

ORDINANCE 2003-01

AN ORDINANCE REGULATING CITY-OWNED CEMETERIES, PROVIDING DEFINITIONS; SETTING THE PRICE OF GRAVE SPACES INCLUDING PERPETUAL CARE; SETTING THE PRICE FOR OPENING AND CLOSING GRAVES ON WEEKDAYS, HOLIDAYS AND WEEKENDS; SETTING RATES FOR MAINTENANCE ON SPACES FOR WHICH PERPETUAL CARE HAS NOT BEEN PAID IN CITY-OWNED CEMETERIES; PROVIDING FOR USAGE OF PERPETUAL CARE INTEREST FUNDS; SETTING HOURS OF CEMETERIES; REGULATING TREES, SHRUBS, FOUNDATIONS AND MARKERS; ESTABLISHING RULES OF CONDUCT; PROHIBITING THE DESTRUCTION OF DEFACEMENT OF GRAVES; WITH A PENALTY CLAUSE, SEVERABILITY CLAUSE AND REPEALER CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Russellville, Kentucky, is the owner of certain cemeteries; and,

WHEREAS, City Council has previously enacted Ordinances 82-16, Ordinance 83-5, Ordinance 88-4, all pertaining to the cemeteries; and

WHEREAS, City Council has determined that it is necessary to increase the price for lots, and increase the rates for perpetual care for lots sold for which perpetual care was not included in the price for the lots, and to provide for Perpetual Care Fund interest to be used for the upkeep, maintenance and embellish of the cemeteries; and

WHEREAS, City Council desires to incorporate and modify the original Ordinance, and its subsequent amendments, into a new Ordinance;

WHEREAS, City Council has determined that this legislation is necessary for the health, safety and welfare of its citizenry;

NOW, THEREFORE, BE IT ORDAINED by the City Council in and for the City of Russellville, Kentucky, that:

SECTION 1. PURPOSE OF ORDINANCE

This Ordinance is adopted for the government and management of the city cemeteries, which are owned by the city. Joint Resolution 91-8 as previously adopted supplements this Ordinance.

SECTION 2. DEFINITIONS

"Cemetery" or "Cemeteries", when used herein, shall refer to Maple Grove Cemetery, Greenwood Cemetery and Memorial Gardens, and any other cemetery now owned or hereafter acquired by the City of Russellville.

SECTION 3. PRICE OF GRAVE SPACES

(A) The price of grave spaces including perpetual care at the cemeteries shall be:

1 Grave Space	\$ 375.00
5 Grave Spaces (1/2 lot)	1,800.00
10 Grave Spaces (1 lot)	3,600.00
Mausoleum (includes entombment, name plate and vase)	
Double	2,500.00
Single	1,250.00

(B) In the event maintenance has been paid on a grave space, the purchase price of which did not include perpetual care, for

five (5) or more consecutive years immediately proceeding the September 24, 1982, then perpetual care may be obtained for such grave space by paying to the city the following amounts:

Lots or Spaces	Price
1 but less than 5 graves	\$25.00 per grave space
5 grave lots	\$100 each, plus \$25 per additional grave space, if any, but less than an additional lot.
10 grave lots	\$200 each, plus \$25 per additional grave space, if any, but less than an additional lot.

From the gross selling price of each grace space, the City shall deposit the statutory percentage wherefrom as required by KRS 367.952 into the Perpetual Care and Maintenance Fund.

SECTION 4. PRICE OF OPENING AND CLOSING GRAVES

The price of opening and closing a grave for a cremation, or a child's grave (4 foot or less) in a cemetery shall be as follows:

Days	Price
Weekdays	\$100
Holidays, Saturdays and Sundays	150

Otherwise, the price of opening and closing a grave in a cemetery shall be as follows:

Every date of the week	\$375
Holidays	450

SECTION 5. PERPETUAL CARE AND MAINTENANCE FUND INTEREST ACCOUNT

In accordance with KRS 367.952, the general care, maintenance and embellishment of the cemeteries shall be paid for with funds from the Perpetual Care and Maintenance Fund Interest Account. These expenses shall include, but not be limited to labor, supplies and equipment to be used solely for the general care, maintenance and embellishment of the cemeteries. If sufficient funds are not available from this account, then the General Fund of the City shall be used to subsidize these costs.

SECTION 6. HOURS OF CEMETERY

The Cemetery shall be open to the public at all times, provided, however, that loitering is prohibited as defined in KRS 525.090.

SECTION 7. RULES OF CONDUCT IN CEMETERY

(A) No person shall enter upon any individual lot or enclosure in the cemetery or pull any flower or shrub without permission of the owner of the lot or the Cemetery Commission.

(B) No person shall deface any monument, tombstone, or other structure in or belonging to the cemetery.

(C) No driving faster than ten miles per hour shall be allowed on the grounds and no driving on any other than regular carriage roads.

(D) No persons shall enter or depart from the grounds by any other way than by the designated entrances.

(E) No unleashed dogs or guns are permitted to be taken on the grounds. Neither poultry nor any kind of livestock shall be taken on the grounds or permitted to remain thereon.

(F) Children under 15 years of age shall not be permitted to enter the grounds without the company of their parents or some other responsible person.

SECTION 8. DANGEROUS TREES OR SHRUBS

If any trees, shrubs, or bushes or any other structure situated on any lot in the cemetery be in the opinion of the Cemetery Commission, for any reason, detrimental, dangerous, unsightly, or inconvenient to adjacent lots, or avenues, the Commission shall have the right to cause the same or any part thereof to be removed.

SECTION 9. FOUNDATIONS AND MARKERS

(A) The Cemetery Commission is granted full power to prescribe the kind of foundation to be placed under all monuments, markers, tombstones, or other structures in the cemetery; and the Commission is granted the further right to prohibit the placing of any such structure in the cemetery until the foundation, provided therein, is constructed as specified by the Commission. No monument, tombstone, marker, or other structures in the cemetery shall be made except of granite, marble, or of

such other stone or material meeting the approval of the City Council and the Cemetery Commission.

(B) All graves shall be on a level with the ground and no lot shall be graded or raised above the level of the lots in its vicinity.

(C) Before any person shall place any monument, marker, or tombstone or any other permanent structures upon any lot in the cemetery, he shall first made written application to do so to the Cemetery Commission, stating the details of such proposed construction; and if said proposed construction meets the conditions of this chapter and specifications, as prescribed by the Cemetery Commission, then the Commission shall issue a written permit for said construction, giving the details as nearly as possible. The Cemetery Commission shall keep a permanent record of all such applications and permits. No structure, as above defined, shall be built without such permit.

(D) The City Council reserves the right to cause the removal of any monument, tombstone, or marker placed in the cemetery, contrary to the provisions of this chapter and also to cause the removal of any trees, shrubs, or bushes located or placed contrary to this chapter of which interfere, in its discretion, with the proper use of the cemetery. The Commission reserves the right to re-grade any graves which may be graded or raised contrary to the provisions of this chapter.

SECTION 10. MAINTENANCE OF GRAVE SPACES WITHOUT PERPETUAL CARE

The price of maintenance on each grave space on which no perpetual care has been paid shall be \$2 per year, per space.

SECTION 11. DESTROYING OR DEFACING OF GRAVES PROHIBITED

No person, firm, or corporation shall willfully destroy, deface, mutilate, or remove any grave, monument, fence, shrub, ornament, grounds, or building in or enclosing any cemetery within the corporate limits of the city or violate the grave of any person in any cemetery in any manner.

SECTION 12. PENALTY

Any person violating any provision of this chapter shall be fined not less than \$50 nor more than \$100 for each civil offense and each day of violation shall constitute a separate offense. The Code Enforcement Board of the City of Russellville may enforce any provision of this Ordinance.

SECTION 13. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause or part of this Ordinance or the application there of to any particular state of case is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegal it or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of this body to ordain and enact each other.

SECTION 14. REPEALER CLAUSE

All ordinances or parts of ordinances in conflict herewith and now in effect, including specifically Ordinance 82-16, Ordinance 83-5, Ordinance 88-4, are hereby repealed. Joint Resolution 91-8 that created the Cemetery Commission, and defined its powers and duties, shall remain in full force and effect.

SECTION 15. EFFECTIVE DATE

This ordinance shall become effective upon passage and publication as required by law.

FIRST READING conducted the 4th day of February, 2003.

SECOND READING and passage by roll call vote conducted the 18th day of February, 2003.

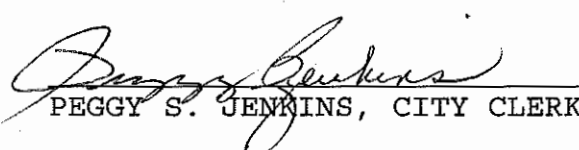
AYES: Marie Sweatt, Russell Jones, Howard Wren, Jean Hankins, Ken Barrett,
Patricia Bell

NAYS: None

ABSTAINING: None


SHIRLEE YASSNEY, MAYOR

ATTEST:


PEGGY S. JENKINS, CITY CLERK

BALDWIN'S KENTUCKY REVISED STATUTES ANNOTATED
TITLE XXIX. COMMERCE AND TRADE
CHAPTER 367. CONSUMER PROTECTION
PRENEED FUNERAL SERVICE, BURIAL, OR CEMETERY MERCHANDISE CONTRACTS

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Current through End of 2002 Reg. Sess.

367.952 PERPETUAL CARE AND MAINTENANCE

(1) Every seller of the items described in subsection (2)(a) of this section shall first provide for the future care and maintenance of such items, and to accomplish this purpose shall cause to be established in a financial institution authorized by law to administer trust funds, or in any other financially sound entity with the prior written approval of the Attorney General, an irrevocable trust fund to be known as a perpetual care and maintenance fund. The income of such funds shall be used solely for the general care, maintenance, and embellishment of the cemetery, except as otherwise provided herein.

(2) (a) Every seller of the items described in this paragraph shall place the following amounts into the perpetual care and maintenance fund of the cemetery in which the item is located within thirty (30) days after each calendar quarter of operations for each payment of each sale which occurs or contract of sale entered into after July 13, 1984:

1. Twenty percent (20%) of the gross selling price of each grave space, with a minimum of twenty dollars (\$20) per grave space;

2. Underground crypt, five percent (5%) of the gross selling price with a minimum of twenty-five dollars (\$25) per crypt;

3. Mausoleum crypt, five percent (5%) of the gross selling price with a minimum of fifty dollars (\$50) per mausoleum crypt; and

4. Columbarium niche, ten percent (10%) of the gross selling price with a minimum of fifteen dollars (\$15) per niche.

(b) For the purposes of this section, "gross selling price" shall not include interest, carrying charges or finance charges.

(c) Every cemetery company hereinafter established shall create and maintain a perpetual care and maintenance fund, depositing therein an initial deposit as listed below, and shall submit proof thereof to the Attorney General prior to the offering for sale of any burial rights. Any payment required under subparagraph (a) of this subsection shall be credited against the initial deposit until the required sum has been reached:

1. In counties of fewer than 50,000 persons, \$20,000;

2. In counties of 50,000 to 99,999 persons, \$30,000;

3. In counties of 100,000 or more persons, \$50,000.

(3) In the event that a purchaser is in default of a contract purchasing any of the above items, the financial institution shall release to the depositor the funds, plus interest, deposited on behalf of the defaulted contract upon receiving from the depositor a sworn affidavit stating that the purchaser is in default of the contract, the date of the default, an explanation of the default and that the depositor mailed a copy of the affidavit to the purchaser's last known address at least thirty (30) days prior to said request for release.

LEGAL PUBLICATION OF ORDINANCE IN SUMMARY

The City Council of Russellville, Kentucky, has enacted Ordinance 2003-01 entitled "AN ORDINANCE REGULATING CITY-OWNED CEMETERIES, PROVIDING DEFINITIONS; SETTING THE PRICE OF GRAVE SPACES INCLUDING PERPETUAL CARE; SETTING THE PRICE FOR OPENING AND CLOSING GRAVES ON WEEKDAYS, HOLIDAYS AND WEEKENDS; SETTING RATES FOR MAINTENANCE ON SPACES FOR WHICH PERPETUAL CARE HAS NOT BEEN PAID IN CITY-OWNED CEMETERIES; PROVIDING FOR USAGE OF PERPETUAL CARE INTEREST FUNDS; SETTING HOURS OF CEMETERIES; REGULATING TREES, SHRUBS, FOUNDATIONS AND MARKERS; ESTABLISHING RULES OF CONDUCT; PROHIBITING THE DESTRUCTION OR DEFAACEMENT OF GRAVES; WITH A PENALTY CLAUSE, SEVERABILITY CLAUSE AND REPEALER CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE"

In accordance with KRS 86A.060(9), the undersigned, a licensed, practicing attorney in the Commonwealth of Kentucky, summarizes this Ordinance as follows:

1. City Council has determined that this Ordinance is necessary for the health, safety and welfare of the citizens of Russellville, Logan County, Kentucky.
2. This Ordinance has been enacted to include in its terms all city-owned cemeteries, including Maple Grove Cemetery; Greenwood Cemetery; Memorial Gardens; and any other after-acquired cemetery; to increase the price of grave spaces; for the statutory allocation into the Perpetual Care Fund; to increase the price for opening/closing a grave; and to consolidate previous Ordinances into one new Ordinance, repealing all others, with a severability clause.
3. This Ordinance provides rules of conduct for all City-owned cemeteries; regulations for dangerous trees or shrubs; for regulations pertaining to foundations and markers; and prohibitions against defacing graves or markers.
4. This Ordinance provides that the cemeteries are to be open to the public at all times, except that loitering as defined KRS 525.090 is prohibited.
5. The Ordinance prohibits the following acts: (A) No person shall enter upon any individual lot or enclosure in the cemetery or pull any flower or shrub without permission of the owner of the lot or the Cemetery Commission; (B) No person shall deface any monument, tombstone, or other structure in or belonging to the cemetery; (C) No driving faster than ten miles per hour shall be allowed on the grounds and no driving on any other than

regular carriage roads; (D) No person shall enter or depart from the grounds by any other way than by the designated entrances; (E) No unleashed dogs or guns are permitted to be taken on the grounds; (F) Children under 15 years of age shall not be permitted to enter the grounds without the company of their parents or some other responsible person.

6. This Ordinance provides a fine for violations of not less than \$50 nor more than \$100 for each offense and each day of a violation shall constitute a separate offense; and provides that the Code Enforcement Board may have jurisdiction to hear such cases.

7. The full text of this Ordinance is available for copying and inspection at City Hall, Russellville, Kentucky, during normal business hours.

The City Council of Russellville, Kentucky enacted this Ordinance after a first reading conducted on February 4, 2003 and a second reading conducted on February 18, 2003.

AYES: Sweatt, Marie; Jones, Russell; Wren, Howard; Hankins, Jean; Barrett, Ken; Bell, Patricia.

NAYES: None.

ABSTAINING: None.

ABSENT: None.

This Ordinance is in effect immediately upon publication.

CERTIFICATION OF COUNSEL

I hereby certify that the foregoing is an accurate summary of City of Russellville Ordinance 2003-01.

C. Robert Hedges
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