



**LEBANON CITY COUNCIL  
NOTICE OF PUBLIC HEARING  
Wednesday, September 2, 2020 - 7:00pm  
REMOTE VIA MICROSOFT TEAMS  
[LebanonNH.gov/LIVE](https://LebanonNH.gov/LIVE)**

The Lebanon City Council will hold a public hearing on September 2, 2020, beginning at 7:00pm for the following:

- A. Ordinance #2020-03** - A public hearing for the purpose of receiving public input and taking action to amend City Code Chapter 46, Cemeteries to update a number of fees, to remove the requirements for a Perpetual Care Trust Fund, and to include provisions for establishment of a Cemetery Maintenance & Preservation Fund and Cemetery Maintenance Special Reserve Fund

The September 2, 2020 City Council agenda package will be available on the City's website ([www.lebanonnh.gov](http://www.lebanonnh.gov)) beginning August 28, 2020. Documents pertaining to the above described public hearing are attached.

*Due to the current situation with the COVID-19 Pandemic, the City of Lebanon is offering its meetings via Microsoft Teams. Members of the public are encouraged to attend by going to [LebanonNH.gov/Live](https://LebanonNH.gov/Live) where you will find instructions on how to enter the meeting. Members of the public will be able to participate and ask questions through the Microsoft Teams software or by phone. Please visit [LebanonNH.gov/Live](https://LebanonNH.gov/Live) for full details.*

## ORDINANCE 2020-03

AN ORDINANCE TO AMEND the Code of the City of Lebanon, Chapter 46, Cemeteries, to amend fees, to remove the requirements for a Perpetual Care Trust Fund, and to include provisions for the establishment of a Cemetery Maintenance & Preservation Trust Fund.

Be it ordained by the Council of the City of Lebanon as follows:

### **Section 1.**

Section 46-5 of Chapter 46, Cemeteries is hereby amended by adding a new paragraph F as follows:

§ 46-5. Establishment of Municipal Cemeteries.

**F.** There is hereby established, pursuant to RSA 31:95-c, the Cemetery Maintenance Special Revenue Fund, whose purpose shall be the funding of cemetery general maintenance, preservation and capital improvements. All revenues from the portions of the lot prices designated for placement into the Cemetery Maintenance Special Revenue fund under § 46-6, F of this Chapter below shall be accounted for in that special revenue fund, which shall remain separate from the general fund, shall not be deemed part of the general fund accumulated surplus, and which shall be expended only after a Council vote to appropriate a specific amount from said fund for a specific purpose related to the purpose of the fund.

### **Section 2.**

Sections 46-6, C(1) and F, 46-7, 46-8, B(1), and 46-9, of Chapter 46, Cemeteries, are all hereby amended as follows:

§ 46-6. Purchase of Lots, Deeds and Ownership

C. Purchase procedure.

(1) Lots in the cemeteries of the City of Lebanon may be selected and purchased from the Department of Public Works, and payment for lots purchased shall be made to the City of Lebanon. Such purchases shall require the completion of Cemetery Application in a form approved by the Board of Cemetery Trustees and deemed complete with the issuance of a deed in a format adopted by the Board of Cemetery Trustees and prepared by the Department of Public Works, signed by the City Manager, and recorded by the City Clerk. Such deed shall contain the name of the owner, purchaser (if different from owner), amount paid, name of cemetery, lot number(s), grave number(s), and cemetery section in which located, as well as all information to be used for determining ownership, as set forth in paragraph B above. Full payment (grave and perpetual care payment into the Cemetery Maintenance Special Revenue Fund) is required at the time of purchase.

F. Charge of lots. The following prices are established as the purchase prices for cemetery lots and their perpetual care for required contributions to the Cemetery Maintenance Special Revenue Fund. (~~perpetual care Cemetery Maintenance Special Revenue Fund payment~~ is 50% of a grave lot cost):

- (1) Each full grave: \$600. (Grave lot cost is \$300; ~~Perpetual care Cemetery Maintenance Special Revenue Fund~~ is \$300)
- (2) Each infant grave: \$250 (Grave lot cost is \$125; ~~Perpetual care Cemetery Maintenance Special Revenue Fund~~ is \$125) (applies to Glenwood and Valley Cemeteries only in the areas specifically laid out for infant burials).
- (3) Each cremation grave: \$250 (Grave lot cost is \$125; ~~Perpetual care Cemetery Maintenance Special Revenue Fund~~ is \$125) (applies only in the cemetery areas specifically laid out for cremation burials).
- (4) Cremations. In the case of cremation interment, the following provisions shall apply:
  - (a) Minimum purchase is one grave space. Maximum number of cremation-type interments shall be six per grave space (except in the case of combining full and cremation burials in which only one full burial and five cremation burials per grave will be allowed).

§ 46-7. Burials.

- A. Condition for burial. No burial, including a cremation burial, shall take place without first obtaining a burial permit from the City Clerk or State Register where the death occurred. All conditions of laws and ordinances must be complied with, including the payment of any back charges, securance of perpetual care, and/or maintenance and preservation, or purchase of any lot(s).
- B. Preparation of grave. The preparation of graves and laying out of grave side ceremonial material shall be the responsibility of the Department of Public Works unless other arrangements are approved by the Director of Public Works. The availability of City provided grave side ceremonial dress is limited and shall be provided on a first-come first-served basis.
- C. Winter burials. The Department of Public Works will prepare graves for burial during the winter months, weather and other circumstances permitting. In case circumstances are such that burial cannot be made, temporary interment shall be in the cemetery tomb.

D. Holiday Burials. Holidays formally recognized by the City of Lebanon include the following:

- \*New Year's Day
- Martin Luther King, Jr./Civil Rights Day
- Presidents' Day
- \*Memorial Day
- \*Independence Day
- \*Labor Day
- Columbus Day
- Veterans' Day
- \*Thanksgiving Day
- Day after Thanksgiving
- \*Christmas Day

\*Burials are not permitted on New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day unless otherwise approved by the Director of Public Works

Burials are permitted on Martin Luther King, Jr./Civil Rights Day, Presidents' Day, Columbus Day, Veterans' Day, and the Day after Thanksgiving, subject to the rates listed below.

E.

~~D.~~ Burial rates. The City of Lebanon burial rates shall be as follows:

<b>FULL BURIALS</b>	
Weekday during operating business hours	<del>\$400</del> <b>450</b>
Weekday after operating business hours	<del>\$400</del> <b>450</b> plus \$100 per hour after operating business hours
<del>Weekend or Holiday</del>	<b>\$700</b>
<del>Holiday (as permitted in 46-7.D above)</del>	<b>\$875</b>

<b>CREMATION BURIALS</b>	
Weekday during operating business hours	<del>\$175</del> <b>200</b>
Weekday after operating business hours	<del>\$175</del> <b>200</b> plus \$100 per hour after operating business hours
<del>Weekend or Holiday</del>	<b>\$350</b>
<del>Holiday (as permitted in 46-7.D above)</del>	<b>\$450</b>

<b>INFANT BURIALS</b>	
Weekday during operating business hours	<b>\$175</b>
Weekday after operating business hours	<b>\$175</b> plus \$100 per hour after operating business hours
Weekend or Holiday	<b>\$350</b>

*Burial rates will be reviewed by the Board of Cemetery Trustees on an annual basis. If changes to the rates are proposed, the Board of Cemetery Trustees shall make recommendations to the City Council for consideration.*

~~E. Burial days. Burials will be allowed on all days of the year with the exception of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, as recognized and posted by the City of Lebanon unless approved by the Director of Public Works. All receipts from burial fees, as set forth in D above, shall be deemed general fund revenues, and shall not be placed into either of the separate funds created under this Chapter.~~

F. Errors in Grave Location. Neither the City of Lebanon nor the Department of Public Works shall be responsible for errors in location of graves on lots arising from improper instructions from persons making arrangements. In all cases, orders for grave openings shall be communicated to the Department of Public Works in writing or can be taken verbally over the phone. Orders from funeral directors shall be construed as orders from owners.

- G. Permanent outside containers. In all interments, cremation or full, the remains shall be enclosed in a permanent outside container and which shall be installed under the supervision of the Department of Public Works personnel. The owner of the lot or his agent shall provide the container. The following are considered permanent outside containers: concrete boxes, copper or steel vaults or cremation urns designed to withstand the deteriorating factor of the elements of burial.
- H. Entombments in City Tomb. No entombment shall take place without notification of the Department of Public Works. Entombment will be made ~~in the City tomb~~ until such time that burial is arranged. No entombment shall be accepted prior to November 1<sup>st</sup> of any year. All human remains must be removed from the City Tomb no later than the following June 15<sup>th</sup>. The charge for entombment ~~in the City tomb~~ is \$250500.
- I. Burial of indigents. In the case of single grave lots for the burial of indigents, the City will provide space and maintenance of a section for such. However, no above ground monumentation will be allowed until such lot has been paid for and ~~perpetual care secured~~ the required payment made to the Cemetery Maintenance Special Revenue Fund.
- J. No movement or upgrading of monuments, and no opening or shifting of location of any grave or its placement on a lot shall occur without approval of the City, and all relevant provisions of this §46-7 shall apply to such activities.

#### § 46-8. Cemetery Maintenance.

B. Care and maintenance of individual cemetery lots.

- (1) The City shall be responsible for maintenance of individual lots to the extent of mowing and trimming of grass at reasonable intervals, the raking and cleaning of lots, and grading and seeding, all at levels to be determined in the discretion of the Cemetery Trustees, in light of available funds, including any applicable funds from pre-existing perpetual care funds, and use of the Cemetery Maintenance and Preservation Trust Fund.

#### § 46-9. Monumentation.

- A. Monuments and markers. All municipal cemeteries allow monumentation. Markers and cornerstones of such dimension and material as shall be approved by the Department of Public Works. Monumentation shall be the total responsibility of the lot owner. Dimensions for monuments shall not exceed 24" width for a single grave, 72" width for two graves, and 84" width for three graves. Monuments are to be centered in lot and in line with other monuments located in that row. All reference to "monuments and markers" is to mean monumentation of a permanent nature that protrudes above the lawn surface. All such monumentation requires a concrete foundation (refer to Subsection B of this section). Only one aboveground monument per owner's lot (grave or group of graves) is permitted unless additional monuments are approved by the Board of Cemetery Trustees pursuant to §46-12(B). All other structures, including cornerstones, grass markers, and markers, shall be set flush with the lawn surface so that no part shall protrude above the surface of the ground. In areas designated for cremation only burials, only a single grass marker not to exceed 12 inches by 24 inches set flush with the lawn so that no part shall protrude above the surface of the ground is permitted. An exception to the preceding is an allowance of one

brass plaque and one flag on a veteran's grave, which should be placed on the upright monument end of the lot.

B. Monument foundation and marker setting.

- (1) Foundations for monuments shall be constructed of concrete by the Department of Public Works upon request or by a monument company with the approval of the Department of Public Works. Those requesting foundations shall make the request in writing stating the location on the lot and size of foundation desired, both of which are subject to Subsection A.
- (2) The charge to the owner for foundations for monuments shall be:
  - (a) \$35 per cubic foot 50 per square foot (minimum size – 1 foot [12 inches] by 2 feet [24 inches]. Additionally, for every new foundation installed, there will be a \$75 fee for future maintenance and preservation,— [to be placed in the Cemetery Maintenance and Preservation Trust Fund].
  - (b) The charge for setting cornerstones: \$40 per lot (\$10 each).
  - (c) The charge for setting grass (flat 2 feet by 1 foot) markers: \$50 per marker 35 each. (aAdditional charges maybe applied for lager size markers) There is no fee for setting government provided military markers.

Foundations are set three times per year. Orders are accepted up to May 1<sup>st</sup> 15<sup>th</sup>, July 1<sup>st</sup> 15<sup>th</sup> and October 1<sup>st</sup> 15<sup>th</sup> and are coordinated through the Department of Public Works.

### **Section 3.**

Chapter 46 of the Code of the City of Lebanon is hereby amended by deleting §46-10 in its entirety and replacing it with the following:

#### § 46-10. Perpetual Care.

~~A. Perpetual care required. All cemetery lots sold after August 1, 1966, shall require a perpetual care trust fund reserved in the name of the lot owner for the maintenance and care of such lots in the amounts as set forth in §46-6(F) above. Perpetual care trust funds shall be established and funded through the Department of Public Works at the time a lot is purchased, and the funds shall be held in trust by the Trustees of Trust Funds, the income thereof to be used by the City for perpetual care services, in accordance with the City Charter and applicable state laws.~~

~~B. Perpetual care — previous owners. Owners of cemetery lots purchased prior to August 1, 1966, shall secure perpetual care service by applying to the trustees of trust funds through the Department of Public Works for the acceptance of a sum sufficient to provide the income necessary for the care and maintenance of the lot.~~

#### § 46-10. The Cemetery Maintenance and Preservation Trust Fund and Existing Perpetual Care Funds.

A. Beginning on the date of adoption of the 2020 amendment to this Chapter [ \_\_\_\_\_, 2020], the buyers of lots in Lebanon municipal cemeteries shall no longer be required to create a separate perpetual care trust fund.

- B. There is hereby established – pursuant to the authority of RSA 31:19-a, as applied to the City by way of RSA 47:1 – an expendable trust fund to be known as the Cemetery Maintenance and Preservation Trust Fund. Interest Income received from perpetual care trusts created prior to the adoption of the 2020 amendment to this chapter shall be transferred annually by the Trustees of the Trust Fund to the Cemetery Maintenance and Preservation Trust Fund. Total income or principal from the fund may be expended by the Board of Cemetery Trustees in accordance with the City’s normal budgeting and appropriations procedures, for the aims and purposes delineated as the City’s responsibilities under §46-8 of this Chapter, including the “Exception” set forth in §46-8(B)(3).
- C. As set forth in RSA 31:19-a, III, custody and investment of the Cemetery Maintenance and Preservation Trust Fund shall rest with the Trustees of Trust Funds. In accord with RSA 31:19-a, IV, the Trustees are authorized to accept privately-donated amounts to be placed in the fund, provided that, as set forth therein, such privately-donated amounts shall be invested and accounted for separately from, and not commingled with, amounts appropriated to the fund by the City. The Cemetery Trustees shall adopt a Statement of Intent form to be executed by the purchaser or agent at the time such contributions are made.
- D. Perpetual care trusts created prior to the adoption of the 2020 amendment to this Chapter shall remain in effect and continue to be administered as was required prior to said amendment, provided however, that interest income received from those trusts may be transferred annually by the Trustees of Trust Funds to the Cemetery Maintenance and Preservation Trust Fund, as long as such transfers are consistent with the terms of those trusts.
- E. Previous Owners. Owners of cemetery lots purchased prior to August 1, 1966, shall secure perpetual care service by applying to the Trustees of Trust Funds through the Department of Public Works for the acceptance into the Cemetery Maintenance and Preservation Trust Fund of a sum sufficient to provide the income necessary for the care and maintenance of the lot.

#### **Section 4.**

Chapter 31 of the Code of the City of Lebanon is hereby amended by amending the wording of § 31-36, A(1) and B as follows:

##### § 31-36. Powers and Duties.

A. The Board of Cemetery Trustees shall have the following powers and duties:

(1) All powers and duties set forth in RSA 289:7, as amended, except as set forth in Subsection B below:

B. Exceptions.

(1) Notwithstanding RSA 289:7, II, maintenance and other work on cemeteries shall continue to be performed by employees of the Department of Public Works, who shall continue to be subject to all applicable City personnel policies or collective bargaining agreements.

(2). Notwithstanding RSA 289:7, I, the City Manager shall have authority to expend appropriations from the Cemetery Maintenance Special Revenue Fund established under City of Lebanon Code Chapter 46.

**Section 5. Severability.**

The provisions of this ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdictions, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

**Section 6. Effective Date.**

This ordinance shall become effective upon passage.