



Fannin County Cemetery Ordinance 3-13-24

Ordinance on Regulations as to the Maintenance of Cemeteries within the Unincorporated Areas of Fannin County, a Political Subdivision of the State of Georgia.

Article I-Purposes

The Board of Commissioners of Fannin County, a Political Subdivision of the State of Georgia, hereby enacts a county ordinance in the furtherance of its responsibilities to protect the public, health, safety and wellbeing of the citizens of Fannin County, Georgia, and to regulate the maintenance, keeping and preservation of cemeteries within the unincorporated areas of Fannin County, a Political Subdivision of the State of Georgia; to repeal conflicting laws, ordinances, and resolutions; to provide an effective date; and for other purposes.

Article II- Enactment Authorization

The Board of Commissioners of Fannin County, Georgia, under authority of Article 9, Section 2 Paragraph I of the Constitution of Georgia (1983), as set forth in Article I of this Ordinance, hereby ordains and enacts into law the following articles and sections.

Article III- Title

This Ordinance shall be known and may be cited as “An Ordinance Regulating the maintenance, keeping, and preservation of cemeteries with the unincorporated areas of Fannin County, a Political Subdivision of the State of Georgia.”

Article IV- Regulations of Cemeteries Located within Fannin County, Georgia

- A. The General Assembly of the State of Georgia has set forth in the provisions of the O.C.G.A. § 36-72-1 through 36-72-16 rules and regulations for the establishment and maintenance of cemeteries within the State of Georgia.**

B. Fannin County, a Political Subdivision of the State of Georgia, does hereby affirm and adopt said regulations, to extent applicable to cemeteries located within Fannin County, Georgia, including by reference all definitions set forth in the OCGA 36-72-1.

Definitions

As used in this document, the term:

- 1. "Abandoned Cemetery" means a cemetery which shows signs of neglect including, without limitation, the unchecked growth of vegetation, repeated and unchecked acts of vandalism, or the disintegration of grave markers or boundaries and for which no person can be found who is legally responsible and financially capable of the upkeep of such cemetery.**
- 2. "Archaeologist" means any person who is:**
 - (A) A member of or meets the criteria for the membership in the Society of Professional Archaeologist and can demonstrate experience in the excavation and interpretation of human graves; or**
 - (B) Employed on July 1, 1991, by the state or by any county or municipal governing authority as an archaeologist.**
- 3. "Burial Ground" means an area dedicated to and used for interment of human remains, the term shall include privately owned burial plots, individually and collectively once human remains have been buried therein. The fact that the area was used for burial purposes shall be evidence that it was set aside for burial purposes.**
- 4. "Burial Object" means any item believed to have been placed with the human remains at the time of burial or interment or any memorial, tombstone, grave marker, or shrine which may have been placed after interment. Such term also means any inscribed or uninscribed marker, coping, curbing, enclosure, fencing, pavement, shelter, wall, stoneware, pottery, or other grave object erected or deposited incident to or after interment.**
- 5. "Cemetery or Cemeteries" means any land or structure in this state dedicated to and used, or intended to be used, for interment of human remains. It may be either a burial park for earth interments or a mausoleum for vault or crypt interments or a combination of one or more thereof.**
- 6. "Descendent" means a person or group of persons related to a deceased human by blood or adoption in accordance with Title 19.**
- 7. "Genealogist" means a person who traces or studies the descent of persons or families and prepares a probative record of such descent.**
- 8. "Human remains" means the bodies of deceased human beings in any state of decomposition, including cremated remains.**
- 9. "Preserve and protect" means to keep safe from destruction, peril, or other adversity and may include the placement of signs, markers, fencing, or other such appropriate features so**

as to identify the site as a cemetery or burial ground and may also include the cleaning, maintenance, and upkeep of the site to aid in its preservation and protection.

C. Said provisions of the OCGA 36-72-1 specifically state that the previously mentioned regulations do not include governmentally owned cemeteries, fraternal cemeteries, church, and synagogues cemeteries or family burial plots.

Article V-Maintenance of Cemeteries

Any cemetery subject to the provisions of this Ordinance which is situated in an area this is accessible to livestock shall be fenced to prevent said livestock from trampling or grazing on any grave site. It shall be the obligation of the owner of the livestock to provide said fencing in a manner adequate to achieve the objective stated herein. Said fence shall include a gated means of access to cemetery.

Article VI- Requirements for the Creation of a Cemetery within Fannin County, Georgia.

A. Minimum Acreage. In order to provide for the welfare of adjacent property owners, to insure privacy, and to avoid any claim of nuisance, no person, business or entity shall be authorized to establish or maintain a cemetery within the unincorporated areas of Fannin County, Georgia on a parcel or tract of land containing less than twenty-five acres and shall be established as a perpetual-care cemetery.

B. Minimum Set-back to Adjacent Property Owners.

- (1) To provide for the welfare of adjacent property owners, to insure privacy, and to avoid any claims of nuisance, any tract of land designated for utilization as a cemetery within Fannin County, Georgia shall have a minimum set back of twenty-five feet within the property line boundary of said twenty-five-acre tract and any adjacent property owner. Any adjacent property owner shall be required to maintain a twenty-five-foot minimum set-back from their property and the property line boundary.
- (2) The net result will be a fifty-foot (50') buffer area between any third-party development and any cemetery.
- (3) To provide for the welfare of adjacent property owners, to insure privacy, and to avoid any claims of nuisance, no human remains shall be permitted to be interred on any private property, the required Twenty-five (25) setback from any property line and 100 feet from any drinking water source will be required. Private Burial on Private property will not require 25 acres.
- (4) No human remains shall be buried or interred within fifty feet (50') of any stream in Fannin County, Georgia, as to the minimum setback for all streams in Fannin County, Georgia. No interment of human remains shall be allowed within said buffer zone.

C. Requirements of the Fannin County, Georgia Land Development Ordinance.

Nothing contained herein shall be deemed to exclude any person, business or entity which shall be engaged in land-disturbing activity from first meeting the requirements of the Land Development ordinance of Fannin County, Georgia.

Article VIII- Violations

A. Notification of Violations. Fannin County Code Enforcement Officer shall be authorized to inspect any tract designated for the establishment and maintenance of a cemetery.

B. Issuance of Cease-and-Desist Orders. The Fannin County Code Enforcement Officer can on his/her own initiative or at the request of the Fannin County Board of Commissioners, prior to a hearing, issue a cease-and-desist order or other appropriate order to any person who is violating the provisions of this Ordinance.

C. Hearings. Any alleged violation of this Ordinance shall be prosecuted by the Fannin County Code Enforcement Officer in the Magistrate Court for Fannin County, Georgia.

Article VII Legal Status Provisions

A. Severability. Should any section, paragraph sentence, clause or phrase of this Ordinance be declared invalid for any reason, the remainder of said Ordinance shall not be affected thereby.

B. Repealed Clause. All ordinances or parts of ordinances in conflict with this Ordinance are expressly repealed.