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**BEFORE THE BOARD OF SUPERVISORS OF
JASPER COUNTY, IOWA**

ORDINANCE NO. 11-11

**AN ORDINANCE ESTABLISHING A CEMETERY COMMISSION OF JASPER
COUNTY, IOWA AND PROVIDING FOR THE ADMINISTRATION THEREOF.**

WHEREAS, the Board of Supervisors of Jasper County, Iowa deems it necessary for purposes of promoting the health, safety, and general welfare of Jasper County, Iowa and its citizens to enact this ordinance, and,

WHEREAS, the Jasper County Board of Supervisors finds it appropriate to appoint a cemetery commission to oversee, maintain, administer, and exercise control over pioneer cemeteries (as defined by Iowa Code section 331.325) within Jasper County, Iowa.

**NOW, THEREFORE, BE IT ENACTED BY THE
BOARD OF SUPERVISORS OF JASPER COUNTY, IOWA:**

**ARTICLE I
Title**

This ordinance shall be known, cited and referred to as the Jasper County, Iowa Cemetery Commission Ordinance.

**ARTICLE II
Purpose and Jurisdiction**

The purpose of this ordinance is to establish and provide for a Cemetery Commission to act as a liaison between the township trustees, cemetery lot owners, general public, and the Jasper County Board of Supervisors in matters concerning cemeteries in Jasper County, Iowa, for the purpose of control and maintenance of pioneer cemeteries within Jasper County, Iowa in order to promote the public health, safety, convenience and general welfare of the county as well as to preserve

County Auditor

the heritage, and history of those individuals that were buried within Jasper County, Iowa. The provisions of this Ordinance shall be administered to ensure the designation, preservation, control, and maintenance of pioneer cemeteries within Jasper County, Iowa. To these ends Jasper County hereby adopts the provisions and the restrictions of Sections 359.28 through 359.41, Code of Iowa, as amended, and the same are hereby incorporated herein by this reference the same as though fully set forth herein.

ARTICLE III

Establishment of Cemetery Commission

3-1> The affairs of this commission shall be managed by seven appointees who shall report directly to the Board.

3-2> The Jasper County Board of Supervisors shall appoint seven Individuals to serve on the Commission, and their respective replacements or successors.

3-3> Initially the Board shall appoint two commission members for a term of one year; the Board shall appoint two commission members who shall serve a term of two years; and the remaining three commission members shall be appointed to serve a term of three years. As each commission member's term expires the Board shall appoint a new commission member or reappoint the commission member whose term has expired. Each commission member's term shall be for a period of three years from appointment after the appointment of the initial members.

3-4> The Commission by majority vote shall elect an commission member to serve as Chairperson of the commission. A Secretary of the commission shall be similarly elected.

3-5> Any Commission member must be a resident of Jasper County. Any vacancy on the Commission shall be filled for the remainder of the term respectively in the manner provided for appointments of members as hereinabove shown under this Article at paragraph 3-3. Each person serving as a Commission member, shall assume office fully cognizant of and upon the absolute condition that he or she may be removed at any time by such individuals appointing body, with or without cause, and without any notice or recourse whatsoever.

3-6> A simple majority of four commissioners must be present in person at a meeting to conduct the business of the commission.

ARTICLE IV Administration

4-1> The provision The Jasper County Board of Supervisors each year shall set a budget for the Commission to operate under. The Jasper County Board of Supervisors shall also set the compensation to be paid to commission members, if any.

ARTICLE V Definitions

5.1> For the purpose of this ordinance the language used herein shall be in accordance with the following rules:

5.1A. The singular number shall include the plural and the plural, the singular.

5.1B. The use of the present tense shall include the past and future tenses, and the future shall include the present.

5.1C. The word *shall* is mandatory, the word *may* is permissive, and the word *should* is suggestive.

5.1D. The word *Commission* shall, unless otherwise modified, mean the Jasper County Cemetery Commission.

5.1E. The word *Board* shall, unless otherwise modified, mean the Jasper County Board of Supervisors.

5.1F. The words *he* or *his* or *him* shall be construed to include the feminine and neuter genders as well where the context so requires.

5.1G. The word *Auditor* shall, unless otherwise modified, mean the Jasper County Auditor.

5.1H. Pioneer Cemetery shall mean a cemetery where there have been six or fewer burials in the preceding fifty years.

5.2> For the purpose of this ordinance, all words shall carry their customary meanings, except as specifically defined hereafter:

ARTICLE VI Powers and Duties

6-1> Gifts and donations -- The Cemetery Commission is hereby authorized and empowered to receive by gift, devise, or bequest, money or property for the purpose of establishing and maintaining cemeteries. All such gifts, devises, or bequests shall be effectual only when accepted by resolution of the Board.

6-2> Power and control -- The Cemetery Commission shall have custody over and shall control any such pioneer cemeteries within Jasper County that are not already maintained by cities or townships.

6-3> Sale of lots--gifts -- The Cemetery Commission shall have authority to provide for the sale of lots or portions thereof, in any pioneer cemetery under their control, and make rules in regard thereto, and may provide for perpetual upkeep by the establishment of a perpetual upkeep fund from the proceeds of sale of lots, and may accept gifts, devise or bequest, made to them for that purpose.

6-4> Scope of levy -- The levy authorized in sections 359.30 and 359.33 may be extended to pioneer cemetery property within the limits of any city so far as same is situated within the township, unless such city is already maintaining a cemetery, or has levied a tax in support thereof. The said tax may be so expended for the support and maintenance of any such cemetery after the same has been abandoned and is no longer used for the purpose of interring the dead.

6-5> Cemetery funds--use -- All cemetery and all commission funds shall be administered only by the office of the Jasper County Auditor. The commission shall have no separate fund or funds not under the direct control of the Auditor. Cemetery tax funds of the cemetery commission may be used for the maintenance and support of cemeteries in adjoining counties and townships and in cities, if such cemeteries are utilized for burial purposes by the people of the township and, when any such cemetery has been so utilized for more than twenty-five years and has been maintained by township funds, the township trustees of the township where the cemetery is located shall continue to improve and maintain the same.

6-6> Joint Agreements -- The Cemetery Commission may, pursuant to Iowa Code Chapter 28E and subject to approval of the Board of Supervisors, join with qualifying others in the common purpose of improving, maintaining, and supporting a township cemetery. Subject to prior approval by the Board of Supervisors, the Commission and the qualifying other(s) under any such 28E agreement may create a joint cemetery board and shall have then such voting power as may be designated under such agreement.

6-7> Regulations -- The Cemetery Commission, when exercising custody and control of any cemetery in this county, shall have power, subject to the bylaws and regulations of such cemetery, to enclose, improve, and adorn the ground of such cemetery; to construct avenues in the same; to erect proper buildings for the use of said cemetery; to prescribe rules for the improving or adorning the lots therein, or for the erection of monuments or other memorials of the dead upon such lots; and to prohibit any use, division, improvement or adornment of a lot which they may deem improper.

6-8> Subject to final approval on a case-by-case basis by the Board of Supervisors, the Cemetery Commission, after such land has been advertised for sealed bids by the Cemetery Commission, shall have authority to sell and dispose of any lands or parcels of lands heretofore dedicated for cemetery purposes and which are no longer necessary for such purposes, for the reason that no burials are being made in such cemetery, provided that any portion of said cemetery in which burials have been made shall be kept and maintained by said trustees. The proceeds from such sales shall be deposited in the tax fund established in accordance with section 359.30, to be used for the purposes of that fund.

6-9> Cemeteries--plats--records -- Where there is located in any township one or more pioneer cemeteries, the owner of the same, or any party owning an interest therein, may cause the same to be surveyed, platted, and laid out into subdivisions and lots, numbering the same by progressive numbers, giving the length and breadth, also the location with reference to known or permanent monuments to be made. The plat shall accurately describe all the subdivisions of the tract of land used, or designed to be used as a cemetery, and shall be recorded in the office of the county recorder, and filed with and recorded by the township clerk, and preserved by the township clerk among the records of the office.

6-10> Conveyance of lots -- All conveyances of subdivisions or lots of a cemetery thus platted shall be by deed from the proper owner, which deed shall be recorded with the township clerk in a book kept for that purpose, for the recording of which the said clerk shall be entitled to a fee of fifty cents for each instrument recorded, to be paid by the party desiring the record made.

**ARTICLE VII
Amendments**

7-1> Any provision of this ordinance may be waived, modified, eliminated or amended from time to time by the Board of Supervisors on a case-by-case basis either upon its own motion or upon motion or other form of written recommendation from the Commission or any other person.

**ARTICLE VIII
Conflicts.**

8-1> Wherever the requirements of this ordinance are at variance with the requirements of any applicable and superseding law, rule, regulation, or ordinance, the most restrictive or that imposing the higher standard shall govern.

**ARTICLE IX
Severability**

9-1> Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this ordinance or the ordinance as a whole.

**ARTICLE XV
Effective Date**

This Ordinance shall be in full force and effect from and after its passage, adoption and publication, as provided by law.

Passed and approved in final form following three readings (or due waiver thereof) on the following roll call vote on the 14th day of May, 2001.

SUPERVISOR	AYE	NAY
Max Worthington	X	
Leo Van Elswyk	X	
Loren Milligan	X	

Leo Van Elswyk
 Leo Van Elswyk, Chairperson,
 Jasper County Board of Supervisors

Attest:

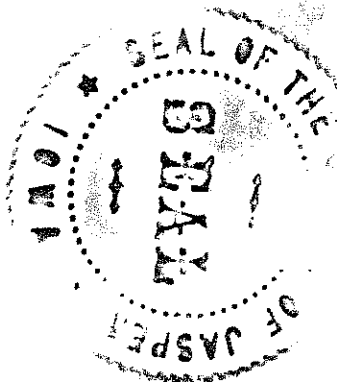
Kenneth W. Slothouber
 Kenneth Slothouber,
 Jasper County Auditor

Certificate of Publication

I, Kenneth Slothouber, Jasper County Auditor, hereby certify that the foregoing Ordinance was passed and approved by the Board of Supervisors of Jasper County, Iowa on the 14 day of May, 2002, and was published in Newton Daily News, a newspaper of general circulation in Jasper County, Iowa on the 2nd day of May, 2002.

Dated this 14th day of May, 2002.

Kenneth W. Slothouber
 Kenneth Slothouber,
 Jasper County Auditor



LEGAL NOTICE

The Jasper County Board of Supervisors hereby gives notice of a Public Hearing for the proposed Jasper County ordinance regarding the establishing a Cemetery Commission and providing for the administration thereof. Said Public Hearing is set for Tuesday, May 14, 2002, at 10:00 A.M., in the Jasper County Courthouse, Room 203.

The Full text of the proposed Ordinance is as follows:

WHEREAS, the Board of Supervisors of Jasper County, Iowa deems it necessary for purposes of promoting the health, safety, and general welfare of Jasper County, Iowa and its citizens to enact this ordinance, and,

WHEREAS, the Jasper County Board of Supervisors finds it appropriate to appoint a cemetery commission to oversee, maintain, administer, and exercise control over pioneer cemeteries (as defined by Iowa Code section 331.325) within Jasper County, Iowa.

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Establishment of Cemetery Commission

3-1> The affairs of this commission shall be managed by seven appointees who shall report directly to the Board.

3-2> The Jasper County Board of Supervisors shall appoint seven Individuals to serve on the Commission, and their respective replacements or successors.

3-3> Initially the Board shall appoint two commission members for a term of one year; the Board shall appoint two commission members who shall serve a term of two years; and the remaining three commission members shall be appointed to serve a term of three years. As each commission member's term expires the Board shall appoint a new commission member or reappoint the commission member whose term has expired. Each commission member's term shall be for a period of three years from appointment after the appointment of the initial members.

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Severability**

9-1> Should any provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the remaining provisions of this ordinance or the ordinance as a whole.

**ARTICLE XV
Effective Date**

This Ordinance shall be in full force and effect from and after its passage, adoption and publication, as provided by law.

This Notice is given at the direction of the Board of Supervisors pursuant to Chapter 21, Code of Iowa, and the local rules of said governmental body.



Kenneth W. Slothouber
Jasper County Auditor

AFFIDAVIT OF PUBLICATION

State of Iowa, Jasper County, ss:
I, Mike Chapman, Publisher of The
Newton Daily News, a daily newspaper
of general circulation, printed and
published at Newton, Jasper County,
Legal Notice Cemetery Commission
appeared 1 TIME (S) upon the
following date(s) to wit:

May 2 2002

Publication fees \$117.49

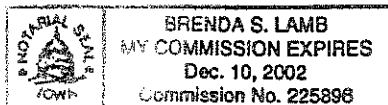
Signed

Mike Chapman

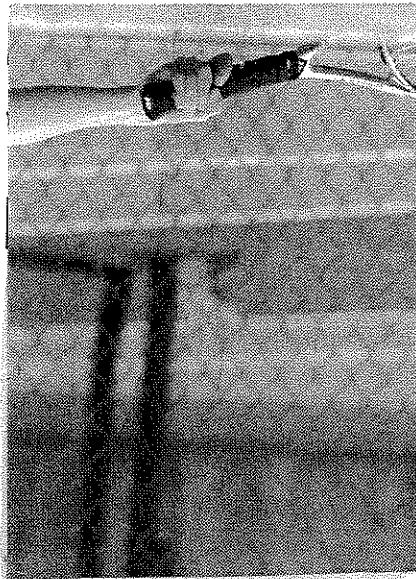
Subscribed and sworn to before me this

13th day of May 2002

Notary Public



Brenda S. Lamb

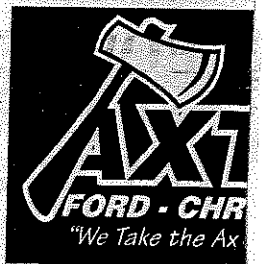


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AFFIDAVIT PUBLICA

State of Iowa, Jasper County,
I, Mike Chapman, Publisher,
Newton Daily News, a newspaper
of general circulation,
published at Newton, Iowa,
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appeared 1 TIME
following date(s) to wit
May 2 200

Publication fees

Signed

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ARTICLE V

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