

ORDINANCE NO. 2300

**ORDINANCE AMENDING THE CODE OF ORDINANCES, CITY OF NEWTON, IOWA, 2016, TITLE IX, CHAPTER 95 CEMETERIES BY ADDING NEWTON MEMORIAL PARK CEMETERY AND UPDATING LANGUAGE IN THE CODE TO BE IN ACCORDANCE WITH IOWA CODE 523I**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, IOWA:

**Section 1.** The Code of Ordinances, City of Newton, Iowa, 2016, Title VII, Chapter 95, Section 95.04 "Sale of Lots" is hereby amended by adding or deleting the following:

**95.01 DEFINITION.**

The term **CEMETERY** shall mean the Newton Union Cemetery and Newton Memorial Park Cemetery, which is a are municipal ~~cemeteries~~ cemeteries under the provisions under Iowa Code Ch. 523I. (2011 Code, 6.0101)

**95.03 TRUSTEESHIP**

Pursuant to section 523I.502 of the Code of Iowa, the City of Newton, Iowa, hereby states its willingness and intention to act as the trustee for the perpetual maintenance of interment spaces in each Cemetery.

**95.04 ESTABLISHMENT OF TRUST FUND**

A perpetual trust is hereby established for each cemetery in accordance with Iowa Code chapter 523I, the Iowa Cemetery Act. A restricted fund is created for each cemetery, to be known and designated as the perpetual care cemetery fund for that cemetery. The perpetual care cemetery fund shall be funded by the deposit of an amount equal to or greater than twenty (20) percent of the gross selling price, or \$50.00, whichever is more for each sale of interment space within the cemetery. The fund shall be administered in accordance with the purpose and provisions of Iowa Code chapter 523I.

The perpetual care fund shall be maintained separate from all operating funds of the cemetery and the principal of the fund shall not be reduced voluntarily except as specifically permitted by the Iowa Cemetery Act and applicable administrative regulations.

**95.03 95.05 RECORDS.**

(A) It shall be the duty of the Clerk or the Clerk's designee to make and keep a permanent record of all interments made in the cemetery, which record shall at all time be open to public inspection.

(B) The record shall, among other things, include:

- (1) *Plat.* An accurate plat of the cemetery;
- (2) *Lot owners.* The names of the owners of all lots that have been sold including the amounts deposited in the perpetual care cemetery fund.
- (3) *Lot descriptions.* The correct description of all lots for sale and the price thereof, as shall be fixed by the City Council; and
- (4) *Grave locations.* The exact location of each grave upon each cemetery lot.

**95.04 95.06 SALE OF LOTS.**

The sale of lots in the cemetery shall be evidence by a deed certificate of interment rights signed and executed by the Mayor and the Clerk or Clerk's designee for and on behalf of the city, and it shall be the duty of the Clerk or the Clerk's designee to collect the purchase price in full for any lot sold before delivering the ~~deed of conveyance~~ certificate of interment rights for the same. A portion of the sale price as specified by the rules and regulations established by the Council shall be set aside and deposited in the Perpetual Care Endowment Fund of the cemetery. The certificate of interment rights shall disclose the amount or percentage of money to be placed in the perpetual care cemetery fund. (2011 Code, 6.0105)

**95.05 95.07 FEES, CHARGES AND PAYMENTS.**

The payment of all fees and charges shall be made at the office of the Clerk, or the Clerk's designee, where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as set out in the rules and regulations then in effect as adopted by the Council.  
(2011 Code, § 6.0106)

**95.06 95.08 PERPETUAL CARE**

- (A) *General.* The term **PERPETUAL CARE** shall be construed to mean the obligation which the city assumes to each year expend the net annual income of the perpetual care endowment set aside for the lot in furnishing such care as mowing grass, raking and cleaning the lot and adjacent alleys, filling of sunken graves and keeping monumental work in a vertical position. Where the income is sufficient it may be used in the perpetual care of avenues, alleys, fences, buildings and grounds in general. Expenditures shall be made at the discretion and under the direction of the Council and the city shall not be bound to make any separate investment of the sum of money set aside as perpetual care, but the same shall be added to the Perpetual Care Fund of the city and the proceeds therefrom used by the city in the manner heretofore provided. (2011 Code, § 6.0107)

(B) ~~Perpetual care on lot sales.~~ Future lot sales in the cemetery shall be made with the perpetual care provided for, at the rates specified in the rules and regulations as adopted by the Council, under and by virtue of the terms of this chapter. (2011 Code, § 6.0108)

(C) ~~(B) Cemetery lots without perpetual care.~~ Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the city of the perpetual care charges at the rates specified in the rules and regulations the code. (2011 Code, § 6.0109)


**Section 2. Repealer Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 3. Severability Clause.** If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 4. Effective.** This ordinance shall be effective on June 8, 2017, after the final passage, approval and publication as provided by law.

PASSED this 15<sup>th</sup> day of May, 2017.

APPROVED this 16<sup>th</sup> day of May, 2017.

  
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Michael L. Hansen, Mayor

ATTEST:  
  
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Katrina Davis, City Clerk

I, Katrina Davis, City Clerk of the City of Newton, Iowa, do hereby certify that the foregoing Ordinance was passed and approved by the City Council of the City of Newton, Iowa on the 16<sup>th</sup> day of May, 2017 and was published in the Newton Daily News, a newspaper of general circulation in the said City of Newton on the 8<sup>th</sup> day of June, 2017.

Dated this 8<sup>th</sup> day of June, 2017.

  
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Katrina Davis, City Clerk

