

TITLE 6 CEMETERY

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 in relation to the Bear Butte Cemetery
- 6.02.01: 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 the City of Sturgis
- 6.02.07: Restrictions on the Resale of Lots
- 6.02.08: Records

6.02.01: POWER AND RESPONSIBILITY OF THE CITY IN RELATION TO THE BEAR BUTTE CEMETERY

The Sturgis Park Board under the authority of the Sturgis Common Council shall be responsible for the management, maintenance and operations of the Bear Butte Cemetery with the following provisions:

1. That the City shall always provide and continue a “Perpetual Maintenance Fund” for the perpetual care of said Cemetery.
2. That the money in said fund shall only be used to invest in legally approved securities.
3. That the revenue from such investments shall be used only for the purpose of maintaining said Cemetery.
4. That said fund shall not be merged with any other fund of said City.
5. That the City is to agree to 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 the City Finance Officer. 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 removal permits. Said Manager shall keep a complete set of records as required in the Title. Said Manager shall be responsible for the

enforcement of the provisions of the Title, and he or she shall perform all other applicable duties as set forth in Sturgis City Ordinances.

- B. Cemetery Sexton: The Cemetery Sexton shall be in charge of all work done at the Cemetery, and he or she shall see that said work is done in conformance with the regulations herein provided. Said Cemetery Sexton shall be in charge of all interments and disinterments and shall carry out his or her responsibilities and all regulations related thereto which are herein provided.
- C. Certificates of Purchase: Shall be issued for no other purpose than the burial of human dead.

(6.02.02 revised with Ordinance 2016-11, effective 12-28-2016)

6.02.03: FISCAL MANAGEMENT

The Cemetery Perpetual Care Fund shall be managed by the City Finance Officer and invested under the direction of the Common Council. The Perpetual Care Fund shall consist of all monies received for Perpetual Care.

6.02.04 PROCEDURE OF 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 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, known as a Certificate of Purchase, which shall entitle said purchaser to all the right 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>Administration</u>	<u>Perpetual Care</u>	<u>Totals</u>
ADULT	\$175.00	\$140.00	\$315.00
INFANT	\$40.00	\$85.00	\$125.00
CREMATION	\$40.00	\$85.00	\$125.00

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

(6.02.04 revised with Ordinance 2016-11, effective 12-28-2016)

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. Said agreement shall be made at the time of purchase.

6.02.06: RECLAIMING AND RESALE OF LOTS BY CITY

In addition to the power granted the City in SDCL 47-29-9, relating to the reselling of Cemetery lots, 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, that such owner is deceased and that such lot will not likely be used as a burial place for the owner or purchaser or any members of his family. In the event that any such lot is to be reclaimed, inquiry shall be made to ascertain the names and addresses of such heirs or any of them, can be obtained by the making of reasonable inquiry, notice shall be given to such heirs, by mail, of the intention of the City to reclaim said property, and of the fact that said money will be deposited as hereinafter provided in this section. Whether any heirs of such deceased owner or purchaser are located or not, the original cost of said lot, as paid by said owner or purchaser, 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. In case no heir of said deceased owner is located, notice of the reclaiming of such lot and the deposit of said money shall be published once a week for three successive weeks in the official newspaper in the City.

6.02.07: RESTRICTIONS ON RESALE OF LOTS

If the owner or 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 to the option mentioned in this Section, the City Finance Officer shall ascertain that the owner has clear right to the same 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 Certificates of Purchase 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 buying 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 descendant's age and the date and cause of his death, and number of the lot and block of his 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
- F. Any other records which the Finance Officer shall deem important or necessary.

Chapter 6.03
INTERMENT AND DISINTERMENT

SECTIONS:

- 6.03.01: Interments, Etcetera, Subject to State Law Also
- 6.03.02: No Interments or Disinterments until full Compliance with Laws
- 6.03.03: Limitations upon Interment
- 6.03.04: Multiple Cremains
- 6.03.05: Application for Permit for Interment
- 6.03.06: Supervision by Cemetery Sexton
- 6.03.07: No Removal of Body without Lawful Authority
- 6.03.08: Adequate Notice to be given
- 6.03.09: Disinterment
- 6.03.10: Disinterment By Order of Court or Coroner
- 6.03.11: Graves
- 6.03.12: Cremated Remains to be Disposed of Pursuant to State Law
- 6.03.13: Memorials: Control by Cemetery Sexton
- 6.03.14: Memorial Maintenance
- 6.03.15: Cemetery may Correct Placement Errors
- 6.03.16: Funerals in Charge of Licensed Funeral Directors

6.03.01: INTERMENTS, ETCETERA, SUBJECT TO STATE LAW ALSO

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. The purpose of this Chapter is to give the City control over interments and disinterments in the Bear Butte Cemetery.

6.03.02: NO INTERMENTS OR DISINTERMENTS UNTIL FULL COMPLIANCE WITH LAWS

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.

6.03.03: LIMITATIONS UPON INTERMENT

All interments in lots shall be restricted to members of the immediate family, or relatives of the owners or purchaser thereof, unless a notarized, written document from the lot owner or their heirs stating their wishes to the contrary is filed with 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.

6.03.04: 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.

6.03.05: APPLICATION FOR PERMIT FOR INTERNMENT

The charges for opening and closing are as follows (plus all applicable sales tax):

A.	Adult grave:	\$275.00
B.	Infant grave:	\$75.00
C.	Cremation grave:	\$75.00

Fees for weekend and holiday grave opening and closing are as follows (plus all applicable sales tax):

A.	Adult grave:	\$310.00
B.	Infant grave:	\$100.00
C.	Cremation grave	\$100.00

A statement of fees for opening and closing graves, and for other 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. 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. No grave shall be dug without said permit being first issued and record made thereof. Any person may make said 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.

6.03.06: SUPERVISION BY CEMETERY SEXTON

All graves shall be dug by or under the supervision of the Cemetery Sexton, but only after a burial permit, as provided above, has been properly secured.

(6.03.03-6.03.06 revised with Ordinance 2016-11, effective 12-28-2016)

6.03.07: 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.

6.03.08: ADEQUATE NOTICE TO BE GIVEN

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

6.03.09 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 charges are as follows (plus all applicable sales tax):

Weekday:

- | | | |
|----|-----------------|----------|
| A. | Adult grave: | \$350.00 |
| B. | Infant grave: | \$125.00 |
| C. | Cremation grave | \$125.00 |

Weekends and Holidays:

- | | | |
|----|------------------|----------|
| A. | Adult grave: | \$400.00 |
| B. | Infant grave: | \$175.00 |
| C. | Cremation grave: | \$175.00 |

No disinterment shall be made and no permit issued, except as otherwise provided, until such fees are fully paid. Disinterment shall be made only by the Cemetery Sexton and only upon presentation of the required permit from the City Finance Officer. No permit for the removal of any body 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. The requirement herein as to written permission of the lot owner or next of kin and the payment of the proper charges shall not be required where such disinterment is made by reason of the failure of the purchaser of a lot under contract to complete payment therefore, and the City has elected to remove any body to a single grave lot as permitted by such contract of purchase.

(6.03.09 revised with Ordinance 2016-11, effective 12-28-2016)

6.03.10: 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 signed

authorization to release the body to himself and his lawful agents. In such case the disinterment must be made by the Coroner or his lawful agents.

6.03.11: GRAVES

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

	<u>Adult Graves</u>	<u>Infant Graves</u>	<u>Cremaains</u>
Lot Size:	5' X 10'	3' X 5'	Within designated lot
Opening:	42" X 8'	Container Size	Container Size
Depth:	5' - 51/2'	21/2' - 3'	21/2' - 3'

The grade established shall be on the level with surrounding or adjoining graves and compliance with the grade of all lots shall be determined by the Cemetery Sexton. 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 Parks Superintendent. No wooden, fiberglass or non-durable containers shall be allowed for any aged person.

(6.03-11 revised with Ordinance 2016-11, effective 12-28-2016)

6.03.12: 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.

6.03.13: MEMORIALS: CONTROLLED BY CEMETERY SEXTON

Any memorial or marker intended to be erected or placed on any grave or lot shall first be approved by the Cemetery Sexton 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 Common Council. 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 revised with Ordinance 2016-11, effective 12-28-2016)

6.03.14: 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.

6.03.15: CITY MAY CORRECT PLACEMENT ERRORS

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

6.03.16: FUNERALS IN CHARGE OF LICENSED FUNERAL DIRECTORS

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: Authority to Remove Harmful Trees or Shrubs
- 6.04.10: Enclosures, Hedges, Grave Guards Prohibited
- 6.04.11: Vases – Regulations
- 6.04.12: Other Materials Placed on Graves
- 6.04.13: City not Responsible for Articles Left
- 6.04.14: Illegal to Remove Lawfully Placed Material
- 6.04.15: Curbing and Crushed Rock or Quartz
- 6.04.16: Duty of Cemetery Sexton to Enforce
- 6.04.17: Grave Repair and Maintenance

6.04.01: HOURS

The Cemetery will be open during the summer season from 8 :00 o'clock a.m. until 8:00 o'clock p.m. and during the winter season from 9:00 o'clock a.m. until 5:00 o'clock p.m.

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 Cemetery Sexton.

6.04.09: AUTHORITY TO REMOVE HARMFUL TREES OR SHRUBS

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 Cemetery Sexton shall have the authority to cause the removal of the same.

(6.04.08 & 6.04.09 revised with Ordinance 2016-11, effective 12-28-2016)

6.04.10: ENCLOSURES, HEDGES AND GRAVE GUARDS PROHIBITED

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

6.04.11: VASES – REGULATIONS

No glass jars 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. No wooden vases shall be permitted in the Cemetery.

6.04.12: 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 the Cemetery Sexton or his or her designee 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 revised with Ordinance 2016-11, effective 12-28-2016)

6.04.13: 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.

6.04.14: 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.

6.04.15: 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.

6.04.16: DUTY OF CEMETERY SEXTON TO ENFORCE

It shall be the expressed duty of the Cemetery Sexton to cause the provisions of this Title and any supplemental written policies to be enforced.

6.04.17: GRAVE REPAIR AND MAINTENANCE

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

(6.04.16 & 6.04.17 revised with Ordinance 2016-11, effective 12-28-2016)