

Ordinance No. 6373

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.

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.
- 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.
- F. **CREMATION SPACE.** A grave space intended to hold a maximum of 2 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 2 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 1 infant burial or 1 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 ossuary, designed to receive a maximum of 2 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 ossuary designed to hold multiple cremated remains in 1 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 2 full size burials are placed 1 on top of the other.

S. **STRUCTURE.** Anything that is built or constructed.

T. **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.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

[13.32.020 Designated.](#)

The cemeteries and all additions that may hereafter be made thereto, and now designated and known as Mountain View Cemetery, and Mount Calvary Cemetery are designated city cemeteries and are set apart and shall be maintained forever for the burial of the dead.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

[13.32.030 General supervision and care—Duties of Parks Division Manager.](#)

The Parks Division Manager shall have general supervision and care of the cemetery, and shall take care that all cemetery parcels and cemetery property therein are kept in proper order and condition. He or she shall take care that all cemetery parcels endowed as provided for in this chapter are put and kept in such good order and condition as their endowment contemplates.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.040 Determination of portion to be platted—Fees for cemetery parcels—County purchases.

A. The Director of the Parks and Recreation Department shall determine and direct, from time to time, the portions of the cemetery which are to be platted and laid out, and the Common Council shall determine, by resolution, the prices for which the cemetery parcels are to be sold.

B. The price established by the Common Council for the cemetery parcels and endowment for perpetual care shall be paid by the county the same as any other purchaser.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

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 therefor, 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 may be issued unless all moneys for purchase of the cemetery parcel and perpetual care have been received by the city. The certificate of purchase for perpetual care shall acknowledge the receipt of the payment for perpetual care and show the cemetery parcel so endowed.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.060 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.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.070 Cemetery and Cemetery Endowment Funds.

A. There are created 2 funds, 1 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 10% 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.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.100 Use of money received.

All money received from any cemetery fees, Endowment Fund interest, grants, donations, and any other funding source shall be collected and expended in accordance with SDCL Chapter 9-32, in accordance with this chapter, and as directed by the Common Council for the maintenance, improvement, beautification and enlargement of the cemetery.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.110 Plantings and improvements generally.

The planting of trees, shrubs, flowers or other plants, and the construction of curbs, artificial walks, fencing, coping or enclosures of any kind whatsoever, will not be permitted to be done upon cemetery parcels by the owners thereof. All plantings will be made and cared for by the city under the supervision of the Parks Division Manager.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.120 Cemetery decorations.

No items, including but not limited to decorations, will be allowed to be placed upon cemetery parcels except in accordance with this section or § 13.32.240.

A. Winter decorations may be placed on grave spaces on or after November 5 and must be removed by January 5 of the following year.

B. Items may be placed on grave spaces up to seven days prior to Easter. Items shall be removed within 7 days following Easter.

C. Items may be placed on grave spaces up to 2 days prior to Memorial Day. Items shall be removed within 6 days following Memorial Day.

D. Items may be placed on grave spaces up to 2 days prior to the following holidays: Martin Luther King, Jr. Day, Valentine's Day, St. Patrick's Day, Mother's Day, Father's Day, Independence Day, Labor Day, Native American Day and Halloween. Items shall be removed within 3 days following each holiday.

E. Items may be placed on a grave space up to 2 days prior to the funeral and shall be removed within 10 days following the funeral. Items left within 10 days after a funeral may be removed by cemetery staff if they become unsightly.

Items on grave spaces that are outside of the above-referenced time frames will be removed by the city and permanently discarded. The city will not be liable for any item removed or lost by any cause. No items may be placed in trees, fences or structures at any time. Taping, wiring, gluing or attaching anything to a memorial is prohibited. No item made from glass, ceramic or pottery may be placed on any grave space at any time.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.130 Grading, seeding and maintenance of grounds.

The grading, seeding and maintenance of cemetery grounds will be done by the city.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.140 Irrigation.

The city will operate the irrigation systems in the cemetery. Any person may provide their own additional water to any grave space, as long as the additional water does not become injurious to the grave space being watered, any other grave space, or any cemetery property.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

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 rightsholder. If the 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. 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 1 person claims an interest in a cemetery parcel, no visible dividing line will be allowed.

F. When a rightsholder dies intestate, the heirs will be recognized according to the laws of South Dakota that are in force at the time of the death.

G. Upon the death of the rightsholder, it shall be the duty of the heir, 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.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.160 Indigent burials.

A grave space for an indigent burial or an ossuary space for an indigent burial will be sold only for immediate use and in certain designated portions of the cemetery, but there can be no choice of location, as the spaces will be filled in regular order as to location.

(Ord. 6308 (part), 2019)

13.32.170 Lot corners.

Lot corners will be placed by the city flush with the surface of the ground, and no other markings will be allowed upon the lots to distinguish fractions of lots.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.180 Elevated grave spaces, grave mounds, memorials, grave markers or other structures.

No elevated grave spaces, grave mounds, memorials, grave markers or other structures, other than those allowed pursuant to this chapter, will be allowed in the cemetery. This section shall not apply to city- owned structures and memorials.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

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.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.200 Memorials required to comply with cemetery regulations.

No memorial may be erected in the cemetery unless it complies with cemetery regulations and a memorial permit is obtained through the Cemetery Supervisor. The fee for a memorial permit shall be established by resolution of the Common Council of the city.

Temporary memorials may be allowed if they are in compliance with cemetery regulations.
(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.210 Memorial locations.

All memorials shall be located only within the spaces designated. Not more than 1 memorial shall be allowed per grave space except in accordance with cemetery regulations.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.220 Foundations for memorials.

Foundations for memorials shall be built of reinforced concrete or granite under the supervision of the Cemetery Supervisor or his or her designee.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.230 Aboveground burials.

Structures for aboveground burials may be erected in designated areas if all plans and materials have been approved by the Cemetery Supervisor pursuant to cemetery regulations. No other aboveground burials will be allowed in the cemetery.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.240 Receptacles for flowers or plants on graves.

Cut flowers or plants may be placed in permanent vases. A maximum of 2 vases may be installed on the memorial at the rightsholder's expense with the approval of the Cemetery Supervisor pursuant to Cemetery Regulations.

(Ord. 6373 (part), 2019: Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.250 Burial permits and certificates of cremation.

A. Within 10 days of the burial of a dead human body in a cemetery parcel, the person or funeral home that interrs the body shall file a burial permit with the Cemetery Supervisor.

B. Within 10 days of the burial of cremated remains in a cemetery parcel, the person or funeral home that interrs the body shall file a certificate of cremation with the Cemetery Supervisor.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.260 Digging of graves.

The Cemetery Supervisor shall cause to be dug any grave for which proper notice is delivered and shall have the grave in readiness for the appointed time of burial after notice of at least 16 business hours under normal digging conditions. If the ground is frozen or other abnormal conditions exist, notice of at least 24 business hours must be given. All graves shall be dug and refilled by city employees.

(Ord. 6308 (part), 2019: Ord. 5794 (part), 2012)

13.32.270 Cemetery fees.

Cemetery fees shall be established by resolution of the Common Council of the City. Cemetery fees include but are not limited to: sale of cemetery parcels, opening and closing of graves, memorial permit fee, and Saturday funeral fee.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.280 Double burials and stack burials.

A. No double burial will be allowed in the cemetery except as follows:

1. Two people who were spouses at the time of the first person's death may have a double burial within a grave space if the second decedent is cremated.

2. Double burials are allowed in Block 161, Blocks 4,000 through 5,100, Blocks 6,030 through 6,200, Lots 2,060 through 2,069 and Lots 3,000 through 3,999.

3. This section does not pertain to ossuaries or the cremation sections.

B. Stack burials are only allowed in Lots 2,060 through 2,069, Block 161 and Block 4,002 of the cemetery.

C. No more than 2 burials in a grave space shall be allowed except in the ossuary.

D. In a situation of a double burial with a full burial and a cremation, the full burial must be interred either at the same time the cremation is interred or before the cremation is interred. If the cremation is interred prior to the full burial, a disinterment permit shall be required before the interment of the full burial may occur.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.290 Ossuaries and other city-owned burial structures.

The city may construct and maintain any number of ossuaries and other city-owned burial structures.
(Ord. 6308 (part), 2019)

13.32.300 Cremation sections.

Sections in the cemetery divided into cremation spaces.

(Ord. 6308 (part), 2019)

13.32.310 Infant sections.

Sections in the cemetery divided into infant spaces. A container interred in an infant space shall not be larger than 2 feet by 3 feet.

(Ord. 6308 (part), 2019)

13.32.320 Family memorial sections.

Sections in the cemetery designated to have both a family memorial and individual memorials as herein provided. Grave spaces shall be sold in groups of 4. Each family is required to place a centered family memorial in accordance with cemetery regulations. Individual memorials shall be placed to identify each grave space in accordance with cemetery regulations.

(Ord. 6308 (part), 2019)

13.32.330 Supervision of funerals.

Funerals, on reaching the cemetery, will be under the charge of the Cemetery Supervisor or his or her designee. Funerals shall be conducted in accordance with cemetery regulations.

(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.340 Vault required.

Any casketed burial placed in a grave space, except an infant space, shall be placed in a vault.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.350 Container for ashes of cremated remains.

When the ashes of cremated remains are to be interred in the cemetery, the urn shall be a wood, metal, plastic or concrete container.
(Ord. 6373 (part), 2019; Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.360 Funeral hours.

Funerals in the cemetery are allowed Monday through Saturday between 8:30 a.m. and 3:00 p.m.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.370 Burials on Sunday or city-observed holiday.

Burials on Sundays or any city-observed holiday shall not be permitted in the cemetery, except upon special permit therefore issued by the Mayor.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

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 allowed.
(Ord. 6373 (part), 2019; Ord. 5308 (part), 2019; Ord. 5794 (part), 2012)

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.
(Ord. 6373 (part), 2019; Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.400 Recreational activities not permitted.

Recreational activities shall not be permitted in the cemetery.
(Ord. 6373 (part), 2019; Ord. 6308 (part), 2019)

13.32.410 Required use of cemetery pathways and roads.

All persons are required to keep on the pathways and roads of the cemetery. Under no circumstances is any person allowed to sit upon, walk upon or otherwise occupy any cemetery parcel not belonging to them or to a member of their family. This section does not apply to cemetery employees or personnel involved in burial or memorial services.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.420 Motor vehicle regulations.

A. Motor vehicles must be driven carefully in the cemetery and not to exceed 10 mph. They shall not be driven anywhere except on established roadways.
B. Vehicles shall not be kept running in close proximity to any funeral service.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.430 Animals prohibited.

No person may bring an animal into the cemetery. Service animals are exempt from this section.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.440 Interfering with funeral.

Persons who have not accompanied a funeral to the cemetery shall not congregate around a grave or vehicles while ceremonies are in progress.
(Ord. 5794 (part), 2012)

13.32.450 No littering.

No person may place papers, decayed flowers or any litter as defined in § 8.12.010 on any grave space or other cemetery property except in a container designed and intended for the collection of litter.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)

13.32.460 Cemetery regulations.

The Cemetery Supervisor may propose cemetery regulations that shall be subject to approval by resolution of the Common Council. When so approved, it shall be unlawful for any person to violate any such regulation.
(Ord. 6308 (part), 2019; Ord. 5794 (part), 2012)