AN ORDINANCE AMENDING SECTIONS OF THE RAPID CITY MUNICIPAL CODE RELATING TO CITY CEMETERIES

WHEREAS, the City of Rapid City has the power to establish, maintain and regulate cemeteries pursuant to SDCL 9-32-13; and

WHEREAS, the City of Rapid City currently has ordinances regulating cemeteries established and maintained by the City; and

WHEREAS, the City of Rapid City seeks to amend sections relating to the sale of cemetery parcels and perpetual care therefore, clarify terms used in the regulation of city cemeteries, and update the Rapid City Municipal Code relating to city cemeteries generally; and

WHEREAS, the Common Council of Rapid City deems it to be in the City’s best interest to amend the ordinances that it has enacted in Chapter 13.32 of the Rapid City Municipal Code.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Section 13.32.010 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.010 Definitions.

The following words and phrases in this chapter shall mean:

A. CEMETERY. The Mountain View Cemetery and the Mount Calvary Cemetery, as referred to in § 13.32.020.

B. CEMETERY PARCEL. A grave space, an ossuary space, a niche, or another type of space to place human remains in the cemetery.

C. CEMETERY PARCEL DEED. A written instrument that conveys the right to place human remains in the cemetery so notated on the deed and that is subject to the Rapid City Municipal Code and Cemetery Regulations in force at the time of the execution of the deed or as thereafter may be amended or enacted by the City of Rapid City.

D. CEMETERY SUPERVISOR. The person who is responsible for the planning, development, care and administration of City cemeteries and who serves under the direction of the Parks Division Manager.

D. CERTIFICATE HOLDER. The original purchaser of interment rights.

E. CERTIFICATE OF PURCHASE FOR PERPETUAL CARE. A certificate granting
the purchaser of perpetual care the right to perpetual care of a cemetery parcel purchased and perpetual care of the cemetery where the cemetery parcel is located in accordance with SDCL Chapter 9-32 as in existence at the time of the perpetual care purchase or as thereafter amended. Perpetual care may include the care and maintenance of grounds, infrastructure, and roads and the enlargement of such cemetery. Perpetual care does not include the maintenance, upkeep, or repair of any damage to any memorial, other improvement, or item placed on or in the cemetery parcel purchased, exclusive right to interment in the selected spaces in exchange for a dollar amount paid, and subject to certain rules, regulations and conditions.

F. **CREMATION SPACE.** A grave space intended to hold a maximum of two cremated remains per grave space. A full size burial shall not be interred in a cremation space.

G. **DOUBLE BURIAL.** A grave space in which two cremations or one cremation and one full size burial are placed.

H. **GRAVE SPACE.** A piece of land in the cemetery that is set aside for the purpose of receiving or that has already received a deceased person’s remains above ground or below ground.

I. **INDIGENT BURIAL.** A burial paid for by Pennington County for the benefit of a qualified individual in need of financial assistance for a burial.

J. **INFANT SPACE.** A grave space intended to hold one infant burial or one infant cremated remains per grave space. A full size burial shall not be interred in an infant space.

K. **LOT.** The space in the ground of the cemetery that is made up of multiple grave spaces. Grave spaces in a lot may be owned by the same person or different persons. The lot is essentially a numbered, surveyed location.

L. **MEMORIAL.** A marker of varying shape and size cut from granite, marble and/or bronze which is placed on a grave space or grave spaces in order to memorialize those interred at that location.

M. **NICHE.** A space in a City-owned burial structure, including but not limited to an ossuarium, designed to receive a maximum of two urns containing cremated remains of a deceased person or persons.

N. **OSSUARIUM.** A City-owned burial structure containing an ossuary and niches designed to hold the cremated remains of deceased persons.

O. **OSSUARY.** A vault located in the center of an ossuarium designed to hold multiple cremated remains in one common area.

P. **PARKS DIVISION MANAGER.** The Manager of the Parks Division as created in § 2.89.030.

Q. **RIGHTSHOLDER.** The original purchaser or an assignee of the right to place human
remains in the cemetery in a designated cemetery parcel or parcels so notated on a written instrument documenting the purchase and subject to the rules, regulations, and ordinances in force at the time of the purchase or as thereafter amended by the City of Rapid City.

R. _STACK BURIAL._ A single grave space in which two full size burials are placed one on top of the other.

RS. _STRUCTURE._ Anything that is built or constructed.

ST. _VAULT._ A container made of concrete, metal or equally hard material placed in the ground designed to accept the casket or urn, primarily to keep the ground from sinking over time.

BE IT FURTHER ORDAINED by the City of Rapid City, that Sections 13.32.050 through 13.32.070 of the Rapid City Municipal Code are hereby amended to read in their entirety as follows:

13.32.050  Sale of cemetery parcels and perpetual care-Cemetery parcel deed and certificate of purchase for perpetual care.

The Finance Officer shall, upon payment in full for a cemetery parcel and perpetual care therefore, deliver to the purchaser thereof a cemetery parcel deed and certificate of purchase for perpetual care executed by the Mayor and attested by the Finance Officer under the seal of the City. No deed and certificate of purchase shall be issued or any services performed unless all moneys for purchase of the cemetery parcel and perpetual care and interment have been received by the City, however, this shall not prohibit a local funeral home from making all arrangements for the purchase and services and agreeing to pay all charges within 30 days of the date of service. The certificate of purchase for perpetual care shall acknowledge the receipt of the payment for perpetual care and show the cemetery parcel so endowed.

13.32.060  Certificate holder-Purchaser to hold City harmless for burial in wrong cemetery parcel or damage to improvements.

Any person who purchases any cemetery parcel shall, by such purchase, be deemed to have agreed, on behalf of himself or herself and his or her heirs and assigns, to hold the City harmless for any damages resulting from an inadvertent burial in the wrong cemetery parcel or for any damage to any memorial or other improvement placed on the cemetery parcel so purchased.

13.32.070  Cemetery and cemetery endowment funds.

A. There are created two funds, one of which shall be designated as the Cemetery Fund and the other as the Cemetery Endowment Fund, and the funds shall be used as follows:

1. The Cemetery Fund shall be used for the expenditures incurred in the operation of the cemetery for the proper care, maintenance and service thereof.

2. The Cemetery Endowment Fund shall be kept by the City Finance Officer and used
only for the endowment for perpetual care of cemetery parcels and the full faith, credit and resources of the City are irrevocably pledged for the proper, full and faithful preservation and application of the Fund. All moneys at any time in the Endowment Fund shall be invested and kept invested in the securities in accordance with SDCL Chapter 9-32 as the Common Council shall, by resolution, direct or approve. The interest thereon shall be transferred to the Cemetery Fund.

B. The City Finance Officer is designated as the Trustee of the Cemetery Endowment Fund. At the time the cemetery parcels are purchased, the purchasers thereof shall pay into the Fund a perpetual care endowment fee of ten percent of the cost of a grave space as designated from time to time by the Common Council.

C. The perpetual care endowment fee shall be entirely independent of, and in addition to, the purchase price for the use of the cemetery parcel for which it shall endow perpetual care.

BE IT FURTHER ORDAINED by the City of Rapid City that Sections 13.32.080 and 13.32.090 of the Rapid City Municipal Code are hereby repealed.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.150 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.150 Cemetery parcel regulations.

A. Cemetery parcels are sold for no other purpose than for the burial of human dead, and the incidental uses that are suitable and proper for a cemetery parcel, but under restrictions as contained in this chapter.

B. All interments in cemetery parcels shall be designated by the certificate holder rightsholder. If the certificate holder rightsholder is deceased, an heir or beneficiary may designate any interments pursuant to Cemetery Regulations. If the rightsholder is deceased, a personal representative, executor, or administrator of the estate of the deceased rightsholder may designate any interments pursuant to Cemetery Regulations.

C. No sale, assignment or transfer of a cemetery parcel shall be valid without the consent of the Cemetery Supervisor pursuant to Cemetery Regulations, endorsed upon such transfer or assignment by the Cemetery Supervisor, and entered on record by the Cemetery Supervisor.

D. The City does not agree to give joint cemetery parcel deeds and certificates of purchase for cemetery parcels sold. No objection exists, when persons hold cemetery parcels in partnership, by agreement among themselves as to cemetery parcels to be used by each, but the City will not undertake to enforce the agreements.

E. When more than one person claims an interest in a cemetery parcel, no visible dividing line will be allowed.
F. When a certificate holder/rightsholder dies intestate, the heirs will be recognized according to the laws of South Dakota which are in force at the time of the death.

G. Upon the death of the certificate holder/rightsholder, it shall be the duty of the heir, or heirs, beneficiary, beneficiaries, personal representative of the estate of rightsholder, executor of the estate of rightsholder, or administrator of the estate of rightsholder to file full proof of cemetery parcel ownership with the Cemetery Supervisor per Cemetery Regulations.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.190 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.190 Grading of cemetery parcels.

All cemetery parcels may be graded by the City at the City’s discretion before they are sold by the City. No change in the grade of a cemetery parcel will be permitted once the City has sold the parcel.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.240 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.240 Receptacles for flowers or plants on graves.

Cut flowers or plants may be placed in permanent vases. A maximum of two vases may be installed on the memorial at the certificate holder/rightsholder’s expense with the approval of the Cemetery Supervisor pursuant to Cemetery Regulations.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.350 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.350 Container for ashes of cremated remains.

When the ashes of a cremated remains are to be interred in the cemetery, the urn shall be a wood, metal, plastic or concrete container.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.380 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.380 Disinterments.

Disinterments shall be made only by cemetery employees upon receipt of a disinterment permit from a funeral home. Once cremains have been placed in an ossuary, disinterment will not
BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.390 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.390 Visiting hours—Children under 14 to be accompanied by adult.

All persons are welcome to visit the cemetery from 7:30 a.m. until sunset. Children under 14 years of age shall not be permitted to enter the grounds unless accompanied by an adult who will be responsible for the child’s conduct.

BE IT FURTHER ORDAINED by the City of Rapid City that Section 13.32.400 of the Rapid City Municipal Code is hereby amended to read in its entirety as follows:

13.32.400 Recreational activities not permitted.

Recreational activities shall not be permitted in the cemetery.

CITY OF RAPID CITY

______________________________
Mayor

ATTEST:

______________________________
Finance Officer
(SEAL)

First Reading:
Second Reading:
Published:
Effective: