

**TOWN OF TURNER VALLEY
BYLAW 11-1006**

BEING A BYLAW OF THE TOWN OF TURNER VALLEY, IN THE PROVINCE OF ALBERTA, TO PROVIDE FOR THE IMPROVEMENT, MAINTENANCE, MANAGEMENT, CONTROL AND OPERATION OF PUBLIC CEMETERIES.

PURSUANT to and under the authority of the Municipal Government Act, Chapter M26.1, R.S.A. 2000 and amendments thereto, the Municipal Council of the Town of Turner Valley in the Province of Alberta, duly assembled, enacts as follows:

1. THIS BYLAW MAY BE CITED AS THE "CEMETERIES BYLAW".

2. APPLICATION

- (1) This Bylaw applies to any land defined as a "Public Cemetery" as set out in subsection 3(w).

3. DEFINITIONS

- (1) For the purposes of this Bylaw:
- (a) "**Act**" means the **Cemeteries Act**, RSA 2000, c. C-3 as amended from time to time and any regulations enacted thereunder.
 - (b) "**Black Diamond**" means the Town of Black Diamond
 - (c) "**Bylaw Enforcement Officer**" means a person appointed as a Bylaw Enforcement officer pursuant to the Bylaws of the Municipal District of Foothills No. 31 and includes any peace officer, police officer or special constable employed by the Municipal District of Foothills No. 31.
 - (d) "**Councils**" means the councils' of the Municipal District of Foothills No. 31, the Town of Turner Valley and the Town of Black Diamond.
 - (e) "**Columbarium**" means a structure designed for storing the ashes of dead human bodies or other human remains that have been cremated.
 - (f) "**Disinterment**" means the removal of human remains or cremated human remains from a grave site or columbarium.
 - (g) "**Grave site**" means the portion of land in a cemetery that is sold or provided as a unit for one or more graves.

- (h) **"Grave liner"** means a structural enclosure intended to cover a burial casket on top, ends and sides which is manufactured of a strengthened, light weight material and does not require mechanical equipment for installation.
- (i) **"Indigent person"** means any unclaimed body, or body of a destitute or indigent person as set out in the **Act**.
- (j) **"Interment"** means the burial or placement of human remains or cremated human remains in a grave site or columbarium.
- (k) **"Interment Rights"** means leave and license granted by the MD to a person to allow the interment of human remains or cremated human remains in a designated grave site or columbarium in accordance with this Bylaw.
- (l) **"Legal Representative"** means an executor, an administrator or a judicial trustee of the estate of a deceased person.
- (m) **"Licensee"** means a person who has been granted the Interment Rights for one or more lots within a Public Cemetery by the MD.
- (n) **"License Fees"** means fees paid for Interment Rights in accordance with this Bylaw.
- (o) **"Manager"** means the MD or designate.
- (p) **"MD"** means the Municipal District of Foothills No. 31.
- (q) **"Monument"** means a memorial structure of granite, marble, bronze or such other material as approved by the Manager inscribed with such lettering and/or artwork as may be desired by the Licensee of the Interment Rights of the lot.
- (r) **"Municipalities"** means The Municipal District of Foothills and The Town of Black Diamond and The Town of Turner Valley
- (s) **"Niche"** means a single compartment of a columbarium used for the interment of cremated human remains.
- (t) **"Non-Resident"** is a person who has not resided in the MD, Black Diamond or Turner Valley, immediately preceding their death or their application to purchase a plot.
- (u) **"Perpetual Care"** means the preservation, improvement, embellishment and maintenance, in perpetuity and in a proper manner, of grave stones, grave markers, monuments, lots, plot compartments, crypts or other space in the cemetery, or other compartments in a columbarium, as set out in section 13 of this Bylaw.

- (v) **"Plot"** means land in a Public Cemetery shown on a plan on record with the MD which has been designated for interment of human remains or cremated human remains and is to be used as a single or double grave site.
- (w) **"Public Cemetery"** means Blackie Cemetery, land used by the MD as a cemetery, as a parcel legally described as the East 264 feet of the North 330 feet of the SE 14;19;27 W4, Cayley Cemetery, land used as a cemetery, by the MD as a parcel legally described as NE 24;17;29 W4, Foothills Cemetery, land used as a cemetery by the Municipalities, legally described as Subdivision Plan 7410743, Cemetery Site Parcel A located in Section 18, Township 20, Range 2, West of the Fifth Meridian or any other Cemetery within the boundaries of the Municipal District of Foothills No. 31 operated by and under the control of the MD.
- (x) **"Resident"** is a person whose principal residence is located in the MD, Black Diamond or Turner Valley, immediately preceding his death or his application to purchase a plot.
- (y) **"Scattering Gardens"** means an area of a Public Cemetery designated by the MD for the disbursement of cremated human remains over the ground.
- (z) **"Turner Valley"** means the Town of Turner Valley.
- (aa) **"Urn"** means a container used for storing cremated human remains.
- (bb) **"Vault"** means a lined and sealed interment receptacle that performs all the functions of a concrete grave liner, and in addition is designed and constructed using one or more lining and sealing materials to increase the overall tensile strength of the finished unit and to reduce the risk of the intrusion of exterior elements.
- (cc) **"Veteran"** means a former member of Her Majesty's armed forces as determined by the Department of Veteran Affairs Canada.

4. SUBDIVISION OF LOTS

- (1) The lands within Public Cemeteries may be subdivided into plots for interment purposes as required from time to time under the supervision of the Manager.

5. POWERS AND AUTHORITY OF THE MANAGER

- (1) The Manager
 - (a) is responsible for general supervision, control, management and operation of the Public Cemeteries;

- (b) is responsible for ensuring that a register is established and maintained in accordance with the requirements of the **Act**;
 - (c) has charge of the Public Cemeteries and of all works of whatsoever nature carried out therein;
 - (d) has charge of all persons employed by the MD in relation to the Public Cemeteries;
 - (e) is delegated the authority to approve and execute agreements in relation to the sale and transfer of Interment Rights and the provision of cemetery services by the MD;
 - (f) may establish standards, guidelines and procedures in relation to monuments, memorial structures, columbaria and other similar interment structures in Public Cemeteries; and
 - (g) has other powers, functions and duties as set out in this Bylaw;
- (2) The Manager may further delegate any of their powers, functions and duties set out in this Bylaw to an employee or employees of the MD.
 - (3) The Manager has the right to refuse to sell the use of more than four (4) single plots or niches to any one individual or estate.

6. INTERMENT RIGHTS

- (1) Human remains or cremated human remains of a deceased person may be interred in a lot, columbarium niche or scattered on any scattering grounds if;
 - (a) The deceased person is registered as the Licensee of the Interment Rights; or
 - (b) a written request from the Licensee of the Interment Rights or Legal Representative of the Licensee if the Licensee is deceased in a form satisfactory to the Manager has been registered with the Manager designating that the human remains or cremated human remains of that deceased person may be interred in that particular lot, columbarium niche or the cremated human remains may be dispersed over a scattering garden.
- (2) Only human remains or cremated human remains may be interred in a Public Cemetery.
- (3) Prior to any interment, a Contract for Cemetery Services must be completed and the person executing the Contract shall be responsible for all costs and expenses for the cemetery services set out therein.
- (4) The fees and charges for Interment Rights and cemetery services shall be as approved by the MD from time to time.

- (5) If a grave site is required to be prepared, a minimum of two (2) full working days prior notice must be given to the Manager prior to the time set for the interment. An exception may be made for certain faiths.
- (6) Interments may be permitted in the Public Cemeteries on a Saturday, Sunday and statutory holidays, subject to the payment of the applicable fees as approved by the MD's Municipal Council from time to time.
- (7) The Manager may refuse to allow any interment that does not comply with the requirements set out in this Bylaw.

7. INTERMENT OF CREMATED HUMAN REMAINS

- (1) Cremated human remains may only be interred in a grave site, columbarium or a designated scattering garden.
- (2) The interment or scattering of cremated human remains in accordance with subsection (1) will not be permitted unless a valid burial permit and all applicable fees as approved by the MD's Municipal Council from time to time have been received by the Manager.

8. MULTIPLE INTERMENTS

- (1) The human remains of up to two (2) deceased persons and the cremated human remains of up to two (2) deceased persons may be interred in a standard single grave site in the Public Cemeteries provided that:
 - (a) Only the human remains of one deceased person shall be in any one casket, except that the human remains of a deceased parent and his or her deceased infant may be interred in the same casket;
 - (b) the human remains of two (2) deceased persons may only be permitted in a grave site that has been set aside for double depth interments, as set out in subsection (2); and
 - (c) the cremated human remains of two (2) deceased persons may be interred in a grave site, which is no smaller than 40 inches, by 20 inches.
- (2) Double depth interments may be permitted in those grave sites constructed to a depth which will accommodate the human remains of two (2) deceased persons in separate caskets at the same time or at different times in such a manner that one casket is placed above the other and the lot has been purchased specifically for this purpose on the opening for the first casket.

9. DISINTERMENTS

- (1) The MD will only be responsible for opening grave sites for disinterments to the top of the casket or urn and the funeral director shall be responsible for the removal of the human remains or cremated human remains. All disinterments are subject to the provisions of the **Act**, any other applicable legislation and the payment of the applicable fees as approved by the MD's Municipal Council from time to time.

10. TRANSFER, RETURN AND EXCHANGE OF INTERMENT RIGHTS

- (1) Subject to subsections 10 (2), (3), (4), (5) and (6), upon the written request of the Licensee or the Legal Representative of the Licensee (if the Licensee is deceased) in a form satisfactory to the Manager, the MD may:
 - (a) Register the transfer of Interment Rights from the Licensee to another person or Legal Representative of a deceased person, provided that the transfer of the Interment Rights is not for remuneration;
 - (b) accept the return of unused Interment Rights for a lot, cancel the Interment Rights of the Licensee and refund an amount equal to 85% of the current market value for the Interment Rights for the lot without interest; or
 - (c) accept an exchange of the Interment Rights for a lot, cancel the existing Interment Rights of the Licensee and register new Interment Rights for another plot.
- (2) The MD will not permit the return or exchange of Interment Rights for any lot where there has been an interment and the human remains or cremated human remains are contained in the grave site.
- (3) Subject to subsection 6(2) and any order of a Court, a Licensee may bequeath his or her Interment Rights to a person through a valid will. Upon a person or the Legal Representative of the deceased person who held the Interment Rights providing proof satisfactory to the Manager that the Licensee is deceased and has bequeathed the Licensee's Interment Rights to a person, the MD may register a transfer of the Interment Rights to that person.
- (4) When a Licensee dies without designated beneficiaries for Interment Rights, those Interment Rights may be transferred by the MD to another person in the order of priority set out in Section 11 of Regulation No. AR 249/98 of the Act (as amended or replaced from time to time) for the disposition of remains, subject to any order of a Court.
- (5) All transfers, returns or exchanges of Interment Rights are subject to payment of the applicable administrative fees as approved by the MD's Municipal Council from time to time.

- (6) Interment Rights may only be transferred exchanged or returned in accordance with this section. The Manager may refuse to allow any interment where the transfer, exchange or return of the Interment Rights does not comply with the requirements set out in this section.

11. BURIAL PERMITS

- (1) An interment will not be permitted in a Public Cemetery unless copies of the following documents have been received by the Manager prior to the interment:
- (a) A Burial Permit, issued by a district registrar appointed under the Vital Statistics Act, R.S.A. 1980, c. V-4 or such other written authority as may be required from time to time under the laws of the Province of Alberta.
 - (b) A completed and executed Contract for Cemetery Services and confirmation of the payment of fees and charges or approval of credit by the MD for any cemetery services to be provided by the MD or their contractors.
 - (c) any other approvals, forms and receipts as may be required by the MD or the Government of the Province of Alberta for opening of grave sites or interments.
- (2) Grave sites may only be opened for interments by persons authorized by the Manager.

12. RECOVERY OF UNUSED LOTS

- (1) The Municipality may recover unused lots in accordance with the provisions of the *Act*.

13. PERPETUAL CARE

- (1) Perpetual Care to be provided by the MD for the Public Cemeteries includes maintenance of roads, buildings, other infrastructure, turf, trees and gardens which have been planted by the MD, keeping lots and grave sites in a neat condition and of good appearance, and maintenance of columbaria to the standards and specifications as funds allow.
- (2) Notwithstanding subsection (1), Perpetual Care does not include the care, maintenance, upkeep, repair or replacement of any monument or any other memorial structure or object or any personal property or chattel which has been constructed or placed in a Public Cemetery, or the maintenance of any flower beds or vegetation planted by any person, or the repair or replacement of any damage to anything caused by vandalism, regardless of whether any such construction, placing or planting has been approved by the Manager.

- (3) The following sums shall be placed in a trust fund for use by the MD for the perpetual care of the Public Cemeteries:
 - (a) The amount paid for perpetual care in accordance with the fees as approved by the MD's Municipal Council from time to time;
 - (b) all the sums which have been received for the upkeep of lots and grave sites under the provisions of any other Bylaw; and
 - (c) any monies donated or bequeathed for the purpose of perpetual care.

14. GRAVE LINERS AND VAULTS

- (1) Grave liners and vaults are permitted for casket and cremation burials. All grave liners and vaults must have the approval of the manager.

15. INTERMENTS FOR INDIGENT PERSONS

- (1) Interments for indigent persons are subject to the approval of the applicable department of the Province of Alberta and the requirements of the **Act**. Fees for Interment Rights for indigent persons will be charged in accordance with rates as approved by the MD's Municipal Council from time to time.
- (2) No monuments or other memorial structures may be constructed or placed on any grave site used for the interment of the human remains of an indigent person unless all fees for the Interments Rights and cemetery services have been paid in full to the MD.

16. FIELD OF HONOUR

- (1) The MD shall set aside lots in the Public Cemeteries as a Field of Honour in accordance with the **Act** for the interment of veterans.
- (2) Proof that a deceased person is eligible for interment in the Field of Honour will be as required from time to time by the Manager but in all cases a Certificate from the Department of Veterans Affairs or the Department of National Defense, shall be prima facie evidence of such eligibility.
- (3) Only one interment will be permitted in each lot in the Field of Honour, excepting that the interment of the cremated human remains of the spouse of a veteran may be allowed after the interment of the veteran.

(3) The following sums shall be placed in a trust fund for use by the MD for the perpetual care of the Public Cemeteries:

- (a) The amount paid for perpetual care in accordance with the fees as approved by the MD's Municipal Council from time to time;
- (b) all the sums which have been received for the upkeep of lots and grave sites under the provisions of any other Bylaw; and
- (c) any monies donated or bequeathed for the purpose of perpetual care.

14. GRAVE LINERS AND VAULTS

(1) Grave liners and vaults are permitted for casket and cremation burials. All grave liners and vaults must have the approval of the manager.

15. INTERMENTS FOR INDIGENT PERSONS

(1) Interments for indigent persons are subject to the approval of the applicable department of the Province of Alberta and the requirements of the **Act**. Fees for Interment Rights for indigent persons will be charged in accordance with rates as approved by the MD's Municipal Council from time to time.

(2) No monuments or other memorial structures may be constructed or placed on any grave site used for the interment of the human remains of an indigent person unless all fees for the Interments Rights and cemetery services have been paid in full to the MD.

16. FIELD OF HONOUR

(1) The MD shall set aside lots in the Public Cemeteries as a Field of Honour in accordance with the **Act** for the interment of veterans.

(2) Proof that a deceased person is eligible for interment in the Field of Honour will be as required from time to time by the Manager but in all cases a Certificate from the Department of Veterans Affairs or the Department of National Defense, shall be prima facie evidence of such eligibility.

(3) Only one interment will be permitted in each lot in the Field of Honour, excepting that the interment of the cremated human remains of the spouse of a veteran may be allowed after the interment of the veteran.

17. PLACEMENT AND REMOVAL OF VEGETATION, MEMORIALS AND OTHER OBJECTS

- (1) All monuments and other memorial structures intended to be located in the Public Cemeteries are subject to any standards, guidelines and procedures established by the Manager from time to time.
- (2) No person shall place a monument, gravestone or other structure on a grave site or elsewhere in a Public Cemetery unless he or she has first obtained the prior written approval of the Manager; and paid the fee as approved by the MD's Municipal Council from time to time, if applicable.
- (3) No person shall plant, seed, grow or maintain flowers or other vegetation on a grave site or elsewhere in a Public Cemetery unless he or she has first obtained the prior written approval of the Manager; and paid the fee as approved by the MD's Municipal Council from time to time, if applicable.
- (4) The Manager shall not approve the following structures on a grave site or elsewhere in a Public Cemetery:
 - (a) A full or partial grave cover or curbing;
 - (b) a fence or railing;
 - (c) any other structure that in the opinion of the Manager is likely to interfere with maintenance of the Public Cemetery; or
 - (d) any other structure that in the opinion of the Manager is hazardous, unsightly, or otherwise unsuitable for placement on a grave site or elsewhere in a Public Cemetery.
- (5) Subject to the Act, the Manager may restrict the placement of or remove and dispose of any structure, object or thing placed on a grave site or elsewhere in a Public Cemetery:
 - (a) That is placed on a grave site or elsewhere in a Public Cemetery in contravention of this section; or
 - (b) that in the opinion of the Manager, and regardless of whether approval has been obtained under subsection (1) or (2), is or becomes hazardous, unsightly or otherwise unsuitable for placement on a grave site or elsewhere in a Public Cemetery or that interferes with maintenance of the Public Cemetery.
- (6) All earth, debris, litter and rubbish arising or resulting from work performed on any lot or grave site must be carefully cleaned up and removed from the Public Cemetery at the expense of the person requesting such work, to the satisfaction of the Manager.

- (7) Temporary grave markers will be removed after 12 months from the date of the interment.
- (8) No person shall move or remove any monument, gravestone, fence, railing or other work for the protection or ornamentation of a Public Cemetery or grave site except in accordance with this Bylaw or the **Act**.

18. MOTOR VEHICLES IN PUBLIC CEMETERIES

- (1) The Manager may specify times and conditions under which motor vehicles may be in the Cemetery.
 - (a) No person shall operate a motor vehicle in a Public Cemetery at a speed in excess of fifteen (15) kilometers per hour.

19. LIMIT OF LIABILITY

- (1) The Municipalities, its officers, employees, servants, contractors, agents and elected officials shall not be liable for any personal injury to any persons, including death, or any loss or damage whatsoever to any monument, other memorial structure, building, fence or other structure, or any vegetation, or any chattel, personal property or other objects or things in or about the Public Cemeteries from any cause whatsoever, excepting any loss or damage directly caused by the sole negligence of the Municipalities, its officers, employees, servants, contractors, agents or elected officials.
- (2) Without limiting the generality of subsection (1), the liability of the Municipalities, 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 misdescription of any lots, grave sites, columbarium niches, other interment structures or Interment Rights shall be limited to the license fees paid to the MD.

20. OFFENCES AND PENALTIES and GOVERNANCES

- (1) Regulations and Guidelines for each cemetery shall be established by the MD Council; excepting Foothills Cemetery that shall be governed by Foothills Cemetery Board Bylaw 10-987 and any agreement ratified between the Municipal District of Foothills No. 31, the Town of Turner Valley and the Town of Black Diamond concerning the operation of Foothills Cemetery.
- (2) A firearm may be discharged in a Public Cemetery with the consent of the Manager, provided that the firearm is discharged only for the purposes of a military funeral.

- (3) Any person who:
- (a) Without legal authorization, willfully destroys, mutilates, defaces, damages or removes any property, including but not limited to any structure, object or thing set out in section 20 of this Bylaw, which has been constructed or placed on or about any lot, grave site or anywhere within a Public Cemetery;
 - (b) Willfully disturbs persons assembled for the purpose of the interment of a deceased person in a Public Cemetery; or
 - (c) Otherwise contravenes a provision of this Bylaw; is guilty of an offence and is liable upon conviction for a fine not exceeding Ten Thousand Dollars (\$10,000.00) and in default of payment to imprisonment for a period not exceeding 1 year, or both.
- (3) Where a Bylaw Enforcement Officer of the MD believes that a person has contravened subsection (3), he or she may commence proceedings by issuing a summons in accordance with Part 2 of the Provincial Offences Procedures Act, RSA 2000, c. P-34 and amendments thereto.
- (4) Officers, employees, servants, agents and contractors of the MD are exempt from the provisions of subsection (3) while acting in the ordinary course of their employment.
- (5) Nothing in this Bylaw shall be construed to curtail or abridge the right of the MD to pursue any other rights or remedies the MD may have at law or equity resulting from the contravention of any of the provisions of this Bylaw.

21. COMING INTO FORCE

THIS Bylaw comes into force and effect upon third and final reading.


Bylaw 06-915 and 08-965 are hereby rescinded.

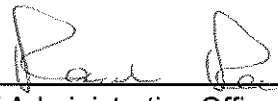
READ A FIRST TIME this 22nd day of February A.D. 2011


Mayor


Chief Administrative Officer

READ A SECOND TIME this 22nd day of February A.D. 2011


Mayor


Chief Administrative Officer

READ A THIRD AND FINAL TIME this 22nd day of February A.D. 2011


Mayor


Chief Administrative Officer