

**TITLE 6
CEMETERY**

(Title 6 replaced in entirety by Ordinance 2018-08, effective 10/1/2018)

Chapters:

- 6.01: General Provision
- 6.02: Administration and Finances
- 6.03: Interment and Disinterment
- 6.04: General Rules, Regulations, and Provisions

**Chapter 6.01
GENERAL PROVISION**

SECTIONS:

- 6.01.01: Scope and Purpose
- 6.01.02: Definitions
- 6.01.03: Penalty

6.01.01: SCOPE AND PURPOSE

The purpose of this Title is to set forth those regulations necessary for the administration, maintenance, management and operation of the Bear Butte Cemetery.

6.01.02: DEFINITIONS

DISINTERMENT: The act of digging up the remains of a person previously buried

INTERMENT: The act of burying of the remains of a person

6.01.03: PENALTY

Any violation of the provisions of this Title is a Class 2 misdemeanor punishable by the maximum punishment set forth by the laws of the state of South Dakota pursuant to SDCL 22-6-2. Said punishment may also include payment of any costs and/or restitution authorized by this Title and/or state law.

Chapter 6.02
ADMINISTRATION AND FINANCES

SECTIONS:

- 6.02.01: Power and Responsibility of the City for the Bear Butte Cemetery
- 6.02.02: Administration
- 6.02.03: Fiscal Management
- 6.02.04: Procedure for the Sale of Cemetery Lots
- 6.02.05: Purchaser to Agree
- 6.02.06: Reclaiming and Resale of Lots by City
- 6.02.07: Restrictions on the Resale of Lots
- 6.02.08: Records

6.02.01: POWER AND RESPONSIBILITY OF THE CITY FOR THE BEAR BUTTE CEMETERY

The Sturgis Park Board under the authority of the Sturgis Common Council shall be responsible for making recommendations for the Bear Butte Cemetery with the following guidelines under the authority of SDCL 9-12-18:

1. That the City shall always provide and continue a “Perpetual Care Fund” for the perpetual care of said Cemetery.
2. That the money in said fund shall be used only for maintenance and expansion of Cemetery facilities and land.
3. That the City staff will care for, maintain and operate said Cemetery.

6.02.02: ADMINISTRATION

The officials who shall have the duties with regard to the care, operation and maintenance of the Bear Butte Cemetery are as follows:

- A. Cemetery Manager: The City Manager shall appoint a Cemetery Manager who may also be another City Employee. The Cemetery Manager shall be in charge of the sale of all Cemetery lots, the receipt and disposition of all fees or money gifts or deposits, the establishment and control over all Cemetery funds, the issuance of Certificates of Purchase, and the issuance of all burial, and burial removal, permits. Said Manager shall keep a complete set of records as required in the Title. Said Manager shall work with the City Manager to ensure enforcement of the provisions of the Title, and shall perform all other applicable duties as set forth in Sturgis City Ordinances.
- B. Certificates of Purchase: Shall be issued for no other purpose than the burial of human dead.

6.02.03: FISCAL MANAGEMENT

The Cemetery Perpetual Care Fund shall be managed by the City Finance Officer and invested in accordance with the adopted investment policy of the City of Sturgis. The Perpetual Care Fund shall consist of all monies received for Perpetual Care.

6.02.04: PROCEDURE FOR THE SALE OF CEMETERY LOTS

Any person desiring to purchase a Cemetery lot or lots shall do so by paying the required fee to the City office determined by the City Manager for such lot or lots desired. The lots in such Cemetery shall be sold according to the plans and specifications on file in the City Finance Office. The cost of any lot shall be paid in full by credit card, check or cash. Upon the full payment of the required fee for the sale of a lot or lots, the City shall issue to the purchaser a receipt which shall entitle said purchaser to all the rights and responsibilities herein provided but shall not give title to said purchaser of said lot or lots.

The selling price of all lots shall be as follows (plus all applicable sales tax):

	<u>Lot Fee</u>	<u>Perpetual Care</u>	<u>Total Fee</u>
ADULT	\$275	\$185	\$460
INFANT	\$55	\$85	\$140
CREMATION	\$55	\$100	\$155

No burial shall be permitted in any lot until the purchase price and Perpetual Care has been fully paid to the City.

6.02.05: PURCHASER TO AGREE

The purchaser of any lot does by his/her purchase agree to abide by all provisions of all laws and ordinances of this State and City in force at any time relating to the Cemetery, including all amendments hereafter adopted, and all rules and regulations adopted in connection with said Cemetery. Any purchaser of any lot does by his/her purchase agree that no transfer shall be made of said lot, or any part thereof, to any other person without the approval of the City Finance Officer after first offering said property to the City as hereinafter provided.

6.02.06: RECLAIMING AND RESALE OF LOTS BY CITY

The City shall have the right to discontinue all rights granted to a purchaser of any lot after a period of 20 years from the date of sale thereof, should the City Finance Officer upon investigation determine that the purchaser or owner thereof has not used said lot, or any part thereof, or that such owner is deceased and that such lot will not likely be used as a burial place for the owner or any members of his/her family. In the event that any such lot is to be reclaimed, inquiry shall be made to ascertain the names and addresses of such deceased owner or heirs, and notice shall be given to such person, by mail, of the intention of the City to reclaim said property. Whether any heirs of such deceased owner or purchaser are located or not, the original cost of said lot shall be held in trust by the City until such time as proof satisfactory to the City is made by the heirs of such deceased owner of the right to such proceeds, or for 10 years, whichever occurs first. In case no heir of said deceased owner is located, then the amount of the original cost shall be delivered to the Secretary of State as unclaimed property.

6.02.07: RESTRICTIONS ON RESALE OF LOTS

If the owner or approved purchaser of any lot, on which no burial has taken place, desires to sell the same, he or she shall inform the City Finance Officer of his/her desire to sell, whereupon the City shall have an option for 30 days thereafter to purchase said property on the basis of the regular selling price by the City of lots in the same section or block. If such option is not exercised by the City, said owner or purchaser may then sell to any other person, however, no lot shall be sold for a price greater than that originally paid to the City for said lot. No transfer or assignment of any lot, or interest therein, shall be valid without the consent of the City Finance Officer. No person shall buy or sell any lot within the Cemetery for purposes of speculation. In the event any lot is purchased by the City, pursuant in this Section, the City Finance Officer shall ascertain that the owner has clear ownership before such purchase is made.

6.02.08: RECORDS

In addition to all of the records required to be kept by the laws of the State of South Dakota relating to cemeteries, burials and removal of dead, etc., the following records shall be kept by the City Finance Officer or his or her appointee.

- A. A complete plat or map of the Cemetery, showing the exact location of said Cemetery, and describing or indicating all sections, lots, interments, etc., of said Cemetery, and all other information as may be required by law or ordinance;
- B. A complete record of all lots that have been sold and all subsequent approved purchases issued and the names and addresses of all purchasers;
- C. A complete record of all burial permits issued, fees paid, and the names and addresses of all persons purchasing said permits;
- D. A complete record of all disinterments made, and fees paid therefore;
- E. A book, furnished and owned by the City, known as the Burial Record Book, in which shall be recorded the deceased's age and the date and cause of his/her death, and number of the lot and block of his/her burial, copies of burial or removal permits, and all other information which may be required by law or ordinance, or which the City Finance Officer deems important; and

Any other records which the City Finance Officer shall deem important or necessary.

(Chapter 6.02 revised in entirety with Ordinance 2019=09, effective 10-15-2019)

Chapter 6.03
INTERMENT AND DISINTERMENT

SECTIONS:

- 6.03.01: Interments and Disinterment, Subject to State Law
- 6.03.02: Limitations upon Interment
- 6.03.03: Multiple Cremains
- 6.03.04: Application for Permit for Interment
- 6.03.05: Supervision
- 6.03.06: No Removal of Body without Lawful Authority
- 6.03.07: Adequate Notice to Be Given
- 6.03.08: Disinterment
- 6.03.09: Disinterment by Order of Court or Coroner
- 6.03.10: Graves
- 6.03.11: Cremated Remains to Be Disposed of Pursuant to State Law
- 6.03.12: Approved Memorial or Marker
- 6.03.13: Memorial Maintenance
- 6.03.14: City may Correct Placement Errors
- 6.03.15: Licensed Funeral Director in Charge of Funerals

6.03.01: INTERMENTS, DISINTERMENT, SUBJECT TO STATE LAW

Interments and disinterments are also subject to the laws of this State, and nothing in this Chapter shall conflict with said laws, and such regulations herein provided are in addition to, and supplementary or included in, the said laws of the State of South Dakota. No interment or disinterment of any body shall be permitted in any lot until full compliance is made with all laws and ordinances regarding burials then in force. The purpose of this Chapter is to give the City control over interments and disinterments in the Bear Butte Cemetery.

6.03.02: LIMITATIONS UPON INTERMENT

All interments in lots shall be restricted to purchasers of the lot or members of the immediate family, or relatives of the owners or purchaser thereof, designated by a notarized, written document from the lot owner or their heirs stating their wishes to the contrary is provided to the City Finance Officer. Only one body shall be allowed in each grave except in the event where permission is obtained from the City Manager or designee of the City. No adult cremains shall be allowed in an infant lot.

6.03.03: MULTIPLE CREMAINS

The number of cremains per lot shall be at the discretion of the City Manager or designee. Any memorial for multiple interments must be flush with the ground.

6.03.04: APPLICATION FOR PERMIT FOR INTERMENT

All burials shall be performed by an excavation contractor licensed by the City of Sturgis. The excavation contractor shall be selected and identified by the licensed funeral director in the application submitted for the permit. The City shall not select or notify the contractor but will provide the limits of the lot. The City will provide final grading and seeding following burials.

No grave shall be dug without said permit being first issued and record made thereof. Any person may make application only when the lot owner or purchaser has given his permission for interment and said applicant must be able to furnish proof of such permission to the City Finance Officer or funeral director at the time the application is made. If the application is found to be in order, the City Finance Officer may issue said permit. In the absence of said City Finance Officer, the City Deputy Finance Officer may issue said permit. A statement of fees for services as herein provided shall be delivered to the funeral director in charge of the funeral on or before the 15th day of the month following the funeral and the fees set in said billing shall be paid to the City by the funeral director on or before the 30th day of the month.

6.03.05: SUPERVISION

All graves shall be dug under the supervision of the Public Works Department, but only after a burial permit, as provided above, has been properly secured.

6.03.06: NO REMOVAL OF BODY WITHOUT LAWFUL AUTHORITY

No person, whether a relative or not, shall remove any body from any lot without lawful authority to do so.

6.03.07: ADEQUATE NOTICE TO BE GIVEN

The right is reserved by the City Finance Officer to require at least 24 hour written notice prior to any interment and at least one week's notice prior to any approved disinterment or removal unless it is by a court order.

6.03.08 DISINTERMENT

Any lot owner or purchaser or next of kin of the deceased desiring a disinterment must make proper application for a permit to do so to the State of South Dakota and to the City Finance Officer and shall pay the proper charges for such disinterment. The applicant for disinterment shall also select an excavation contractor licensed by the City and pay the cost of having the contractor complete the disinterment and restoration of the grave site. The charges for marking and final grading following disinterment is \$100.00.

No disinterment shall be made, and no permit issued, except as otherwise provided, until such fees are fully paid. No permit for the removal of anybody shall be issued except upon presentation of the written permission of the lot owner or next of kin of the deceased, unless otherwise herein provided or otherwise provided by state law.

6.03.09: DISINTERMENT BY ORDER OF COURT OR CORONER

The City Finance Officer is the only person authorized to permit the opening of graves, unless otherwise provided by State Law and with the following exceptions:

- A. When the Cemetery is directed to make a disinterment by the order of a Court of competent jurisdiction and a certified copy of such Order has been filed with the City Finance Officer.
- B. When the County Coroner directs the disinterment for the purpose of holding an inquest and has filed with the City Finance Officer his/her signed authorization to

release the body to himself/herself or his/her lawful agents, the disinterment must be completed by the Coroner or his/her lawful agents.

6.03.10: GRAVES

Graves shall be located at least 6 inches within the lot boundaries as follows:

	<u>Adult Graves</u>	<u>Infant Graves</u>	<u>Cremins</u>
Lot Size:	5’ X 10’	3’ X 5’	Within designated lot
Opening:	42” X 8’	Container Size	Container Size
Depth:	5’ – 5 1/2’	2 1/2’ - 3’	2 1/2’ - 3’

No person four (4) years of age and over shall be buried in the Cemetery, unless the casket is enclosed in a concrete or steel container commercially manufactured and with a durability approved by the Public Works Department. No wooden, fiberglass or non-durable containers shall be allowed for any aged person.

6.03.11: CREMATED REMAINS TO BE DISPOSED OF PURSUANT TO STATE LAW

No person shall scatter cremated remains within the cemetery. Any created remains disposed of in the cemetery shall be done so consistent with any applicable South Dakota Law, including SDCL Chapter 34-26A.

6.03.12: APPROVED MEMORIALS OR MARKER

Any memorial or marker intended to be erected or placed on any grave or lot shall first be approved by the Public Works Department as to the size, location on lot, foundations, and kind of stone to be used, and all such memorials, their erection, materials, and placement, must be in conformance with this chapter or with any rules or regulations hereafter established by the City. All memorials shall have at least a 4” wash on all sides. All memorials placed as foot markers shall be flush with the ground. Surface vaults and ledgers will not be allowed in any new section that is developed.

6.03.13: MEMORIAL MAINTENANCE

Should any memorial become unsightly, dilapidated, or a menace to visitors the City shall have the right at the expense of the monument company, the lot owner or purchaser either to correct the condition or to remove the same.

6.03.14: CITY MAY CORRECT PLACEMENT ERRORS

The City, without any liability, may correct any error that may occur in the placement of any memorial.

6.03.15: LICENSED FUNERAL DIRECTOR IN CHARGE OF FUNERALS

Any funeral within the Cemetery shall be under the charge and direction of a licensed funeral director.

Chapter 6.04
GENERAL RULES, REGULATIONS, AND PROVISIONS

SECTIONS:

- 6.04.01: Hours
- 6.04.02: Walking on Lots Lawns Prohibited
- 6.04.03: Injury to Trees, Shrubs and Memorials
- 6.04.04: Vehicles
- 6.04.05: Children Under Twelve
- 6.04.06: Scattering of Rubbish Prohibited
- 6.04.07: Proper Conduct for Sacred Place
- 6.04.08: Planting or Removal of Trees and Shrubs Prohibited Without Permission
- 6.04.09: Enclosures, Hedges, Grave Guards Prohibited
- 6.04.10: Vases – Regulations
- 6.04.11: Other Materials Placed on Graves
- 6.04.12: City not Responsible for Articles Left
- 6.04.13: Illegal to Remove Lawfully Placed Material
- 6.04.14: Curbing and Crushed Rock or Quartz
- 6.04.15: Grave Repair and Maintenance

6.04.01: HOURS

The Cemetery will be open April 1 to October 1 from 8 :00 o'clock a.m. until 8:00 o'clock p.m. and October 2 to March 31 from 9:00 o'clock a.m. until 5:00 o'clock p.m.

(6.04.01 revised with Ordinance 2019-09, effective 10-15-2019)

6.04.02: WALKING ON LOTS AND LAWNS PROHIBITED

Persons within the Cemetery shall use the avenues, roads, walks and alleys and no one is permitted to walk upon or across lots or lawns unless it be necessary to do so to gain access to one's own lot. The Cemetery expressly disclaims liability for any injuries sustained by anyone violating this rule.

6.04.03: INJURY TO TREES, SHRUBS AND MEMORIALS

Persons visiting the Cemetery or attending funerals are strictly prohibited from picking flowers, wild or cultivated, breaking or injuring any trees, shrubs or plants, or from writing upon, defacing or injuring any memorials, fences or other structures within the Cemetery grounds.

6.04.04: VEHICLES

Motorized cars and other vehicles must be kept under complete control at all times.

The following are prohibited:

- A. The driving of motorized cars or other vehicles through the gates or in the Cemetery at speeds greater than 10 miles per hour.
- B. The driving of any motorized car, vehicle or animal across or upon any grave, lot, lawn or parking or leaving the same thereon.

- C. Parking or leaving any motorized car or vehicle on any road or driveway within the Cemetery at such location or in such position as to prevent any other car or vehicle from passing the same and if so parked or left, the City will remove the same and the owner of said removed vehicle shall be legally liable for the cost of the removal.

6.04.05: CHILDREN UNDER TWELVE

Children under twelve years of age are not permitted within the Cemetery or its buildings unless accompanied by a responsible adult.

6.04.06: SCATTERING OF RUBBISH PROHIBITED

The throwing of rubbish on the drives and paths or on any part of the grounds or in the buildings of the Cemetery is prohibited.

6.04.07: PROPER CONDUCT FOR SACRED PLACE

It is of utmost importance that there should be strict observance of the properties of the Cemetery. Hence, all persons within the Cemetery should avoid conduct unbecoming a sacred place. The following conduct is prohibited within the Cemetery:

- A. Loud or boisterous talking;
- B. Loitering on the grounds or in any of the buildings;
- C. Bringing of lunches or refreshments into the Cemetery or consuming them on the grounds;
- D. Peddling or soliciting the sale of any commodity within the Cemetery;
- E. Placing of signs, notices or advertisements of any kind within the Cemetery;
- F. Bringing of dogs into the Cemetery or any of its buildings unless on a leash and properly cleaned up after;
- G. Bringing of firearms into the Cemetery except by a military escort accompanying a veteran's funeral or attending a memorial service; and
- H. Bringing of alcoholic beverages in the Cemetery or buildings.

6.04.08: PLANTING OR REMOVAL OF TREES AND SHRUBS PROHIBITED WITHOUT PERMISSION

No trees or shrubs shall be planted in or removed from any lot, walk or lawn space without permission of the Public Works Department.

In the event any tree or shrub or curbing situated on any lot shall become harmful to any adjacent lot or become unsightly or inconvenient, the Public Works Department shall have the authority to remove the same.

6.04.09: ENCLOSURES, HEDGES AND GRAVE GUARDS PROHIBITED

No enclosures, hedges and/or grave guards of any kind shall be permitted.

6.04.10: VASES – REGULATIONS

No glass jars, wooden vases, or glass containers of any type shall be permitted in the Cemetery for use as flower holders. All glass containers presently located in the Cemetery shall be removed. Only vases that are reversible or set in a monument shall be allowed. Only vases made of metal, marble or set in concrete shall be permitted and said vases shall be set flush with the ground.

6.04.11: OTHER MATERIALS PLACED ON GRAVES

Any flag or other decoration, funeral design, cut flowers and/or any other item placed on lots, graves or trees may be removed by City employees when the same becomes unsightly or interferes with maintenance.

Any flowers and/or decorations for Memorial Day shall be removed within two (2) weeks following the holiday.

6.04.12: CITY NOT RESPONSIBLE FOR ARTICLES LEFT

In no case shall the City or any officer or employee thereof be responsible for articles, which may be left on any lot or grave. In all cases, the right is given to the City to remove from any lot or grave any article which is unsightly or otherwise objectionable.

6.04.13: ILLEGAL TO REMOVE LAWFULLY PLACED MATERIAL

No person shall remove any tomb, monument, gravestone, receptacle for flowers and/or flowers, shrubs, or any other structure, which is lawfully placed in any Cemetery of this City, except as otherwise provided in the Title.

6.04.14: CURBING AND CRUSHED ROCK OR QUARTZ

No curbing of Cemetery lots will be allowed. No crushed rock or quartz shall be placed on any grave.

6.04.15: GRAVE REPAIR AND MAINTENANCE

Anyone planning to make improvements on lots or gravesites shall receive written permission from the Public Works Department before the project is started.

(Title 6 replaced in entirety by Ordinance 2018-08, effective 10/1/2018)