BEFORE THE CITY COMMISSION
CITY OF STUART, FLORIDA

ORDINANCE NUMBER 2433-2020

AN ORDINANCE OF THE CITY OF STUART, FLORIDA, CREATING CHAPTER 13, CEMETERIES, IN THE CITY;S CODE OF ORDINANCES TO ESTABLISH A UNIFORM SET OF REGULATIONS FOR THE PURCHASE, SALE, USE, AND MAINTENANCE OF CEMETERY SPACES IN THE CITY'S MOORE'S CEMETERY, AND TO PRESCRIBE PROCEDURES FOR THE ADMINISTRATION OF THE CEMETERY, PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE, AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, the creation of this new Chapter in the City's Code of Ordinances is to establish a uniform set of regulations and prescribe procedures for the administration of the City's Moore's Cemetery;

WHEREAS, it has been determined that the adoption of rules, regulations, and restrictions is in the best interest of all users of Moore's Cemetery and the citizens of Stuart; .

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF STUART, FLORIDA, that:

SECTION 1: The City of Stuart Code of Ordinances is hereby amended to include Chapter 13, Cemeteries, as follows:

Chapter 13 - CEMETERIES

Sec. 13-1. - Purpose and intent.

The purpose of this chapter is to establish a uniform set of regulations for the purchase, sale, use and maintenance of cemetery spaces in the City's Moore's Cemetery, and to prescribe procedures for the administration of this cemetery.

Sec. 16-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Block means a plot of land consisting of lots and spaces which is identified on the Moore's Cemetery plats filed with the City Clerk's office.

Cemetery means the municipal cemetery identified as the Moore's Cemetery, owned and administered by the City.

Cemetery supervisor means The Public Works Director or designee who has responsibility for the day-to-day operation and supervision of the cemetery.

Conveyance. All provisions herein referring to "conveyance," "sale," "transfer," "deeds," etc., mean the conveyance of a right to burial only in a space and shall not be deemed to convey fee simple title to the space.

Cremated or *cremation* means any mechanical or thermal process whereby a dead human body is reduced to ashes and bone fragments. The term "cremation" also includes any other mechanical or thermal process whereby human remains are pulverized, burned, re-cremated, or otherwise further reduced in size or quantity.

Cremated remains means the residue of a dead human body that has been cremated.

Direct disposal establishment means a place, licensed under F.S. ch. 497, where a direct disposer practices direct disposition.

Direct disposer means any person who is licensed in the state to practice direct disposition.

Direct disposition practice means the final disposition of a dead human body without preparation of the body of embalming and without any attendant services or rights such as funeral or graveside services.

Final disposition means the final disposal of a dead human body whether it be by, but not limited to, earth interment, above ground interment, cremation, burial at sea, or delivery to a medical institution for lawful dissection if the medical institution assumes responsibility for disposal. The term "final disposition" does not include the disposal or distribution of cremated remains and residue of cremated remains.

Funeral or *funeral services* means the observance, services, or ceremonies held to commemorate the life of a specific deceased human being and at which the human remains are present.

Funeral directing means the making of arrangements for, or directing the arrangements for, the preparation and transportation of dead human bodies for final disposition; or using, in connection with one's name, the term "funeral director," "licensed funeral director," "undertaker," or "mortician"; or offering or holding one's self out as offering such services.

Funeral director means any person licensed in the state to practice funeral directing.

Funeral establishment means a place, licensed under F.S. ch. 497, where a funeral director or embalmer practices his funeral directing or embalming.

Grantee means the person purchasing the space whose name shall appear on the cemetery deed of burial right.

Grave means the excavation on a lot for the final disposition of a dead human body.

Lot means a numbered plot of land consisting of one space identified on the Moore's Cemetery plats filed with the City Clerk's office.

Perpetual care means that the City agrees to perform all landscaping and ground maintenance at no additional cost, including, but not limited to, mowing, trimming, fertilization, pesticide applications, tree and shrub trimming and removal, debris and trash removal, renovations, and approved beautification projects.

Space means a lettered plot of land identified on the Moore's Cemetery plat filed with the City Clerk upon which the final disposition of deceased human beings is made.

Vault means an underground or aboveground chamber for the final disposition of a dead human body.

Sec. 13-3. - Responsibility for cemetery operation and maintenance.

The general administration and maintenance of the cemetery shall be the responsibility of a cemetery supervisor, who shall be an employee of the Public Works Department.

Sec. 13-4. - Cemetery plat adopted.

(a) The plat of the Moore's Cemetery to be used in conveying rights to burial is hereby adopted and ratified. Said plat is on file in the office of the City Clerk. The plat of the Moore's Cemetery shall consist of a map entitled Record of Burials, Moore's Cemetery.

Sec. 13-5. - Regulation for use of lots and spaces.

The following regulations shall apply to the use of lots and spaces:

(1) No enclosure of any nature such as copings, fences, hedges or ditches shall be allowed around any spaces. Grave mounds shall also not be allowed.

(2) No trees, plants or shrubs shall be planted, pruned or removed unless authorized by the cemetery supervisor.

(3) Artificial flowers may be used on spaces. Ceramic vases may be used for cut flowers. The use of fruit jars, glass vases, glass blocks, tin cans, milk cartons, paper cups or other such containers is not permitted.

(4) Small live plants in clay pots may be placed on spaces.

(5) All cemetery spaces will be allowed one monument or marker. Monuments and/or grave markers shall be of bronze, granite or marble; not more than four feet high. Foundations for monuments shall be adequately designed to prevent future settlement. Monuments shall be placed on a minimum of five inches of concrete with a perimeter reinforcement of #3 rebar.

(6) When footstones are used, such stones shall be aesthetically complimentary to the monuments on the space; shall not be of greater size than 12 inches by 24 inches; and shall be placed only under the direction of the cemetery supervisor.

(7) Urns placed on spaces will be of bronze, granite, marble or smooth-finish concrete and such urns will be kept planted at all times.

(8) The cemetery supervisor may remove, without notice, dead or dormant plants, faded or out-of-season artificial flowers or improper containers, as necessary.

Sec. 13-6. - Sale of spaces.

(a) Spaces may only be sold to and purchased by residents of the city or persons who own a fee simple interest in real property within the city limits or who have previously purchased and continue to own spaces. The deed conveying the right to burial shall be issued to the purchaser by the City Clerk's office.

(b) The City Clerk shall be responsible for sales and shall keep a comprehensive records book reflecting the grantee, section, block, space, grave site number and monetary consideration paid for same.

Sec. 13-7. - Transfer of right to burial prohibited.

(a) Only the remains of the grantee or other person designated in the deed may be buried in a space. The grantee may not transfer the deed; however, the grantee may change the designation of a space by filing a written request with the City Clerk.

(b) If a grantee determines that he no longer wishes to use the space, he may offer the space for sale back to the city. The city will repurchase a space in accordance with Appendix A of the City's Code.

(c) If a grantee has died and elected to not use his space, a representative of the estate of the deceased grantee may offer the space for sale back to the city or designate the space for someone else. A representative of a deceased grantee making such a request will be required to provide the following:

(1) Legal document showing the person is the court ordered representative of the deceased;

(2) Copy of a will that has been admitted to probate showing that the person making the request is the legal representative; or

(3) Notarized affidavit from the person making the request stating that he is the personal representative of the deceased and, as such, has the authority to sell the space to the city or designate the space.

Sec. 13-8. - Cost of spaces.

(a) *Full adult space.* The purchase price of one full adult space is in accordance with Appendix A of the City's Code.

(b) *Second rite of interment.* The grantee or legal representative of a grantee of one full adult space may consent to have two (2) cremated remains buried in the same space in accordance with Appendix A of the City's Code.

Sec. 13-9. - Use of proceeds from sale of spaces.

Revenues designated from the sale of spaces shall be deposited in the City's General Fund.

Sec. 13-10. - Graves and vaults.

No burials above ground in vaults shall be permitted. Grave locations must be approved by the Public Works Director or designee. The grave must be dug to a depth that leaves 18 inches of soil over the top of the vault.

Sec. 13-11. - Burials and removals.

(a) No final disposition shall be made in the cemeteries without the purchase of a space, and a securing of a burial permit issued by the City Clerk. Funeral establishments shall be responsible for arranging the opening and closing of graves at their expense. No graves may be dug or opened, and no bodies may be removed without attendance of the City's designated representative.

(b) Funeral establishments must have on file with the City Clerk a copy pf their most recent license on file with the State of Florida in accordance with FS ch 497.

(c) Funeral establishments must have on a file with the City Clerk a copy of their most recent insurance certificate. Minimum insurance requirements are as follows:

The Funeral establishments shall not commence any work until it has obtained all of the following types of insurance and the City has approved such insurance. Nor shall the Funeral establishment allow any

subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers licensed and authorized to do business in the State of Florida. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less than Class "VIII" as to strength in accordance with the A.M. Best Company Insurance Guide, or its equivalent as determined by the City in its sole discretion.

Loss Deductible Clause: The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Funeral establishment and/or subcontractor providing such insurance.

Worker's Compensation Insurance: The Funeral establishment shall provide Worker's Compensation Insurance for all of its employees connected with the any work performed at the City's Moore's Cemetery that complies fully with the State of Florida Worker's Compensation Law, F.S. 440.

General Liability: The Funeral establishment shall maintain broad form Commercial General Liability including but not limited to bodily injury, property damage, contractual liability, products and completed operations, and personal injury with limits of not less than $1,000,000 per occurrence, $1,000,000 aggregate covering all work performed at the City's Moore's Cemetery. Include broad form property damage (provide insurance for damage to property under the care custody and control of the Funeral establishment)

Business Automobile: The Funeral establishment shall maintain Business Automobile Liability form with coverage for symbol I (any auto) with limits of not less than $1,000,000.00 combined single limit or $500,000.00 per person/ $1,000,000.00 per accident bodily injury and $250,000.00 per accident property damage.

Certificates of Insurance: The Funeral establishment will furnish Certificate of Insurance Forms. These shall be completed by the authorized Resident Agent and returned to the City Clerk. This certificate shall be dated and show:

a) The name of the insured, the name of insurer, the number of the policy, its effective date, and its termination date.
b) Statement that the Insurer will mail notice to the City at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.
c) The City of Stuart is to be specifically included as an ADDITIONAL INSURED on General Liability Insurance and Business Automobile Liability Insurance.
d) The City of Stuart shall be named as Certificate Holder. Please Note that the Certificate Holder should read as follows:

City of Stuart
121S.W. Flagler Avenue
Stuart, FL 34994

e) (No City Division, Department, or individual name should appear on the certificate. NO OTHER FORMAT WILL BE ACCEPTABLE.
f) The "Acord" certification of insurance form should be used.

(d) Removal of excess soil after burial or the filling of the gravesite with additional soil after settling shall be the responsibility of the funeral establishment. Any excess soil must be removed the same day as the burial; and any filling needed as a result of settling must be accomplished within five days after burial. Upon failure to remove excess soil or to fill as required above, the City's designated representative may cause same to be accomplished with the costs thereof charged to the funeral establishment, , which cost shall be immediately due and payable.

(e) Any additional city services required due to failure by the applicable funeral establishment to abide by this chapter, and any reasonable rules and regulations promulgated to effectuate this chapter, shall be charged to the funeral establishment and be immediately due and payable.

Sec. 13-12. - Easements.

An easement is reserved along all lot lines for installation of water lines as needed.

Sec. 13-13. - Rules and regulations.

The cemetery supervisor is hereby authorized to establish rules and regulations as may be necessary to provide for the effective and efficient operation of the cemeteries and to protect the health, safety and welfare of the public. Such rules and regulations shall be subject to the approval of the City Manager and shall not be inconsistent with any provisions of this chapter.

Sec. 13-14. - Deeds.

The form for the cemetery deed of burial right is available from the City Clerk. All deeds to spaces in the cemeteries are hereby declared to incorporate and shall be subject to all rules, regulations and conditions contained in this chapter.

Sec. 13-15. - Penalties and enforcement.

Any person, firm, corporation, business entity or any other entity violating any of the provisions of this chapter shall be referred to City code enforcement for disposition. Upon the finding of a violation by code enforcement, any funeral establishment shall automatically be denied further access to the cemetery until compliance has been established.

SECTION 2: All ordinances or parts of ordinances herewith are hereby repealed to the extent of such conflict.

SECTION 3: If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

SECTION 4: The provision of Chapter 13, Cemeteries, shall be codified.

SECTION 5: This ordinance shall take effect upon adoption

Passed on first reading the 8th day of June, 2020

Commissioner _____ offered the foregoing Ordinance and moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

	YES	NO	ABSENT	ABSTAIN
MICHAEL J. MEIER, MAYOR				
EULA R. CLARKE, VICE MAYOR				
BECKY BRUNER, COMMISSIONER				
MERRITT MATHESON, COMMISSIONER				

ADOPTED on 1st reading this 8th day of June, 2020.

ATTEST:

_____
MARY R. KINDEL
CITY CLERK

_____
MICHAEL J. MEIER
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____
MICHAEL J. MORTELL
CITY ATTORNEY