

CITY OF ST. ALBERT

BYLAW 27/2008

A Bylaw to Establish and Define the Functions of the
St. Albert Cemetery and to Repeal Bylaw 58/79

WHEREAS

- i. Section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended, provides that Council may pass bylaws respecting the safety, health and welfare of people and the protection of people and property; people, 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; and
- ii. Council wishes to establish a bylaw to regulate the use and disposition of the lands and property within the Cemetery;

the Council of the City of St. Albert, duly assembled, hereby ENACTS AS FOLLOWS:

Title

1. This Bylaw may be referred to as the "Cemetery Bylaw".

Definitions

2. In this Bylaw:

- (a) "Act" means the *Cemetery Act*, R.S.A. 2000, c. C-3, as amended;
- (b) "Ash Plot" means a Plot intended for the burial of Urns;
- (c) "Bylaw" means this Cemetery Bylaw;
- (d) "Burial permit" means a burial permit issued under the *Vital Statistics Act*, R.S.A. 2000, c. V-4, as amended;
- (e) "Cemetery" means those City-owned lands, including the structures and the Columbaria thereon, legally described as

Plan 7921817
Lot A
Excepting thereout all mines and minerals
Area: 2.56 hectares (6.33 acres) more or less;
- (f) "City" means the municipal corporation of the City of St. Albert;
- (g) "City Manager" means the City's Chief Administrative Officer;
- (h) "Columbarium" means a secure structure within the Cemetery designed for the final storage of containers holding cremated human remains or ashes;
- (i) "Council" refers to the elected Council of the City of St. Albert;

- (j) “Disinterment” means the authorized removal of dead human remains or ashes from the Cemetery;
- (k) “Double-Depth Grave” means a Grave excavated to a depth that accommodates two bodies in separate caskets such that one casket is placed immediately above the other;
- (l) “Flat Marker” means a plaque, constructed of approved granite, marble or bronze and mounted flat on a base set flush with the ground, that identifies the Interred person(s) and is inscribed as desired by the owner of the Interment Rights provided the inscription is in keeping with the dignity of the Cemetery;
- (m) “Grave” means an excavation intended for the burial of human remains or cremated human remains or ashes;
- (n) “Infant” means a human being up to one year of age;
- (o) “Interment” means, in a manner prescribed by the Act or this Bylaw:
 - i. placing dead human remains or ashes underground in the Cemetery;
 - ii. placing cremated human remains or ashes in a suitable container in a Columbarium or underground in the Cemetery; or
 - iii. scattering cremated human ashes in a Scattering Garden;
- (p) “Interment Rights” means any purchased right to a Plot or Niche and any associated right to have the City:
 - i. open, prepare and close an Ash Plot, Grave or Niche for Interment purposes; or
 - ii. prepare an Ash Plot, Grave or Niche for Disinterment;
- (q) “Liner” means a rough concrete container that is installed in a Grave by the City prior to the placement of the casket;
- (r) “Memorial Wall” shall mean a flat wall which is divided into sections on which there can be memorial information engraved;
- (s) “Niche” means a Columbarium niche;
- (t) “Plot” means a subdivided portion of the Cemetery purchased for Interment purposes;
- (u) “Scattering Garden” means an area of the Cemetery designated by the City Manager for the dispersal of cremated human remains or ashes on the ground or in the rockery;
- (v) “Schedule” means a Schedule attached to and forming a part of this Bylaw;
- (w) “Section” means a section of this Bylaw;
- (x) “Successor” means a successor as determined by the *Intestate Succession Act*, R.S.A. 2000, c. I-10, as amended;

- (y) "Survivor" is as defined in the *War Veterans Allowance Act*, R.S., 1985, c. W-3, as amended;
- (z) "Urn" means a vessel designed for storing the ashes of the cremated dead;
- (aa) "Vase" means a vessel intended to contain cut flowers;
- (bb) "Vault" shall mean a sealed container that is installed in a Grave in place of a Liner; and
- (cc) "Veteran" shall be as defined in the *War Veterans Allowance Act* R.S., 1985, c. W-3, as amended.

Land Use

3. The Cemetery shall be used solely for Interment purposes.

Fees

4. All fees and charges associated with Interment Rights sales shall be established by resolution of Council from time to time.

City Manager's Responsibilities (General)

5. The City Manager shall have general control of the operation of the Cemetery, and by exercising such control shall:
 - (a) subdivide and sell or assign for Interment purposes parts of the Cemetery, including the Columbaria;
 - (b) subject to this Bylaw and the Act, direct the manner in which Interment shall proceed;
 - (c) oversee the general maintenance of the Cemetery;
 - (d) specify and post the Cemetery's hours of access;
 - (e) receive and account for all payments received from sales of plots, Interment Rights and related activities;
 - (f) 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
 - (g) execute contracts in reference to Interment Rights.
6. The City Manager may delegate his or her authority under this Bylaw as he or she deems fit.

Interment Rights

7. Each purchaser of Interment rights shall execute a contract and receive a copy of same detailing the nature of the person's Interment Rights.
8. No Interment shall be permitted in the Cemetery unless and until:

- (a) a contract referencing Interment Rights relating to the Interment application is issued or acknowledged by the City Manager;
- (b) the City Manager 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
- (c) in the case of a burial other than in an Ash Plot, a Liner or Vault is first installed in the Grave.

Interment

- 9. (1) A minimum of 48 regular working hours' notice shall be given to the City Manager prior to the date and time set for the Interment.
- 9. (2) Saturdays, Sundays and statutory or declared holiday hours shall not be counted as regular working hours for the purpose of Subsection (1).
- 10. Except as permitted hereunder or by the City Manager, no person except City personnel shall open, install a Liner within, or close a Grave.
- 11. Except in a Double-Depth Grave or an Ash Plot, no more than one person shall be buried in a single Grave other than a parent and Infant child placed in the same casket.
- 12. No more than four (4) Urns may be buried in an Ash Plot.
- 13. A Niche may hold two (2) or more Urns provided that the Urns are at least 2.5 centimetres from each adjacent container or the Niche walls.

Vaults

- 14. A Vault shall be supplied and installed by an independent supplier at the purchaser's sole expense, and installation shall proceed such that:
 - (a) the highest point of the Vault is situated no less than one (1) metre below the soil surface;
 - (b) unless the City Manager permits otherwise the Vault shall fit a Grave excavation of 2.4 metres in length by 0.9 metres in width.

Flat Markers, Vases, Niches and Memorial Wall

- 15. (1) No Grave marker may be installed within the Cemetery other than a Flat Marker.
- 15. (2) Flat Markers and Vase shall be installed in the Cemetery by the City at the Interment Rights holder's sole expense.
- 15. (3) Niche doors and Memorial Wall spaces shall be inscribed in an approved manner by a third party at the Interment Rights holder's sole expense.
- 15. (4) Flat Marker, Vase and Niche materials, dimensions, design, placement and appearance shall comply with the requirements specified in Schedule A.
- 16. Flat Markers and Vases are the property of the Interment Rights holder or the Successor thereof and shall be maintained and replaced at the expense of that individual.

17. Notwithstanding Section 16, no Flat Marker or Vase shall be disturbed or removed without the City Manager's written permission.

Field of Honour

18. The City Manager shall set apart a portion or portions of the Cemetery as a Field of Honour for the Interment of a Veteran and one Survivor of that Veteran.

Disinterment

19. Upon receipt of a legislated Disinterment permit and the fees corresponding to Disinterment rights, the City Manager shall furnish the applicant with authorization for the Disinterment and require, when applicable, that a Grave be opened to the top of the casket or Urn.
20. Except as permitted hereunder or by the City Manager, no person other than City personnel acting under the City Manager's direction shall prepare an Ash Plot, Grave or Niche for Disinterment.
21. A third party funeral director shall be responsible for the removal of human remains or the removal of a buried Urn and the purchaser of the Disinterment rights shall be responsible for the removal of an Urn from a Niche.

Transfer of Interment Right

22. A holder of Interment Rights may sell, assign or dispose of those Interment Rights. The rights holder shall file with the City Manager a transfer or assignment in writing, and the City Manager shall issue a new contract of Interment Rights as required.

Cancellation of Contract

23. 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 the price originally paid for the Interment Rights (without interest) after making deductions for any expenses incurred by the City.

Cemetery Conditions

24. (1) No person shall:
- (a) place in the Cemetery anything that is not in keeping with the safety, dignity and cleanliness of the Cemetery;
 - (b) except as permitted by the City Manager, place or install any monument, fence, railing, enclosure, coping or structure of any kind in the Cemetery; or
 - (c) except as permitted by the City Manager, plant, seed, grow or maintain any tree, plant, shrub, flower or any other thing intended for growth in the Cemetery.
- (2) The City may remove from the Cemetery, without notice, any unauthorized item referenced in Subsection (1).
25. (1) If anything that has been authorized for placement or installation on a Plot or Niche (including a Flat Marker or any permitted item referenced in Section 24)

becomes, in the City Manager's opinion, objectionable in condition or appearance for any reason, the City may remove that thing if:

- (a) the City Manager sends 30 days' written notice of the intention to remove to the last known address of the Interred person's next-of-kin;
 - (b) notice of the intention to remove is posted in a conspicuous place in the Cemetery for a period of 30 days; and
 - (c) prior to the expiration of the notice period, the objectionable condition is not corrected by any other person.
- (2) The requirement to send notice under Subsection (1)(a) 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.

General Restrictions

26. Subject to the City Manager's permission, no person shall:
- (a) use the Cemetery for any purpose not associated with Interment;
 - (b) be or remain within the Cemetery outside of the hours of operation posted at the Cemetery entrance;
 - (c) engage in any boisterous activity within the Cemetery;
 - (d) operate a vehicle at a rate of speed greater than 20 kilometres per hour within the Cemetery;
 - (e) operate a vehicle within the Cemetery except on a driveway intended for vehicular travel;
 - (f) bring an animal into the Cemetery except if the animal remains in a vehicle;
 - (g) walk in the Cemetery except on designated walking paths;
 - (h) walk on a Plot except for the purpose of doing maintenance work;
 - (i) disturb or injure any authorized tree, shrub or plant growing in the Cemetery; or
 - (j) write upon, mark, scratch or deface any authorized Flat Marker, gate, building or structure within or around the said Cemetery.

Limit of Liability

27. 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 from 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.
28. Without limiting the generality of Section 27, 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.

Offence

29. A Person who contravenes this Bylaw is guilty of an offence.
30. 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 this Bylaw for each such separate offence.

Fines and Penalties

31. A Person who is guilty of an offence is liable
 - (a) to a fine of \$250.00; or
 - (b) on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than 1 year, or both.

Violation Ticket

32. (1) A Peace Officer may issue, with respect to an offence under this Bylaw, a Violation Ticket:
 - (a) specifying the fine amount established by this Bylaw; or
 - (b) requiring an appearance in court without the option of making a voluntary payment.
- (2) Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

Certified Copy of Record

33. A copy of a record of the City, certified by the City Manager as a true copy of the original, shall be admitted in evidence as *prima facie* proof of the facts stated in the record without proof of the appointment or signature of the person signing it.

Repeal

34. Bylaw 58/79 is repealed concurrent with this Bylaw coming into force.

READ a first time this 17th day November 2008.

READ a second time this 17th day of November 2008.

READ a third time this 17th day of November, 2008.

SIGNED AND PASSED this _____ day of _____, 2008.

MAYOR

CHIEF LEGISLATIVE OFFICER

Schedule A – Specifications for Flat Markers, Niche Doors, Memorial Wall and Vases

1. Standard Plot Flat Marker dimensions shall be 30" x 18". Concrete borders around standard Plot Flat Markers shall be 4" wide (for an overall dimension of 38" by 26").
2. Ash Plot Flat Marker dimensions shall be 40" by 18". Concrete borders around Ash Plot Flat Markers shall be 4" wide (for an overall dimension of 48" by 26")
3. Flat Markers with smooth edges shall require holes for rebar every 8".
4. Concrete foundations for Flat Markers shall be rectangular in shape, not less than 4" thick and the top of such foundation shall be 13 mm below ground level and shall be of not less than 15 MPa strength concrete, and set on a 6" gravel base.
5. Side-by-side Markers shall be designed as a single Marker centered across the two Plots with a maximum dimension of up to 42" x 18".
6. Vases of suitable metal construction are permitted when imbedded in a Flat Marker such that the Vase is recessed flush with the ground.
7. Niche door fronts and Memorial Wall spaces may be inscribed in a modified Roman font within a 10" x 10" space centred on a 12" x 12" door.