

1 Ordinance No. 2016-003

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3 AN ORDINANCE AMENDING PROVIDENCE CITY CODE TITLE 7 CHAPTER 4 CEMETERIES  
4 PERTAINING TO NON-RESIDENT AND RESIDENT SPACE PURCHASES  
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6 WHEREAS UCA § 10-3-702 states “The governing body may pass any ordinance to regulate,  
7 require, prohibit, govern, control or supervise any activity, business, conduct or condition  
8 authorized by this act or any other provision of law. . .” and  
9

10 WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote  
11 the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality  
12 and its present and future inhabitants and businesses, to protect the tax base, to secure  
13 economy in governmental expenditures, to foster the state's agricultural and other industries, to  
14 protect both urban and nonurban development, to protect and ensure access to sunlight for  
15 solar energy devices, to provide fundamental fairness in land use regulation, and to protect  
16 property values in areas that may be considered sensitive, including but not limited to fire  
17 danger, slope, soil content.

- 18 • Providence City staff has prepared the attached code amendment pertaining to non-  
19 resident and resident space purchases.  
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21 THEREFORE be it ordained by the Providence City Council

- 22 • The attached code amendment shall be approved based on the  
23 • This ordinance shall become effective immediately upon passage and posting.  
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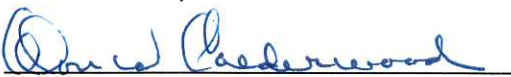
25 Ordinance adopted by vote of the Providence City Council this 08 day of March 2016.  
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27 Council Vote:

28 Allen, Kirk	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
29 Baldwin, Jeff	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
30 Drew, John	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
31 Giles, Dennis	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
32 Sneddon, Roy	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent

33  
34 Signed by Mayor Don W Calderwood this 22 day of July 2016.  
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36 Providence City

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38 \_\_\_\_\_  
39 Don W. Calderwood, Mayor  
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41 Attest:

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43 \_\_\_\_\_  
44 Skarlet Bankhead, Recorder  
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7-4-6: **FEES AND CHARGES:**

- A. Established; Authority: The City Council shall from time to time by resolution, fix the size of lots, the price at which burial rights shall be sold and the fees which shall be charged for the various cemetery services to be provided. (1977 Code § 8-224; 1998 Code)
  
- B. Resident, Defined: For this Chapter, a resident is defined as someone who physically lives in Providence City or who lived in Providence City for a continuous period of not less than 10 years.
  - 1. Providence City currently has a purchase price for resident and a purchase price for non-resident. ~~It is a violation of this Chapter~~ **It is an infraction, subject to penalty as provided in Section 1-4-1 of this Code,** for a resident to purchase grave space(s) for a non-resident at the resident purchase price.
  
- C. Collection: The City Recorder, and such other persons as the City Council may designate, are hereby authorized and required to collect in advance, prices and fees for the opening and closing of graves or other services, which shall include, but not limited to, properly disinterring bodies and properly restoring the earth and grounds, recording each burial, disinterment or removal, and raised monument privileges. The fees shall be such amounts as are determined by the City Council from time to time by resolution. (1977 Code § 8-241)
  
- D. Opening Graves:
  - 1. No grave shall be opened in the City cemetery until payment of a fee for the labor and expense in so opening the grave shall be paid.
  
  - 2. The presentation of a receipt from the City Recorder or person designated by the City Council when presented to the Sexton shall be authority to open a grave for the burial of a deceased person. However, upon a contract being entered into between any mortician and the City wherein the mortician agrees to be responsible and liable for fees for the opening of a grave, and wherein that mortician will be personally liable for such fees and for perpetual care payments, the City Recorder or authorized person may give the Sexton authority to open graves without the presentation of a receipt from the City Recorder or authorized person. (1977 Code § 8-242; 1998 Code)

7-4-7: **LOT SALES:**

- A. Authority; Records: The City Recorder, and such other person as the City Council may designate, are hereby authorized to sell the use of lots in the City cemetery for burial purposes only and to collect all sums arising from the sale. The City Recorder shall keep a complete record of all sales, which record shall describe the location of the lot purchased and the price paid therefore. The City Recorder or designated person shall deliver to each purchaser a certificate of burial rights for each lot purchased, which certificate shall, among other things, describe the location of the lot, the purchase price, and the type of maintenance services which are to be provided, e.g., perpetual care, prepaid continued maintenance, or currently paid services.
  
- B. Purchase Price, Scope of: A certificate and rights to burial shall be exempt from execution, taxation or assessment for care and maintenance from and after full payment of the purchase price. Payments made pursuant of this Section shall not be construed to be in payment for cemetery services other than perpetual care or prepaid maintenance.
  
- C. Services Included: Perpetual care or prepaid continued maintenance shall be deemed to include the filling of the grave, the placing of topsoil upon the grave, seeding the grave with grass, and watering and cutting the grass. No other services are included.



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D. Improvements, Changes and Services: No other improvements, changes, or service, except perpetual care, shall be made on any lot.

E. Resale Restrictions:

1. From and after April 15, 1977, the ~~lots~~ **space(s)** sold by the City shall not be further sold to any person except the City. The City hereby agrees to buy back any City cemetery grave ~~lot~~ **space(s)** which it may hereafter sell. The repurchase of such ~~lots~~ **space(s)** shall be for the original price paid by the purchaser if greater than \$50, or the current selling price of the ~~lot~~ **space(s)**, whichever is less. If the original price paid by the purchaser is less than \$50, the City will repurchase the ~~lot~~ **space(s)** for \$50. (OM 98-029 12/08/98)

a. **A non-resident who purchases space(s) at the non-resident rate, and later moves to Providence may not sell the space(s) back to the city and repurchase them at the resident rate.**

2. Whenever a certificate to burial rights or lots reverts to the City, as provided for in this subsection, or becomes vested in the City for any reason, before new certificates are issued, the original certificate shall be cancelled or an assignment given and the record shall be so changed.

3. The certificates shall be issued and signed by the Mayor and shall be attested by the City Recorder. All lots or parts of lots, as provided in this subsection, together with all improvements, shall be exempt from execution and from taxation and assessment for care and maintenance charges from and after said payment. (1977 Code § 8-252)

4. Cemetery lots may be given by will to another person. The current certificate will be turned in to the City. The City will then issue a new certificate at the cost of twenty dollars (\$20.00).

5. Cemetery lots may be transferred, conveyed, or assigned to another person. The current certificate will be turned in to the City. The City will then issue a new certificate at the cost of twenty dollars (\$20).

a. Selling, transferring, conveying, or assigning cemetery lots for monetary gain of either party is prohibited, **and considered an infraction subject to penalty as provided in Section 1-4-1 of this Code.**

