shall be of such weight and structural strength as to guard against collapse, structural failure, cave-in, or other calamity that has heretofore occurred, or could in the future occur, should considerable weight be placed thereon, by the passage over such by motor vehicles, large groups of people, and/or maintenance equipment.
- o. No mausoleums or other structures shall be placed or constructed within Grace Lawn Cemetery without the prior written approval of the Town Council.

p. The planting of bushes, shrubs, and trees in Grace Lawn Cemetery is prohibited. Notwithstanding this provision, the Grace Lawn Cemetery Sexton may, in his or her sole discretion, plant bushes, shrubs, and trees in Grace Lawn Cemetery.

q. All headstones shall be placed in the manner and at the location required by the Grace Lawn Cemetery Sexton.

r. Dogs and other pets may be brought into Grace Lawn Cemetery provided that they are continuously restrained by a leash or other adequate device, not exceeding six (6) feet in length. No person owning or having control of any such animal shall cause or permit the animal to run at large within the boundaries of Grace lawn Cemetery.

s. The owner or person having control of any dog or other pet in Grace Lawn cemetery shall immediately remove the animal's excrement and properly dispose of such material in a waste container. Notwithstanding these provisions, a disabled person with a service dog is relieved of the requirement to remove the service dog's excrement to the extent such requirement is impractical for a person with such disability. For purposes of these provisions, a horse being utilized for transportation purposes is not considered to be a pet.

Section 7. Enforcement and Penalties. Ordinance violations shall be enforced under proceedings brought pursuant to Indiana Code §34-28-5-1 et seq. in a manner similar to that of infractions with complaint and summons described in Indiana Code §9-30-3-6 issued by the Middlebury Police Department or other police agency. Any person who is found to have violated any provision of this Ordinance shall be punished by a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00) for the first offense. Any person who is found to have violated any provision of this Ordinance shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than

Five Hundred Dollars (\$500.00) for each second or subsequent offense. Each day's failure to comply with any provision of this Ordinance may constitute a separate offense.

Section 8. Repealing Effect. Upon its effective date, this Ordinance shall repeal Ordinance Number 606 adopted March 19, 2018, as well as all prior ordinances and resolutions or parts thereof which are in conflict with this Ordinance.

Section 9. Effective Date. This Ordinance shall become effective on February 21, 2022.

ORDAINED AND ADOPTED by the Town Council of the Town of Middlebury by a ____ to ____ vote this 21st day of February, 2022.

TOWN COUNCIL OF THE TOWN OF
MIDDLEBURY, INDIANA

By: Miranda Cripe
Miranda Cripe, President

Attest:

Peggy A Hutchison
Peggy A. Hutchison, Clerk-Treasurer
Town of Middlebury