



















February 11, 2020

**VIA ELECTRONIC MAIL ONLY**

Ms. Paula Maville, Deputy City Manager  
City of Lebanon  
51 North Park Street  
Lebanon, NH 03766

Re: Cemeteries Ordinance – Code Chapter 46  
City of Lebanon  
Our File No. 20158-47.005

Dear Ms. Maville and other City Officials:

This is a legal opinion, as required for any proposed ordinance by Code of the City of Lebanon § 115-3, concerning a proposed amendment to Code Chapter 46, the version you E-mailed to me yesterday (2-10-20).

The purpose of the amendment (aside from a few housekeeping clarifications and changes in fees) is to repeal the current requirement that each purchaser of a cemetery lot must create a perpetual care fund for the care and maintenance of an individual cemetery lot. The effect of that requirement has been the proliferation of individual lot trust funds which cannot lawfully be combined for accounting purposes, and whose purpose cannot be altered in any way without Superior Court approval, which is difficult to obtain.

Under this amendment, lot purchasers would instead, in the future, contribute to a single, unified “Cemetery Maintenance and Preservation Trust Fund,” created by the Council under this amendment. Amounts in that fund could be expended in furtherance of any of the functions which have been carefully delineated as City responsibilities and options under the recent (2019) amendment to Code Ch. 46. Currently-existing perpetual care funds would continue to be administered the same way they have been, as the law requires. The amendment also requires the Cemetery Trustees to adopt a “statement of intent” form, where the lot purchaser would acknowledge the nature of the trust fund, and what it can be used for.

Code § 115-3 requires a legal opinion “as to the authority and validity” of any proposed ordinance. The authority of the Council to enact this ordinance concerning cemeteries is found in RSA 47:17, Paragraph XV. I have been involved in the creation of

