



BYLAW NO. 2017-07

THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17

In the Province of Alberta

Being a Bylaw of the Municipal District of Opportunity No. 17 to establish the regulation and control of the operations of municipal cemeteries, and hereby referred to for all purposes as the "Cemetery Bylaw."

WHEREAS the Municipal District of Opportunity No. 17 is recognized as the owner of cemeteries as defined in the *Cemeteries Act, Chapter C-2*;

AND WHEREAS, the Council of the Municipal District of Opportunity No. 17 deems it expedient to adopt Bylaw regulations for the operations, maintenance and control of municipal cemeteries;

NOW THEREFORE, the Municipal District of Opportunity No. 17, duly assembled, enacts as follows:

PART 1 – DEFENITIONS

In this Bylaw, unless the context otherwise requires:

- A. **Burial Plot and Plot** means a single grave plot (Adult: 1.83m x 3.05m, Children: 0.91m x 1.52m, Cremation: 0.6m x 0.91m) in size.
- B. **Enforcement Officer** means a Bylaw Enforcement Officer appointed by the MD of Opportunity No. 17 pursuant to the *Municipal Government Act* to enforce the municipal bylaws, and any member of the Royal Canadian Mounted Police.
- C. **Caretaker** means the Operations Lead Hand responsible for cemetery operations as designated by the Cemetery Administrator.
- D. **Cemetery** means land that is set apart or used as a place for the burial of dead human bodies or other human remains, or in which dead human bodies or other human remains are buried, and which is owned by Municipal District of Opportunity No. 17.
- E. **Cemetery Administrator** means the Transportation Department Manager of the Municipality.
- F. **Council** means the Council of the Municipal District of Opportunity No. 17.
- G. **Flowering Ornamental** means any perennial, annual or bi-annual flowering plant.
- H. **Grave Liner** means a concrete or metal rough box placed in a grave to house a casket.
- I. **Indigent** means a person without means, support or known relatives requiring burial at the cemetery.
- J. **Interment** means the excavation of a grave to the required depth and size, the placing of (but not the provision of) a grave liner, backfilling of a grave after interment, and the removal of excess earth.
- K. **Land Use Bylaw** means the MD of Opportunity *Land Use Bylaw No. 2013-14* as amended from time to time and including any previous iteration of land use bylaw and regulation still applicable.
- L. **Lot** means a group of burial plots without a walkway or roadway between them.
- M. **Maintenance** means both short and long term care of the Cemetery.

- N. **Monument** means any structure in the Cemetery erected or constructed on any burial plot for memorial purposes.
- O. **Municipality** means the Municipal District of Opportunity No. 17.
- P. **Niche** means a compartment with the capacity to hold up to two (2) urns or urn boxes depending on size, prepared for or containing cremated human remains, which may be closed with a granite cover.
- Q. **Person** includes any individual, partnership or corporation
- R. **Reserve Plot** means a Plot, or number of Plots adjacent to one another in a Cemetery and which are or may be reserved for the burial of one or more deceased Persons.
- S. **Resident** means a Person who resided within the Municipality immediately preceding his or her death, or preceding his or her application to reserve a plot.
- T. **Undertaker** means any registered or licenced embalmer or mortician or any other Person authorized by provincial statute to inter deceased Persons.
- U. **Veteran** means a person who was a member of the Armed Forces of Canada, or the Armed Forces of any country allied with Canada who served in any war.
- V. **Woody Ornamental** means any trees, shrubs, and creeping or climbing perennial plants.
- W. **Working Hours** means the regular hours of operation of the municipality between 8:00 a.m. and 4:30 p.m. Monday through Friday.

PART 2 – ADMINISTRATION

- A. The Municipality is responsible for the keeping and making of all records required by law or such other records as may be ordered by Council, and for the collection of all fees and charges in connection with the Municipal Cemeteries.
- B. The Municipality's Transportation Department shall be responsible for the general supervision, maintenance and construction of Cemetery grounds and shall be responsible for the excavation for impending interments.
- C. The Cemetery Administrator shall have sole control of all matters within the Cemetery including interment, disinterment, regulation of use and maintaining of grounds in a neat and pleasing condition, and to that end is hereby authorized to regulate and control all Cemetery grounds.
- D. The Cemetery Administrator is hereby authorized to remove or have removed any weeds, grass, funeral designs or floral pieces which may become wilted, or any other article or thing which, in his/her opinion, is unsightly.
- E. If, in the opinion of the Cemetery Administrator, any Woody Ornamentals situated on or about the Cemetery become, by means of their roots or branches or in any other way, detrimental to adjacent Plots, walks or driveways, prejudicial to the general appearance of the grounds, or dangerous or inconvenient to the public, he/she is authorized to remove or have removed such Woody Ornamentals, or any parts thereof.
- F. No Persons shall erect upon a Plot any fence, railing, wall border, hedge, coping or the like exceeding the limits set by Part 7, Section G and where any of the same have been previously erected around a Plot and have, by reason of age or neglect, become unsightly or objectionable, the Cemetery Administrator may cause such to be removed, after 30 days' notice of the intention to do so has been given to one or more relatives of the person(s) interred in the Plot, or published in a newspaper circulated in the local area if the relatives are unknown.
- G. Every owner of a Monument upon any Plot shall maintain it in proper repair.

- H. When, in the opinion of the Cemetery Administrator, any Monument is in a state of disrepair, he/she shall notify the owner in writing thereof and require that repairs be promptly undertaken. Any Monument or structure not repaired within 30 days after a letter has been sent to the owner or his personal representative, to the last known address provided to the Municipality, may be removed and retained in the custody of the Cemetery Administrator for a period of 30 days to allow the Person responsible for its maintenance to claim the Monument and return it to an acceptable condition.
- I. The Cemetery Administrator may remove any Monument from a Plot when necessary to gain access to another Plot, provided that such Monument is re-installed in a like manner.

PART 3 – RESERVATION OF PLOTS

- A. The Municipality shall keep a correct account of all revenues and expenditures made in connection with the Cemetery.
- B. Plans for burial purposes, including record of all interments and disinterments will be kept at the Municipal main office. Copies of all such plans shall be available for inspection free of charge at the main office building during regular business hours.
- C. Plots shall be available for the burial of human remains at all times.
- D. No Person shall make a reservation for one or more Plots without making payment in full at the time of the reservation.
- E. Upon payment of the reserve fee for any Plot, the Municipality shall provide a receipt for the said sum.
- F. Plot reservation shall not be transferred except from one family member to another family member. No transfer shall be valid unless it is duly registered with the Municipality.
- G. When a plot is reserved by 2 or more Persons, an order for interment in the Plot or any part thereof will be accepted by the Municipality from any of the reserve holders or their personal representative.
- H. No Person shall accept any fee or reward for interment of any body in a Plot for which such a Person holds a reservation, or over which that Person exercises any power or control.
- I. Plots shall not be used for any purpose other than burial grounds for human remains.

PART 4 – INTERMENTS

- A. The stacking of caskets (two (2) or more) in any burial Plot shall not be allowed.
- B. A single Plot maybe used to inter the cremated remains of four (4) persons, or the cremated remains of three (3) persons plus one (1) casket containing human remains.
- C. A single Niche may be used to inter the created remains of up to two (2) persons.
- D. Undertakers must provide the necessary lowering devices and make their own arrangements for the placing of mats, wreaths, flowers, etc., around the grave.
- E. Whenever Interments are to be made, twenty-four (24) hours' notice must be given in order that grave or niche may be properly prepared; and forty-eight (48) hours' notice must be given in winter months. This notification may be waived when person to be interred died from a contagious disease or if special circumstances so require.
- F. No Interment shall be permitted in the Cemeteries unless and until there has been a burial permit issued by the proper office of the Government of the Province of Alberta produced to the Cemetery Administrator.
- G. The use of Grave Liners is optional and is the responsibility of the funeral homes.

- H. No grave for the burial of a deceased Person aged five (5) years or older shall be less than six (6) feet between the top of the casket and the surface of the ground.
- I. No grave for the burial of a deceased Person under the age of five (5) years shall be less than four (4) feet between the top of the casket and the surface of the ground.
- J. No grave for the burial of cremated remains shall be less than twenty-four (24) inches in depth from the surface of the ground.
- K. The burial of destitute or Indigent Persons and unclaimed bodies may be placed in such a portion or portions of the cemetery as may be designated by the Cemetery Administrator, and as indicated on the cemetery plans located at the Municipal office.
- L. All work being conducted in the immediate vicinity of a Plot shall be discontinued during a burial service at that Plot.
- M. All Interments and disinterments in the cemeteries shall be under the control of the Municipality.
- N. Any Person signing an order for Interment will be held responsible for all charges in connection with such Interment. Such Person shall, in addition, be held responsible for compliance with the regulations governing erection of Monuments applicable to that part of the Cemetery in which the interment is made.

PART 5 – DISINTERMENT

- A. Disinterments will only be made at such time specially arranged by the Operations Lead Hand.
- B. No disinterment or removal of a body shall be allowed without a Court Order or the consent in writing of the surviving husband or wife or next of kin, or the legal representative of the person whose body is to be disinterred or removed.
- C. The Municipality will not be responsible for any disinterment, which must be arranged and completed by an Undertaker under the supervision of the Municipality's Operations Lead Hand; nor is the Municipality responsible for any charges in connection with a disinterment.
- D. Disinterment of a body shall not take place until an application for disinterment in the prescribed form (as per the *Cemetery Act Regulations*) is provided to the Director of Vital Statistics together with the Certificate of Death showing cause of death, who, in his/her discretion, if he/she considers it necessary or advisable, may issue under his signature a permit for disinterment.
- E. In case of re-interment following a disinterment, when it is found necessary to use a new grave liner, the next of kin or their legal representative shall provide the grave liner at their expense.
- F. Whenever the Plot shall become vacant by permanent removal of the body or bodies, the Plot shall become available for a new reservation.
- G. In case of disinterment of remains buried in the Municipal cemetery for re-interment in another cemetery, the excavation shall be done by the Operations Lead Hand.
- H. The Municipal District of Opportunity No. 17 reserves the right, at its cost, to correct any error that may be made by its employees in making Interments or disinterments.
- I. All work being conducted in the immediate vicinity of a Plot shall be discontinued during a burial service at that Plot.
- J. No disinterments shall be allowed, except for re-burial in the same grave at a greater depth, unless permission is first obtained for that purpose by the Municipality and if given, such permission shall be in writing and signed by the Municipality.

PART 6 - RESERVE OF PLOTS

- A. Burial Plots and Niches may be reserved by any Person or estate by paying, in full, the cost for reservation of such Plots or Niches as set out in this Bylaw.
- B. The holder of a reservation cannot transfer the reservation to anyone except to another member of the same family or back to the Municipality, which in either case must be done in writing to the Municipality and approved by the Cemetery Administrator.
- C. The holder of a reserve Plot or Niche in Municipal cemeteries may cancel his or her reservation, in which case the Municipality will refund the original reservation fee.

PART 7 – MONUMENT REGULATIONS

- A. No monuments, tombstones, grave markers or structures of any kind whatsoever, except as provided for in section G of this part, shall be installed, erected or placed in or on a Plot or Niche without first obtaining approval for erection of the monument from the Municipality. A sketch of the proposed tombstone, monument, grave marker, or structure must be presented stating the height, size of base and inscription prior to approval.
- B. Only one monument will be allowed on each burial plot. Markers level with the ground may be placed at each grave in addition to the monument.
- C. Base of monuments, tombstones or markers must be at least six (6) inches wider than the widest portion of the stone and of sufficient depth to support the weight being imposed thereon which said base shall be level with the ground. In no case may the base be less than six (6) inches of concrete on top of gravel or stone.
- D. Twelve (12) full months must elapse between the date of interment and the placing of any permanent tombstone or monument.
- E. Approved markers, monuments or stones must be placed or erected by the parties concerned, but the placing or erection thereof shall be at the direction of the Operations Lead Hand and must be placed at the top of the grave.
- F. A grave marker shall not measure less than thirty (30) cm in width and forty-five (45) cm in length, and between fifteen (15) cm and twenty (20) cm in height.
- G. The placement and maintenance of any special grave markings, coverings, structures or memorial tributes on any Plot or Niche is the responsibility of the next of kin. The following shall apply:
 - Wood or metal fences no higher than sixty (60) cm in height. The fence shall not have any pickets or sharp projections.
 - Pressure treated wood frame enclosures no higher than fifteen (15) cm in height.
 - White rock on top of the grave is permitted, provided that an enclosure is erected to ensure the rock remains within the boundaries of the Plot.
 - The pressure treated wood frame enclosure shall be no higher than fifteen (15) cm in height.
 - Pressure treated wooden crosses no higher than one (1) meter in height.
 - Planting of flowers on the Plot or in planters, wooden or otherwise will be permitted, and must be placed within the boundaries of the Plot.
 - Personal and non-permanent items, with the exception of illegal or objectionable items will be permitted.
- H. In erecting or placing any memorial work upon any burial Plot, the owner or other person in charge of the work shall conform to the following:
 - i. Convey, transport, place and keep all material, implements and equipment while in the cemetery as directed by the Operations Lead Hand.
 - ii. Carry out such work under the general supervision of the Operations Lead Hand and in such a manner as not to interfere in any way abutting or adjoining Plots.
 - iii. Remove all masonry litter, rubbish or refuse and leave the Plot in a clean, tidy and proper condition. In the event of failure, neglect or refusal to do so, the Municipality may cause same to be done and charge the cost thereto to the owner or other person responsible.

- iv. All work of any kind near a funeral being held shall be discontinued from the time the hearse enters the cemetery gate to the time the hearse and mourners are out of the Municipal cemeteries.
- I. A temporary grave marker shall be placed by the attending Undertaker on the day of interment.
- J. No one shall, in the Cemetery itself, solicit orders for monuments, monument work, curbing or for the undertaking of any services in connection with the upkeep of graves or burial plots.
- K. No monument shall be erected from October 1st to April 30th. Monuments may be erected May 1st to September 30th.
- L. Visitors must stay on paths and driveways or roads and must not cross over, occupy or otherwise trespass upon any Plot or grave not their own.

PART 8 – GENERAL CONDITIONS AND PROHIBITIONS

- A. No Person may destroy, mutilate, write on, injure or remove any monument, tombstone or marker, structure, memorial works, vehicle, building, machinery, tool, equipment, material placed or left in the Cemetery, nor any railing, fence, or other work for the protection, maintenance or ornamentation of the Cemetery or any burial Plot.
- B. No person may destroy, cut, pick, break or injure any tree, shrub or plant in the Cemetery or play any game of sport, discharge a firearm except firearms at a military funeral, willfully or unlawfully disturb Persons assembled for the purposes of burying a body, or otherwise cause any nuisance in a Cemetery.
- C. No person may cause or permit any animals to be in the cemetery, including but not limited to cattle, swine, horses, dogs or cats.
- D. No person shall be permitted to drive a vehicle, carriage or other conveyance within the Cemetery at a speed greater than fifteen (15) KM per hour, nor elsewhere than upon the roadways provided for vehicular traffic.
- E. No person shall be permitted to drive, ride, park or operate any all-terrain vehicle, mini-bike, motorcycle, any off-highway vehicle, or snow vehicle within the Cemetery.
- F. The Municipality shall have the right to prohibit the entry of any person or persons who do not have related business at the Cemetery.
- G. The Municipality shall not be responsible for any damages, whether willful or accidental to any marker, monument or headstone within the Cemetery.
- H. The Municipality may prohibit the driving of any vehicles in any part of the cemetery, including on roadways when their surfaces are in an unfit condition.
- I. No Person shall ride a bicycle or horse in the Cemetery unless they are part of a funeral procession.
- J. The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the Cemetery. Vehicles with trailers must obtain permission from the Municipality prior to entry into the Cemetery.

PART 9 – PENALTY AND ADMINISTRATION

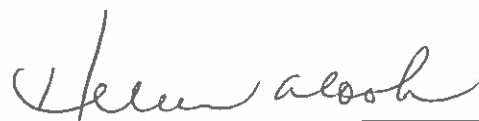
- A. Any person who contravenes any provision of this bylaw is guilty of an offence.
- B. A person who is guilty of an offence is liable to a fine in an amount not less than that established by this bylaw, and not exceeding \$10,000.00.
- C. Each day an offence continues constitutes a separate offence occurrence.
- D. An Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any person whom the Officer has reasonable grounds to believe has contravened any provision of this bylaw.
- E. The Municipal Tag may be served:
 - a. In the case of an individual,
 - i. Personally to the individual;
 - ii. By registered mail to the individual at their apparent residence or at any address for the individual on the tax roll of the Municipality or at the Land Titles Registry; or
 - iii. By leaving it for the individual at their apparent place of residence with someone who appears to be at least eighteen (18) years of age
 - b. In the case of a corporate entity,
 - i. Personally to any director or officer of the corporate entity;
 - ii. Personally to a person apparently in charge of an office of the corporate entity at an address held out by the corporate entity to be its address; or
 - iii. By registered mail addressed to the registered office of the corporate entity.
- F. Notwithstanding Section E, the Municipal Tag may be posted in a conspicuous place on the individual's or corporate entity's last known premises of record, if service cannot otherwise reasonably be effected.
- G. The Municipal Tag shall be in a form approved by the Chief Administrative Officer of the Municipality and shall state at minimum:
 - a. The name of the Person who allegedly committed the offence;
 - b. The location at which the offence was allegedly committed, if applicable;
 - c. The penalty imposed for the offence as specified in Section P, Part 9 of this bylaw;
 - d. That the penalty must be paid within fourteen (14) clear days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - e. Any other information as may be required by the Chief Administrative Officer.
- H. Where a Municipal Tag has been issued pursuant to this bylaw, the person to whom the Municipal Tag has been issued may, in lieu of being prosecuted for the offence, pay to the Municipality the monetary penalty specified on the Municipal Tag.
- I. Where a contravention of this bylaw is of a continuing nature, further Municipal Tags may be issued by an Enforcement Officer provided that no more than one (1) Municipal Tag is issued for each day that a contravention continues.
- J. If a Municipal Tag has been issued and the penalty not paid within the prescribed time, and Enforcement Officer may issue a violation ticket pursuant to Part 2 of the Provincial Offences Procedure Act to the person to whom the Municipal Tag was issued.
- K. Nothing in this bylaw shall prevent an Enforcement Officer from immediately issuing a Violation Ticket to any person whom the Enforcement Officer has reasonable grounds to believe has contravened any provision of this bylaw.
- L. A Violation Ticket issued in respect of a contravention of this bylaw shall be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedures Act*.
- M. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
 - a. Specify a fine established by this bylaw for the offence in this bylaw for voluntary payment; or
 - b. Require a person to appear in court without the alternative of making voluntary payment of the fine

- N. A Person to whom a Violation Ticket is issued may, if the Violation Ticket provides for voluntary payment of a fine established by the bylaw, pay the fine amount specified to a Clerk of the Provincial Court on or before the initial appearance date indicated on the Violation Ticket.
- O. When a Clerk of the Provincial Court records receipt of a voluntary payment of a fine set out in a Violation Ticket, the act of recording receipt of that payment constitutes a guilty plea to the charge and also constitutes a conviction and the imposition of a penalty following the conviction.
- P. The voluntary penalties for infractions of any Section of this bylaw shall be, in addition to all costs incurred, as follows:
- | | |
|-------------------|----------|
| 1. First Offence | \$50.00 |
| 2. Second Offence | \$100.00 |
- Q. If any provision of this bylaw is declared invalid because of any word, phrase, clause, sentence, paragraph or section, or because of any schedules which form part of this bylaw, or if an application of any part of this bylaw to any person or circumstance is declared invalid, the remaining provisions shall not be affected thereby but shall remain in force.
- R. Where any conflict arises between the requirements of this bylaw and those of any other bylaw of the MD of Opportunity No. 17, the more stringent requirements shall apply.
- S. *Bylaw 2004-12* and all amendments thereto are hereby repealed.
- T. This bylaw shall come into force and effect upon passage by Council.

READ A FIRST TIME THIS 12th DAY OF April, 2017.

READ A SECOND TIME THIS 12th DAY OF April, 2017.

READ A THIRD TIME AND PASSED THIS 12 DAY OF April, 2017.



Chief Administration Officer



Reeve