

THE CITY OF SPRUCE GROVE

BYLAW C-1056-18

CEMETERY BYLAW

Being a bylaw respecting the operation of a cemetery in the City of Spruce Grove, Province of Alberta.

WHEREAS, Council wishes to promote the safety, health and welfare of people and the protection of people and property, activities and things in, on or near a public place or place that is open to the public; nuisances, including unsightly property; and services provided by or on behalf of the municipality; as provided for under the *Municipal Government Act*, R.S.A., 2000, c.M-26, as amended;

AND WHEREAS, the City of Spruce Grove wishes to regulate the use and disposition of the lands and property within the Pioneer Cemetery;

NOW THEREFORE, the Council for the City of Spruce Grove, duly assembled hereby enacts as follows:

1. DEFINITIONS

- 1.1 “**Act**” means the *Cemeteries Act*, R.S.A. 2000, c-3, as amended;
- 1.2 “**Ash Plot**” means a subdivided portion of the Cemetery intended for the burial of up to two (2) Urns;
- 1.3 “**Bylaw**” means this Cemetery Bylaw;
- 1.4 “**Burial Permit**” means a burial permit issued under the *Vital Statistics Act*, S.A. 2007, c V-4.1, as amended;
- 1.5 “**Burial Vault**” means a concrete receptacle that is placed in a grave to enclose the casket;
- 1.6 “**Cemetery**” means those City-owned lands set apart for the burial of dead human remains or cremated human remains, including structures, legally described in Schedule A to this Bylaw;
- 1.7 “**City**” means the municipal corporation of The City of Spruce Grove, in the Province of Alberta;

- 1.8 **“Columbarium”** means a secure structure within the Cemetery containing Niches for the placement of cremated human remains;
- 1.9 **“Council”** means the Mayor and Councillors duly elected pursuant to the provisions of the *Local Authorities Election Act*, R.S.A., 2000, c.L-21;
- 1.10 **“Director”** means the City’s Director of Public Works or designate;
- 1.11 **“Disinterment”** means the authorized removal of dead human remains or cremated human remains from the Cemetery;
- 1.12 **“Flat Marker”** means a monument set flush with the ground, constructed of granite, marble or bronze, that identifies the interred person;
- 1.13 **“Foundation”** means a concrete or granite slab of specific proportion for the placement of a Headstone or a Flat Marker;
- 1.14 **“Funeral Director”** means a person who holds a funeral director license issued under the *Funeral Services Act.*, R.S.A. 2000, c.F-29;
- 1.15 **“Grave”** means an excavation intended for the burial of dead human remains or cremated human remains;
- 1.16 **“Headstone”** means a structure made of commercial grade granite, marble, stone or bronze erected on a Foundation set flush with the ground that identifies the interred Person;
- 1.17 **“Infant”** means an individual up to one year of age.
- 1.18 **“Inscription”** means to cut or carve a text or design that is in keeping with the dignity of the Cemetery on a Headstone, Flat Marker or Niche Cover.
- 1.19 **“Interment”** means, in a manner prescribed by the Act and this Bylaw, placing dead human remains in a suitable container underground, or cremated human remains in a suitable container underground or within a Niche in the Cemetery;
- 1.20 **“Interment Rights”** means any purchased right to a Niche, Ash Plot or Plot and any associated right to have the City:
 - i. open, prepare and close a Grave or Niche for Interment purposes; or
 - ii. prepare a Grave or Niche for Disinterment; or

- iii. approve the installation and Inscription of a Headstone, a Flat Marker or a Niche Cover;
- 1.21 **“Monument”** means a Headstone, a Flat Marker or a Niche Cover as defined by this Bylaw;
- 1.22 **“Monument Compliance Permit”** means a permit issued to authorize the installation and Inscription of a Headstone, a Flat Marker, or a Niche cover;
- 1.23 **“Niche”** means a space in a Columbarium where an Urn is stored;
- 1.24 **“Niche Cover”** means the removable granite slab on a Columbarium suitable for Inscription;
- 1.25 **“Peace Officer”** means a member of the Royal Canadian Mounted Police, a Peace Officer appointed under the *Peace Officer Act*, S.A. 2006, c. P-35, as amended, or a City Bylaw Officer;
- 1.26 **“Person”** means an individual or a firm or corporation;
- 1.27 **“Plot”** means a subdivided portion of the Cemetery used for Interment purposes;
- 1.28 **“Schedule”** means a Schedule attached to and forming part of this Bylaw;
- 1.29 **“Successor”** means a Person who succeeds to the rights, powers and responsibilities of a former Interment Rights holder;
- 1.30 **“Urn”** means a vessel designed for storing cremated human remains;
- 1.31 **“Urn Vault”** means a receptacle that is placed in a Grave to enclose an Urn.

2. **LAND USE**

- 2.1 The Cemetery will be used solely for Interment purposes.

3 **CEMETERY OPERATIONS**

- 3.1 The Director shall have general control over the operation of the Cemetery, and by exercising such control shall:
 - i. subdivide and sell or assign for Interment purposes parts of the Cemetery, including the Columbarium;

- ii. subject to this Bylaw and the Act, direct the manner in which Interment shall proceed;
- iii. oversee the general maintenance of the Cemetery;
- iv. receive and account for all payments received from sales of Interment Rights, permits and related activities;
- v. as a precondition to granting Interment Rights, be entitled to gather and store all records required to ensure the City's full compliance with the Act; and
- vi. execute contracts in reference to Interment Rights.

3.2 Without limiting the generality of subsection 3.1 of this Bylaw, the Director has the authority to take any steps that are required to ensure that all burials within the Cemetery are conducted in a decent manner.

4. INTERMENT RIGHTS

4.1 Each purchaser of Interment Rights shall execute a contract and receive a copy of same detailing the nature of the Person's Interment Rights.

4.2 No Interment shall be permitted in the Cemetery unless and until:

- i. a contract referencing Interment Rights relating to the Interment application is issued or acknowledged by the Director;
- ii. the Director is presented with a burial permit issued by the proper official of the Province of Alberta (or such other written authority as may be required from time to time under the laws of the Province of Alberta); and
- iii. in the case of a casket burial, a Burial Vault is first installed in a Grave.

5. INTERMENT

5.1 A minimum of seventy two (72) hours' notice shall be given to the Director prior to the date and time set for an interment.

5.2 Saturdays, Sundays and statutory or declared holidays are not counted for the purposes of determining notice described in subsection 5.1. of the Bylaw.

- 5.3 Except as permitted hereunder or by the Director, no person except City personnel or authorized agents shall open or close a Grave.
- 5.4 A Plot may contain:
- i. the remains of a single individual for full casket burials; or
 - ii. the remains of a parent and an Infant child placed in the same casket and interred at the same time; and
 - iii. no more than five (5) Urns.
- 5.5 Where an Urn has been interred in a Plot under subsection 5.4 in the Bylaw, that Plot cannot then be used for subsequent casket burials.
- 5.6 Notwithstanding subsection 5.4 (i) an Interment Rights Holder may use a single Plot for the burial of two caskets with the first burial at a depth of nine (9) feet (2.7 m) where the Interment Rights were purchased prior to January 1, 2018.
- 5.7 Not more than two (2) Urns shall be buried in an Ash Plot;
- 5.8 Not more than two (2) Urns shall be interred in a Niche.

6. BURIAL VAULTS

- 6.1 A Burial Vault shall be supplied and installed by an independent supplier at the purchaser's sole expense, and installation shall proceed such that:
- i. the highest point of the Vault is situated no less than 1 metre (39 inches) below the soil surface;
 - ii. Unless otherwise approved by the Director, the Burial Vault shall fit a Grave excavation of 2.4 metres (95 inches) in length by 0.9 metre (35 inches) in width; and
 - iii. The Burial Vault is installed a minimum of two (2) hours prior to a scheduled interment.

7. FLAT MARKERS HEADSTONES AND NICHE COVERS

- 7.1 Foundations, Flat Markers, and Headstones are to be installed to the specifications as referenced in the attached Schedule B which forms part of this Bylaw.

- 7.2 All Flat Markers, Headstones and Foundations shall be installed within the border of a Plot or Ash Plot with no part of a Flat Marker, Headstone or Foundation extending beyond the edge of any Plot or Ash Plot.
- 7.3 The Director shall approve the location and orientation of Flat Markers, Headstones or Foundations within a Plot or an Ash Plot prior to installation.
- 7.4 A maximum of one (1) approved Headstone with Foundation and one (1) approved Flat Marker or a maximum two (2) approved Flat Markers shall be installed on a single Plot.
- 7.5 Notwithstanding subsection 7.2, a single Headstone may be approved for use on two side-by-side Plots and the approved Headstone with Foundation will be centered on both Plots and a maximum of one (1) additional approved Flat Marker may be installed on each of the two side-by-side Plots.
- 7.6 A maximum of either one (1) approved Headstone with Foundation and one (1) approved Flat Marker or a maximum of two (2) approved Flat Markers shall be installed on an Ash Plot.
- 7.7 Flat Markers and Headstones shall be installed in the Cemetery at the Interment Rights holder's expense.
- 7.8 Flat Markers, Headstones and Foundations are the property of the Interment Rights holder or the Successor thereof and shall be maintained and replaced at the expense of that individual.
- 7.9 All Inscriptions must be pre-approved through the Monument Compliance permitting process and must be completed by a third party at the Interment Rights holder's expense.
- 7.10 No Flat Markers, Niche Covers or Headstones shall be disturbed or removed without the Director's written permission.
- 7.11 The Director may, without notification, temporarily move or permanently reposition any Flat Marker, Headstone or Foundation to protect from damage or to ensure compliance with any parts of subsections 7.1 or 7.2.
- 7.12 The installation of Grave covers is not permitted within the Cemetery and Grave covers existing at the time of the passing of this Bylaw may be repaired or removed but may not be replaced.
- 7.13 Vases and other protruding ornamentation shall not be mounted on a Columbarium or a Flat Marker.

8. DISINTERMENT

- 8.1 Upon receipt of a Disinterment permit issued in accordance with the *Vital Statistics Act* and the payments of any fees corresponding to Disinterment, as established by the City from time to time, the Director shall furnish the applicant with the authorization for the Disinterment and require, when applicable, that a Grave be opened to the top of the casket or Urn.
- 8.2 Except as permitted hereunder or by the Director, no Person other than City personnel acting under the Director's direction shall prepare a Grave for Disinterment.
- 8.3 A Funeral Director shall be responsible for removal of a casket containing dead human remains from a Grave.
- 8.4 Except as permitted by the Director, and unless payment of any fees corresponding to Disinterment rights have been made, no Person other than City personnel shall disinter an Urn or any vessel containing cremated human remains or ashes from a Columbarium or a Grave.

9. TRANSFER OF INTERMENT RIGHTS

- 9.1 A holder of Interment Rights may sell, assign or dispose of those Interment Rights. The rights holder shall file with the Director a transfer of assignment in writing, pay an administrative fee, and the Director shall issue a new contract for Interment Rights as required.

10. CANCELLATION OF CONTRACT

- 10.1 Upon the application of the Interment Rights holder, the City may cancel the Interment Rights contract and refund to the applicant an amount equal to eighty-five (85) percent of the current selling price as listed in the City's Fees and Charges Bylaw, as amended or replaced from time to time.

11. CEMETERY CONDITIONS

- 11.1 No person shall:
 - i. place in the Cemetery anything that is not in keeping with the safety, dignity and cleanliness of the Cemetery;
 - ii. remove sod from a Plot or Ash Plot or install any rock or aggregate or any other material whatsoever on a Plot or Ash Plot;

- iii. except as permitted by the Director, place or install any monument, furniture, fence, railing, enclosure, coping or structure of any kind in the Cemetery; or
- iv. except as permitted by the Director, plant, seed, grow, or maintain any tree, plant, shrub, flower or any other thing intended for growth in the Cemetery.

11.2 The Director may remove from the Cemetery, without notice, any unauthorized item referenced in subsection 11.1 of this Bylaw.

11.3 If anything that has been authorized for placement or installation on a Columbarium, Plot or Ash Plot (including a Flat Marker or Headstone or any item referenced in Section 7) becomes, in the Director's opinion, objectionable in condition or appearance for any reason, the City may remove that thing if:

- i. the Director sends 30 days' written notice of the intention to remove to the last known address of the Interred person's next-of-kin, and
- ii. notice of the intention to remove is posted in a conspicuous place in the Cemetery for a period of 30 days, and
- iii. prior to the expiration of the notice period, the objectionable condition is not corrected by any other person.

11.4 The requirement to send notice under subsection 11.3(i) applies only if a next-of-kin address is on record with the City, and in such case (whether or not such address is current) notice may be provided by registered mail and deemed received by the recipient five (5) days following its mailing.

12. **GENERAL RESTRICTIONS**

12.1 Subject to the Director's permission, no person shall:

- i. use the Cemetery for any purpose not associated with Interment;
- ii. be or remain in the Cemetery outside of the hours of operation posted at the Cemetery entrance;
- iii. engage in any boisterous activity within the Cemetery;
- iv. operate a vehicle at a rate of speed greater than twenty (20) kilometres per hour within the Cemetery;

- v. operate a vehicle within the Cemetery except on a driveway or parking area intended for vehicular travel;
- vi. bring an animal other than a service animal, into the Cemetery except if the animal remains in a vehicle;
- vii. disturb or injure any authorized tree, shrub or plant growing in the Cemetery; or
- viii. write upon, mark, scratch, or deface any authorized headstone, flat marker, gate, fence, sign, building or structure within or around the Cemetery.

12.2 The City may, from time to time, make rules with respect to the operation and maintenance of the cemetery including with respect to burials within the Cemetery. No persons shall contravene or act contrary to such rules as established by the City from time to time.

12.3 No person shall interfere with the Director, or any other representative of the City, when he or she is performing or carrying out any duties or responsibilities imposed by this Bylaw or the Act including any rules established by the City with respect to the operation and maintenance of the cemetery as referred to in subsection 12.2 of this Bylaw.

13. LIMIT OF LIABILITY

13.1 The City, its officers, employees, servants, contractors, agents and elected officials shall not be liable for any injury to any person or property in the Cemetery for any cause whatsoever except any loss or damage directly caused by the sole negligence of the City, its officers, employees, servants, contractors, agents or elected officials.

13.2 Without limiting the generality of subsection 13.1, the liability of the City, its officers, employees, servants, contractors, agents, and elected officials for any claims, actions, causes of actions, damages, costs (including solicitor and client costs), or expenses arising whatsoever from or in relation to any error or inaccurate description of any Plots, Grave sites, Niches or other structures or Interment Rights shall be limited to the fees paid to the City.

14. OFFENCE

14.1 A Person who causes or permits a contravention of any provision of this Bylaw is guilty of an offence.

- 14.2 In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence with respect to each day during which the contravention continues, and a Person guilty of such an offence is liable to a fine in an amount not less than that established by the Fees and Charges Bylaw, as amended for each such separate offence.
- 14.3 A Peace Officer is hereby authorized and empowered to issue a Violation Ticket, pursuant to either Part II or III of the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended, to any person who the designated officer has reasonable grounds to believe has contravened any provision of this Bylaw.

15. VIOLATION TICKET

- 15.1 A Peace Officer may issue, with respect to an offence under this Bylaw, a violation ticket to a Person
- i. either personally; or
 - ii. by registered mail or via document service company providing an affidavit of service.
- 15.2 The violation ticket shall state:
- ii. the date, location and nature of the offence;
 - iii. the specified penalty established in the City's Fees and Charges Bylaw, as amended; and
 - iv. the due date of payment.
- 15.3 The violation ticket may provide for payment of the specified penalty set out in the City's Fees and Charges Bylaw, as amended, for the offence, and the recording of such payment by the Court shall constitute acceptance of a guilty plea and the imposition of a fine in the amount of the specified penalty.
- 15.4 Subsection 15.3 shall not prevent a Peace Officer from issuing a violation ticket requiring a Court appearance of the defendant.
- 15.5 In addition to any other remedy available to the City for non-compliance with this Bylaw, the City may correct the violation and the costs incurred therefore shall be paid to the City upon demand and failing payment, are an amount owed to the City.

16. EFFECTIVE DATE

16.1 This bylaw shall come into force and effect when it receives third reading and is duly signed.

17. REPEAL OF BYLAW C-998-17

17.1 Bylaw C-998-17 is hereby repealed.

First Reading Carried November 13, 2018

Second Reading Carried November 13, 2018

Third Reading Carried

Date Signed

Mayor

City Clerk

Schedule "A"

Cemetery Lands

DESCRIPTIVE PLAN 9523087

LOT 2

CONTAINING 3.26 HECTARES (8.06 ACRES) MORE OR LESS

EXCEPTING THEREOUT:

A) PLAN 0525010 ROAD 0.04 HECTARES (0.10 ACRES) MORE OR LESS

EXCEPTING THEREOUT ALL MINES AND MINERALS

Schedule "B"

Cemetery Specifications

1. Foundation:
 - i. All Foundations shall be installed flush with the ground.
 - ii. Foundation dimensions shall be larger than the Headstone it supports by at least two (2) inches (15 cm) and not more than three (3) inches (8 cm) on all sides.
 - iii. Foundations for Headstones must be of sufficient depth to support the weight being placed thereon but shall in no case be less than six (6) inches (15 cm) of granite or 15 MPa strength concrete.
 - iv. In all cases, Headstones must be installed on concrete or granite Foundations.
2. Plot:
 - a. Headstone:
 - i. A Headstone installed on a Plot shall be centered at the head of the Plot.
 - ii. Headstones installed on a Plot shall not exceed forty (40) inches (102 cm) in length.
 - iii. A Headstone installed on two side-by-side Plots shall be centered at the head of the Plot where their widths are taken together.
 - iv. A Headstone installed on two side-by-side Plots shall not exceed eighty (80) inches (203 cm) in length.
 - v. A second Monument installed to identify subsequent burials on a Plot shall be a Flat Marker no larger than thirty six (36) inches (91 cm) in length by twenty four (24) inches (61 cm) in width and a minimum of four (4) inches (10 cm) thick.
 - vi. All Monuments shall be installed within the boundaries of a Plot.

b. Flat Marker:

- i. All Flat Markers shall be installed flush with the ground.
- ii. A Flat Marker installed on a Plot shall not exceed forty (40) inches (102 cm) in length and eighteen (18) inches (46 cm) in width and shall be a minimum of four (4) inches (10 cm) thick.
- iii. A second Monument installed to identify subsequent burials on a Plot shall be a Flat Marker no larger than thirty six (36) inches (91 cm) in length by eighteen (18) inches (46 cm) in width and shall be a minimum of four (4) inches (10 cm) thick.
- iv. All Monuments shall be installed within the boundaries of a Plot.

3. Ash Plot:

a. Headstone:

- i. A Headstone installed on an Ash Plot shall be centered at the head of the Ash Plot.
- ii. A Headstone installed on two side-by-side Ash Plots shall be centered at the head of the Ash Plot where their widths are taken together.
- iii. A Headstone installed on an Ash Plot shall be no larger than twenty four (24) inches (61 cm) in length by sixteen (16) inches (41 cm) in width.
- iv. A Headstone installed on two side-by-side Ash Plots shall not exceed forty eight (48) inches (122 cm) in length and by sixteen (16) inches (41 cm) in width.
- v. A second Monument installed to identify a second burial in an Ash Plot shall be a Flat Marker no larger than fourteen (14) inches (36 cm) in length by fourteen (14) inches (36 cm) in width and shall be a minimum of four (4) inches (10 cm) thick.
- vi. All Headstones shall be installed within the boundaries of an Ash Plot.

b. Flat Marker:

- i. A single Flat Marker installed at the head of an Ash Plot shall not exceed twenty four (24) inches (61 cm) in length by sixteen (16) inches (41 cm) in width and shall be a minimum of four (4) inches (10 cm) thick.
- ii. A second Monument installed to identify a second burial on an Ash Plot shall be a Flat Marker no larger than fourteen (14) inches (36 cm) in length by fourteen (14) inches (36 cm) in width and shall be a minimum of four (4) inches (10 cm) thick.
- iii. Two (2) Flat Markers installed side-by-side on a single Ash Plot shall not exceed fourteen (14) inches (36 cm) by fourteen (14) inches (36 cm) and a minimum of four (4) inches (10 cm) thick.
- iv. Flat Markers shall be installed within the boundaries of an Ash Plot.