

Chapter 12.12
CITY CEMETERY

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12.12.010 Name.

The cemetery owned and operated by the city and known as the Custer City Cemetery shall be governed, managed and operated under the provisions of this chapter.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.020 Supervision.

The city finance office shall supervise the Custer City Cemetery; make rules and regulations, which shall be subject to the approval of the common council; and see that the provisions of this chapter, rules and regulations of the council governing the cemetery are complied with in every way. The finance office shall keep all records of the cemetery, and shall procure suitable books, blank forms or other records, written and electronic for the purpose. A map of the cemetery shall be kept in the finance office. The finance officer shall designate an employee to sell all lots and sign the permit for disposition of dead human remains.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.030 Powers and authority.

A. The common council shall establish rates for the sale of cemetery lots and perpetual care maintenance within the Custer City Cemetery, and shall periodically make adjustments of those fees. See the fee schedule set by resolution for the rates. The city finance office shall receive, receipt for, and deposit moneys from the sale of lots into the general fund for care and maintenance; and the perpetual care fees shall be deposited into the service fund, known as the Custer City Cemetery Perpetual Care Fund. The Perpetual Care Fund balance shall continue to increase to an amount so that the interest earned thereon may provide for all or a portion of the care of the cemetery. The interest shall be receipted into the general fund for care and maintenance. "Perpetual care" consists of mowing, trimming, raking, refilling as necessary, reseeding as needed, and all care necessary to maintain the property to the best of the ability of the city.

B. Further, the common council shall have the power to contract with the owners or the families of decedents owning lots within the Custer City Cemetery for the care of their lots within the cemetery. Further, the common council shall have the power to hire or contract with firms or individuals for the care, maintenance and improvement of the Custer City Cemetery.

C. No burials shall be made upon a lot for which the city has not received payment. Should there be an interment on a cemetery space for which full payment has not been made, the city reserves the right to disinter the remains and remove the burial, together with any monument or other structure thereon, to some other portion of the cemetery.

D. All cemetery lots or grave spaces shall be used for burial purposes only and shall not be resold without the consent of the designated city employee(s).

E. Cemetery lots or grave spaces shall not be used for any other purpose than as a place for burial of the dead. No interment of remains other than that of a human being shall be made in the cemetery.

F. No burial other than known members of the family of the lot owner, except for lots in the county section, will be allowed, except for written requests made to the finance office. Permission, if granted, shall be filed in the finance office.

G. No lot owner shall be allowed to sell or transfer any lot, or any portion of that lot, for a remuneration or consideration without the approval of the finance office.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.035 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 its exact location, and describing or indicating all blocks, lots, interments, etc., of the cemetery, and all other information as may be required by law or ordinance;

B. A complete record of all lots that have been sold, all deeds issued, all fees paid, and the names and addresses of all purchasers;

C. A complete record of all burial permits; a complete record of all disinterments made and fees paid therefor;

D. Any book or electronic document owned and maintained by the city finance office known as burial record book or document, in which shall be recorded the deceased age and date of death, and number of the lot and block of the burial, copies of burial or removal permits, and all other information that may be required by law or ordinance, or that the city finance officer deems important; and

E. Any other records that the finance officer shall deem important or necessary.

(Ord. 782 (part), 2016)

12.12.040 Purchaser to agree.

The purchaser of any lot does by his or 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 the cemetery. Any purchaser of any lot does by his or her purchase agree that no sale or transfer shall be made of that lot, or any part thereof, to any other person without the approval of the city finance

office.

(Ord. 782 (part), 2016)

12.12.050 Execution of conveyances.

The city finance office shall execute all conveyances of lots upon the payment of purchase price thereof. Each conveyance shall be signed by two (2) officers of the city. The filing fee will be charged over and above the sale of the lots and perpetual care fees.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.060 Monuments or grave markers.

No monument, stone, marker or structure of a permanent nature shall be set in the cemetery without permission from the city finance office. See the fee schedule set by resolution for the fee. Failure to obtain a monument permit could result in a penalty fee not to exceed fifty dollars (\$50.00).

A. One (1) upright monument or marker shall be allowed per grave space. Additional markers and footstones shall be placed at the foot of the grave and be flat. The location of markers on all graves shall be determined by, and at the discretion of the finance office staff.

B. When one (1) central or family monument or marker is placed on a "family plot" (four (4) grave spaces in the same lot), the monument or memorial should be centered and set three (3) inches from the west line of the plot. Accompanying monuments or markers in the same plot should be placed three (3) inches from the east line of the plot, within the parameters of each grave space, and should be flat markers or footstones.

C. If corner markers are used to mark a plot, they must be set at ground level and no larger than four (4) square inches in surface area.

D. All monuments and markers referred to in this chapter shall not exceed the boundaries of the owner's deeded grave spaces; four (4) feet in width for a single grave space and eight (8) feet in width for a double grave space; and must be set on a poured concrete or granite foundation, not less than four (4) inches deep, and with a four (4) inch minimum on all sides flush with the ground level. Monuments and markers placed after the passage of the ordinance shall also be restricted to four (4) feet in height.

E. Mausoleums or tombs, either wholly or partially above ground, shall be constructed only upon approval of the governing body and only in those lots approved by the governing body. All plans and materials shall be approved by the governing body.

F. All monuments, markers and mausoleums shall be of the first quality granite, marble, other natural rocks and stone, or memorial grade bronze metal.

G. Vases shall be allowed to be placed in front of, on the side, or at the base of the monument.

H. Monuments and markers are not city property. Maintenance and vandalism are the responsibility of the deed holder or personal representative of the estate.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.070 Burial vaults and urns.

No body or casket shall be placed in any grave or burial vault in the Custer City Cemetery without the prior approval of the city finance office. All remains must be placed in a burial vault or urn. No surface vaults are allowed. When the ashes of a cremated body are to be interred in the cemetery, the ashes must be in a durable urn or in a strong metal or concrete case. The container for cremated remains shall be no larger than one (1) foot by one (1) foot. No person shall scatter cremated remains within the cemetery. Vault covers shall not be permitted in the Custer City Cemetery. Old or damaged vault covers shall be removed at the expense of the next of kin.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.080 Hours-alcoholic beverages prohibited.

A. The municipal cemetery shall be open from dawn until dusk, or from five (5:00) a.m. to nine (9:00) p.m., whichever is earlier. There shall be no drinking or alcoholic beverages in the cemetery. Signs specifying the hours and rules shall be placed and maintained in a conspicuous place at each entrance to the cemetery.

B. Any person who enters the cemetery outside of the posted times will be guilty of a violation of this section and shall pay a fine of twenty-five dollars (\$25.00) to the city. Special exceptions shall be made for religious or sentimental reasons if they are related to the visitation by a friend or relative of a particular person who is buried in the cemetery, if prior approval is given by the city finance office.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.090 Reclaiming and resale of lots by city.

In addition to the power granted the city in SDCL 9-32-21 and 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 thirty (30) years from the date of sale thereof, should the city finance officer, upon investigation, determine that the purchaser or owner thereof has not used the lot, or any part thereof, that the owner is deceased and that the lot will not likely be used as a burial place for the owner or purchaser or any members of his or her family. In the event that any such lot is to be reclaimed, inquiry shall be made to ascertain the names and addresses of the heirs or any of them, which can be obtained by the making of reasonable inquiry, and notice shall be given to the heirs, by mail, of the intention of the city to reclaim the property, and of the fact that the money will be deposited as hereinafter provided in this section. Notice and transfer shall be in accordance with SDCL. Whether any heirs of a deceased owner or purchaser are located or not, the original cost of the lot, as paid by the 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 the deceased owner of the right to the proceeds. In case no heir of a deceased owner is located, notice of the reclaiming of the lot and the deposit of the money shall be published once a week for three (3) successive weeks in the official newspaper in the city. It is the responsibility of the owner, purchaser or any members of their family to maintain updated contact information with the city.

(Ord. 782 (part), 2016; Ord. 664 (part), 2009)

12.12.095 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 or her desire to sell, whereupon the city shall have an option for thirty (30) days thereafter to purchase the property on the basis of the regular selling price by the city of lots in the same section or block. If the option is not exercised by the city, the 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 that 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 the purchase is made.

(Ord. 782 (part), 2016)

12.12.100 Planting of trees, shrubs, flowers or plants.

A. The planting of trees, shrubs, flowers or plants shall be prohibited in the cemetery. As existing plantings located on graves or in alleyways die, they shall not be replaced.

B. Trees growing on any lot shall not be pruned, cut down or removed without the consent of the city finance office. If any tree or shrub situated on any lot shall, by means of its roots, branches or otherwise, become detrimental to the adjacent lots, walkways or roadways, or unsightly or inconvenient, the city finance office shall have the right to enter upon that lot and remove the trees and shrubs, or any part of the trees or shrubs, as deemed necessary.

(Ord. 782 (part), 2016)

12.12.110 Concrete borders and crushed rock or quartz.

A. Concrete borders around grave spaces are prohibited. If any previously installed concrete border becomes unsightly, the family will be responsible for repairs. If contact is unable to be made after a reasonable attempt, the city may remove the concrete border and replace the area with grass. Corner markers, if desired, may be placed at the property owner's expense. Corner markers shall be flush with the ground and no larger than four (4) square inches in surface area.

B. No crushed rock, quartz or any other landscaping rock not used as a monument at the head of the grave shall be placed on any lot.

(Ord. 782 (part), 2016)

12.12.120 Items placed on graves.

A. City employees or contractors shall not be held responsible for articles left on any lot or grave under any circumstances. City employees or contractors shall reserve the right to remove articles from any lot or grave if they are deemed unsightly or objectionable.

B. Floral arrangements shall be permitted on any lot or grave from May 1 through October 31, and on Easter, Thanksgiving, Christmas, the decedent's birthday and date of passing.

C. No glass containers or items of any type will be permitted in the cemetery. Any glass located in the cemetery will be removed and disposed of immediately.

D. No chairs or benches are permitted on lots. However, stone benches placed at the head of the grave space may be used in place of monuments upon approval from the finance office.

E. Papers, decayed flowers, empty bottles or cans and other rubbish shall not be permitted in any lot, grave space, roadway or cemetery ground.

(Ord. 782 (part), 2016)

12.12.130 Burial process.

A. Interments are subject to the laws of South Dakota, and nothing in this section shall conflict with state laws. Regulations herein provided are in addition to, and supplementary or included in the laws of the State of South Dakota. No interment of any body shall be permitted in any lot until full compliance is made with all laws and ordinances regarding burials then in force.

B. All interments in lots shall be restricted to members of the immediate family, or relatives of the deed holder 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.

C. A designated city employee within the finance department shall approve the burial, setting forth the grave, lot and block number upon which the burial is to be made. After the burial location is approved and sufficient information received on the deceased, the city will stake and inspect the grave space. Double vault burials will be allowed only in spaces previously approved. Temporary grave markers must be used by all mortuaries. The city will not be held responsible for any temporary markers. Under normal circumstances, the city will not be responsible for actual digging of the graves.

D. The digging of all graves shall only be done by the city's approved contractors, and all surplus earth shall be removed from the lots at the expense of the lot owner. The only exception to this may be for the placement of cremains, in which case the family may dig the space for cremains placement once approval has been received from the finance office.

E. The cost of digging all grave spaces shall be the expense of the lot owner or the deceased's family.

F. Up to two (2) cremains are allowed for each permitted space. If a space already holds a normal burial remains, two (2) cremains may also be placed in the space, if the space does not already contain a cement cover or full grave monument.

G. No cremains shall be placed between two (2) grave spaces or cement covers.

(Ord. 782 (part), 2016)

12.12.140 Disinterment.

No disinterment in a lot or grave space will be permitted without documentation, as prescribed by South Dakota State law, in writing by the surviving husband, wife or next of kin of the person whose body is to be disinterred, and written permit, order for the disinterment from the owner of the lot, or his or her lawful representative.

(Ord. 782 (part), 2016)

12.12.150 Inadvertent burial or damage.

Any person who purchases any cemetery lot shall, by that 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 on the wrong lot, or for any damage to any stone, marker or other improvement placed on the lot so purchased.

(Ord. 782 (part), 2016)

12.12.160 Lot sizes.

The size of all lots shall be five (5) feet wide by ten (10) feet long.

(Ord. 782 (part), 2016)