City of Carroll

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MEMO TO: Gerald L. Clausen, City Manager

FROM: Laura A. Schaefer, Finance Director/City Clerk

DATE: April 6, 2016

SUBJECT: Cemetery Ordinance Update

February 2014, the City received a letter from the Iowa Insurance Division's Securities and Regulated Industries Bureau (SRIB). SRIB is required by Iowa Code Section 523I.213A to examine perpetual care cemeteries to test for compliance with statutory requirements. In 2014, the city was required to submit information to SRIB for a desk audit review.

After the desk audit review, in December 2015, the City received a Compliance Examination Report identifying the SRIB findings and recommendations based upon the information submitted. Many of the findings City staff will correct by changing the language on the "Certificate of Interment Rights."

One finding requires a change to the City's Code of Ordinances, Chapter 115, Cemetery. SRIB has offered sample language to incorporate into the City's ordinance to be in compliance with State Code. Attached is an ordinance to amend the Code of Ordinances as required by SRIB. The changes to the ordinance are operating procedures staff has already been performing but were not documented.

RECOMMENDATION: Council consideration and adoption, by waiving all three readings, of the attached ordinance amending Chapter 115, Cemetery.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA, BY AMENDING PROVISIONS PERTAINING TO THE CITY CEMETERY.

BE IT ENACTED by the City Council of the City of Carroll, Iowa:

SECTION 1. SECTION MODIFIED. Section 115.02 of the Code of Ordinances of the City of Carroll, Iowa, is repealed and the following is adopted in lieu thereof.

115.02 TRUSTEESHIP AND ESTABLISHMENT OF TRUST FUND. A perpetual trust is hereby established for the cemetery in accordance with Iowa Code Chapter 523I, the Iowa Cemetery Act. A restricted fund is created, to be known and designated as the "perpetual care cemetery fund," which shall be funded by the deposit of an amount equal to or greater than twenty percent of the gross selling price, or $50.00, whichever is more, for each sale of interment rights within the cemetery. The fund shall be administered in accordance with the purposes and provisions of Iowa Code Chapter 523I.

The perpetual care cemetery 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.

The City hereby states its willingness and intention to act as the trustee for the perpetual maintenance of interment spaces and cemetery property.

SECTION 2. SECTION MODIFIED. Section 115. 04, of the Code of Ordinances of the City of Carroll, Iowa, is repealed, and the following is adopted in lieu thereof:

115.04 PERPETUAL CARE REGISTRY. The cemetery shall maintain a registry of individuals who have purchased interment rights in the cemetery subject to the care fund requirements of the Iowa Cemetery Act, including the amounts deposited in the perpetual care cemetery fund. The registry shall include all the following:

1. Sales or Transfers of Interment Rights.
   - A. The name and last known address of each owner or previous owner of interment rights.
   - B. The date of each purchase or transfer of interment rights.
   - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
   - A. The date the remains are interred.
   - B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.
   - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

SECTION 3. SECTION MODIFIED. Section 115.05, of the Code of Ordinances of the City of Carroll, Iowa, is repealed and the following adopted in lieu thereof:

115.05 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by the Iowa Cemetery Act, including the amount or percentage of money to be placed in the perpetual care cemetery fund. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council by resolution.

SECTION 4. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 5. 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 6. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed by the Council the ____ day of _____, 2016, and approved this _____ day of _____, 2016.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

_____
Eric P. Jensen, Mayor

ATTEST:

_____
Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No._____ on the ____ day of ___, 2016.

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Laura A. Schaefer, City Clerk