

BYLAW NO. 4457

A BYLAW OF THE CITY OF MOOSE JAW
TO PROVIDE FOR THE CONTROL AND
REGULATION OF MUNICIPAL CEMETERIES
IN THE CITY OF MOOSE JAW

WHEREAS the Urban Municipality Act 1984 provides that a council may, by bylaw, acquire, maintain, regulate and control, and establish a schedule of fees for the use of a cemetery, columbarium or crematorium within or outside the urban municipality and prevent or regulate the burial of the dead, and, in each cemetery owned by the urban municipality, the urban municipality shall provide plots for the burial of destitute persons or unclaimed bodies;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

1. In this Bylaw and in the Schedule annexed to this Bylaw:

(1) Except where otherwise defined herein, the words used in this Bylaw are deemed to have the same meaning as those words are defined in the Cemeteries Act, R.S.S. 1978 cap. C-4 as amended.

(2) (a) "Cemeteries" - means the Moose Jaw Cemetery and the Rosedale Cemetery;

(b) "Department" - means the Parks and Recreation Department of the City of Moose Jaw;

(c) "Director" - means the Director of Parks and Recreation of the City and shall include any person authorized by the Director to carry out his duties;

(d) "Holiday" - means New Year's Day, Heritage Day (the third Monday in February), Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day, Boxing Day, and any day proclaimed by His Worship, the Mayor, as a Civic Holiday;

(e) "Moose Jaw Cemetery" - means the Moose Jaw Cemetery as the same is shown upon a plan of record in the Moose Jaw Land Registration District as No. 12212;

(f) "Perpetual Care" - means the preservation, improvement, embellishment and maintenance in perpetuity in a proper manner of plots in the cemeteries, but does not include the preservation, improvement, embellishment or maintenance of any markers, or monuments, in the cemeteries, or of any space in the columbarium.

(g) "Personal Representative" - means a person who is the heir, executor or legal administrator empowered to act on behalf of the estate of the deceased plot owner;

(h) "Plot" - means:
i) a grave; or,
ii) two or more graves that:
 (A) share common boundaries; and
 (B) are owned by the same plot owner;

(i) "Plot Owner" - means a person that acquires burial privileges for one or more graves within the cemeteries;

"Rosedale Cemetery" - means an area of land of approximately 35.208 hectares situated in the S 1/2 of Section 1, Township 17, Range 27, West of the 2nd Meridian.

*Block B -
Plan 6111T06005
PHASE I Plan 01914
Consolidated
91 West of
8211T18067*

2. GENERAL ADMINISTRATION

(1) The hours of burial in the cemeteries shall be from 9:00 A.M. to 3:30 P.M. from April to October and from 10:00 A.M. to 3:30 P.M. from November to March.

(2) The cemeteries shall be open to the public daily.

(3) (a) The plans of the cemeteries showing the subdivision of land made available to the City for cemetery purposes, together with all the subsequent plans approved by the Director shall be open for inspection free of charge at the office of the Director during Department office hours prescribed by Council from time to time.

(b) All interments shall be made and records kept in accordance with such plans and the Cemeteries Act.

(4) In the event of the consecration of the city cemeteries or any part thereof such act of consecration shall not be held to invest that religious body, ethnic group or organization with any exclusive rights and powers of jurisdiction either spiritual or temporal.

(5) All charges in connection with the sale, use and care of graves as well as facilities in the cemeteries, shall be in accordance with the Tariff determined, from time to time, by

City Council and as set forth in Schedule "A" attached hereto and forming part of this Bylaw.

- (6) The City shall not be responsible for any injury resulting to any person who enters the cemeteries or any grave, the monument or memorial tribute located within the cemeteries, unless such damage is shown to be caused by negligence of the City or its employees.

3. SALE OF GRAVES

- (1) Upon payment by any person of the full price for any grave or plot, and the fees for perpetual care set forth in Schedule "A" attached hereto and forming part of this Bylaw, the City shall furnish such person with a receipt for the sum paid and issue a Cemetery Certificate for the use of such graves or plots for the purpose of interment of human remains only.
- (2) Plot owners may prepay the cost of opening and closing reserve graves subject to paying the difference between the prepaid price and the price in effect at the time of their use.
- (3) Nothing in this section shall be construed as requiring the City to provide the purchaser of any grave or plot in the cemeteries with a registerable Land Titles Act transfer for such grave or plot, and the fee simple and title to such grave or plot shall at all times remain in the name of the City.
- (4) It shall be the responsibility of the plot owner or his personal representative to maintain a current address on the Department records.

4. CARE OF GRAVES

- (1) The City shall keep graves in proper order upon payment to the City by the plot owner the fees required for perpetual care pursuant to Schedule "A" attached hereto and forming part of this Bylaw.
- (2) All persons applying to purchase graves or plots after January 1, 1966, shall pay for perpetual care for such graves or plots at the time the application is made, at the rates set forth in Schedule "A" attached to and forming part of this Bylaw.
- (3) Plot owners or their personal representatives who purchased plots or graves prior to January 1, 1966, and who have not paid for the perpetual care for any or all of the used or unused graves in the plot, shall pay the perpetual care due for all of the graves in the plot for which the perpetual care has not been paid, prior to the interment of any body or remains in any grave in the plot.

- (4) (a) Annual Care shall be payable on a yearly basis for all graves purchased prior to December 31, 1965, and for which no other arrangements for care have been made.

(b) Payments for annual care shall be made on or before the 31st day of May of each and every year.

- (5) (a) Plot owners or their personal representatives who refuse to pay either Annual or Perpetual Care for the plot or plots, shall forfeit the right to use any reserve graves in the plot or plots.

(b) Forfeited graves under clause (5)(a) of this section shall revert to the City and the original purchase price shall be applied toward the Annual Care of the graves in the plot.

5. TRANSFERS

- (1) Except as provided for in this section, plot owners and personal representatives shall not obtain any transferable or alienable interest in any plot or grave, and no person shall sell or attempt to sell, convey or attempt to convey any right, title, equity or interest in any plot to any other person.

- (2) Upon written request by the plot owner or his personal representative, the right and equity in the plot may be re-conveyed to the City and the City shall refund the original purchase price.

- (3) Notwithstanding subsection (1) of this Section, members of the same family may transfer the right to use a grave or plot to each other, provided the request for such transfer is made in writing to the City.

- (4) The transfer of any grave or plot in a City cemetery under Subsection (3) of this Section, shall be subject to the condition that the owner or his personal representative shall pay the perpetual care costs prescribed in Schedule "A" attached hereto and forming part of this Bylaw prior to the transfer being completed.

6. INTERMENTS

- (1) Prior to any interment, the person arranging for the burial in any grave in a City cemetery, shall provide the following to the City:

(a) A Burial Permit issued by the properly authorized officer of the provincial government;

(b) An Application for Grave Space completed with the necessary information and signed by the plot owner or his personal representative;

- (c) Payment in full of all fees and charges prescribed in Schedule "A" attached hereto and forming part of this Bylaw for work to be done by the City, unless other arrangements for credit have been made and approved by the City.
- (2) All applications for burials shall be made at least 48 hours before the interment is to take place, exclusive of Saturdays, Sundays and Statutory Holidays.
- (3) Whenever outer cases for coffins or caskets are used for burials, such outer cases shall be at the cemeteries at least six hours before the time set for the interment.
- (4) The City or any official thereof shall not be liable for any errors or mistakes resulting from lack of precise or proper instructions regarding the grave space where an interment is to be or has been made.
- (5) All graves shall be dug to such depth that a distance of a least one (1) meter shall intervene between the top of the casket and the ground surface level.
- (6) Not more than one body per grave shall be allowed except where provision for double depth burials has already been made.
- (7) All work related to an interment or a disinterment shall be done only by personnel authorized by the Director.
- (8) During a burial service, all work in the cemeteries shall be discontinued in the immediate vicinity of the burial service.

7. ASH REMAINS

- (1) Graves in the area designated for the sole purpose of interment or scattering of ashes may be used for not more than two ash remains.
- (2) Ashes may be interred in or scattered on any grave or plot provided that written permission is first obtained from the plot owner or his personal representative and the written permission is submitted to the City with the application.

8. INDIGENT BURIALS

- (1) At the request of the Department of Public Health or the Department of Social Services, the Director shall furnish graves in the cemeteries without charge for destitute persons.
- (2) Destitute burials shall take place in single graves in those areas of the cemeteries conforming to the religious or ethnic background of the deceased.

- (3) Persons arranging burials under this Section shall not have any choice of location of the grave, and all graves shall be filled in regular order and sequence.

9. STILLBORN OR SMALL CHILDREN

- (1) When agreed to by the parents, the body of a child less than one week old or a stillborn may be interred in a special grave to contain, when complete, eight (8) bodies but no Cemetery Certificate shall be given nor shall removal of remains be permitted from such graves.
- (2) When a child is buried in accordance with the provisions of subsection (1) of this Section, the coffin must be of wood and of such thickness that a metal or plastic identification tag can be securely attached to the lid of the coffin.
- (3) No monument or marker or other like structure shall be permitted on such special graves.

10. DISINTERMENTS

- (1) No person shall apply for the disinterment or removal of the remains from any grave without first producing a written order from the plot owner or his personal representative, along with a permit from the Minister of Public Health, and a receipt from the City showing that the necessary fees as prescribed in Schedule "A" attached hereto and forming part of this Bylaw have been paid.
- (2) Whenever the remains in a single grave are removed from a cemetery or are removed to another grave in the cemetery, the single grave shall revert to the City and the original purchase price paid for such single grave shall be applied on the cost of removal.

11. VETERANS SECTION

- (1) The City shall set aside and maintain portions of the cemeteries as Veterans Sections for the burial of service and ex-service personnel of Her Majesty's Armed Forces, and such areas shall be under the direction, control and supervision of the Director.

12. CITY RIGHTS

- (1) Subject to the provisions of The Cemeteries Act, any matters respecting burials or cemeteries not dealt with in this Bylaw shall be dealt with by the Director in the manner that he deems most appropriate, having consideration for the appearance of

the City cemeteries and the scope of this Bylaw.

13. MORTUARY VAULT

- (1) (a) The use of mortuary vault shall be available without charge for all interments which are to take place in the Cemeteries when these interments are scheduled during holidays or when the weather or ground conditions are such as to make regular interment too difficult.
- (b) Prior to the interment of such bodies, the Director shall notify the personal representative of the deceased that the body shall be removed from the mortuary vault on a certain day and interred.
- (c) The fees for storage in the mortuary vault for burials to take place in any cemetery other than the Moose Jaw Cemetery or the Rosedale Cemetery shall be those fees prescribed in Schedule "A" attached hereto.
- (2) The Director shall have the right and authority at any time to direct the burial of any body in the Mortuary Vault, if he deems such burial advisable, after first notifying the personal representative of the deceased of his intention.
- (3) The body of any person which is infected with any contagious disease at the time of death shall not be permitted in the Mortuary Vault, unless enclosed in a metal lined coffin that has been hermetically sealed.
- (4) The Director may refuse to allow any body not in fit condition or not enclosed in a proper casket or coffin to be placed in the Mortuary Vault.

14. MONUMENTAL WORK

- (1) All persons employed in the erection of monuments or in doing any other work on a grave or plot in the cemeteries, shall be subject to the direction and control of the Director.
- (2) (a) No person shall place or erect in the cemeteries any monument or marker or make any alteration to any such structure unless the specifications for same have first been submitted and approved by the Director and a permit issued for the erection or alteration of same.
- (b) No plot owner may erect a monument or make any alteration on any structure on any grave on which Perpetual Care charges as prescribed in Schedule "A" attached hereto and forming part of this Bylaw are due and payable to the City.

*Ch. Clerk
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to have the
any monument
payable to the City*

- (3) Persons choosing to erect monuments in the cemeteries may choose the size and design of such monument, but in all other respects, the construction and material used in construction of such monuments shall be in accordance with the provisions of this Section.

(b) Construction materials of monuments shall be restricted to granite, hard marble, bronze or other adamant materials, except in older areas of the cemeteries where the Director may, upon written request from the plot owner, permit the use of other construction materials to match existing monuments or markers.

(c) All monuments shall be set on rock pitched, granite bases mounted on concrete strip foundations, such foundations to be laid by a licensed Monumental Firm.

(d) The upper surface of monument foundations shall be constructed level with the ground and such foundations shall project six inches on all sides of the monument to be erected thereon.

(e) Notwithstanding clauses (3)(a), (b), (c) and (d) of this Section, the areas presently designated for particular markers will remain so designated and prior to opening for sale of plots in new sections of the cemeteries, the Director shall specify the type and form of bases, monuments, memorials, plaques or other markers to be used and once the first plot has been sold the designation shall not be changed without approval of City Council.

- (4) (a) The Director shall in all cases designate the place where the material used during the course of erection of a monument shall be stored prior to its use.

(b) All earth, debris, litter and rubbish arising or resulting from work done on a grave during the erection of a monument shall be carefully cleaned up forthwith after the erection of the monument and removed from the area by the contractor or his workmen.

(c) All workmen moving any heavy material over graves or paths shall move such material on planks or otherwise to protect such graves and paths from injury and damage.

- (5) No mausoleum or vault shall be constructed above ground without the permission of the Director.

- (6) No corner stones indicating the boundaries of any grave or plot shall be permitted, except where the boundaries of any grave were indicated by corner stones prior to the passage of this Bylaw.

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15. MONUMENTS IN DISREPAIR

- (1) No owner shall allow a monument or marker in the cemeteries to be in a state of disrepair by reason of neglect or age.
- (2) Should any marker or monument placed in the cemeteries be in a state of disrepair, the Director may give notice in writing to the owner at his last known address to have the monument or marker repaired within 90 days from the date of the said notice and upon the owner not complying with the notice aforesaid, the Director shall have the monument or marker removed from the cemetery.
- (3) Notice to any person pursuant to this Bylaw shall be deemed sufficient if in writing and forwarded by registered mail to the last known address of such person on the records of the Department.

16. FLORAL TRIBUTES

- (1) Natural or artificial flowers shall, at all times, be permitted in holders, vases or other receptacles made of material other than glass, where such holders, vases and receptacles are permanently secured to the rock pitched granite base or to a monument on a rock pitched granite base.
- (2) All holders, vases, and receptacles described in this section shall first be approved by the Director prior to the installation thereof.
- (3) Natural or artificial flowers may be placed in receptacles that are installed flush with the surface of the monument foundation only between April 1st and November 1st in each year.
- (4) Where natural or artificial flowers are placed in receptacles installed flush with the surface of the monument foundation as provided in Subsection (3) of this Section, the receptacle shall be installed such that it is at least six inches from the outer edges of the foundation.
- (5) The City shall not be liable for any loss or damage to any such holders, vases or other receptacles unless such damage is shown to be caused by negligence of the City or its employees.
- (6) The City shall not be liable for any loss or damage to any floral tributes, artificial flowers or wreaths at any time or for any cause.
- (7) Notwithstanding anything in this Section, the Director may remove any floral arrangement at any time which has become unsightly or is considered to be an obstacle to convenient and safe mowing of the grass.

17. In addition to any prohibitions and regulations under the provisions of The Cemeteries

Act as amended, no person shall:

- (a) disturb the quiet and good order of a cemetery with noise or other improper conduct;
- (b) allow any children under the age of 12 years to be admitted to the cemeteries unless they are accompanied by an adult;
- (c) carry firearms in the cemeteries unless such person is participating in a military funeral;
- (d) permit any animal, fowl, or livestock within the limits of the cemeteries;
- (e) plant any tree, shrub, herbaceous perennial or annual flower in the cemeteries;
- (f) remove, destroy, prune or otherwise injure any tree, shrub, plant or flower growing in the cemeteries;
- (g) litter any paper or refuse of any kind in the cemeteries;
- (h) enter any portion of the cemeteries set apart for storage facilities without first obtaining permission from the Director;
- (i) enter the Mortuary Vault at any time unless special permission is obtained from the Director;
- (j) remove or destroy or attempt to remove or destroy any remains put in any grave or vault;
- (k) operate a vehicle on any portion of the cemeteries not set aside as a roadway unless authorized by the Director;
- (l) ride any motorcycle, minibike or all terrain vehicle, snowmobile or bicycle within the boundaries of the cemeteries;
- (m) destroy, mutilate, deface, injure or remove a tomb, marker or other structure placed in a cemetery, or a fence, railing or other work for the protection or ornament of a cemetery or of any such tomb, marker or other structure or of a plot in a cemetery;
- (n) destroy, cut, break or injure a tree, shrub or plant in a cemetery, or wilfully injure, destroy or deface a building or structure or a road, walk or other works in a cemetery;

18. PENALTY

(1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not less than \$50.00 and not more than

(a) \$2,000 in the case of an individual;

(b) \$5,000 in the case of a corporation.

(2) All fines, penalties and forfeitures mentioned in this Bylaw may be recovered and enforced with costs by summary conviction before a judge and, in default of payment, the person convicted may be imprisoned for a term of not more than 90 days, unless the fine or penalty are paid sooner.

(3) This bylaw may be enforced, and the contravention of any provision of the bylaw resisted, by any court on action brought by the City of Moose Jaw, whether or not any penalty is imposed for the contravention.


(4) Conviction of a person for a contravention of any provision of this bylaw does not relieve him from compliance with the bylaw, and the convicting judge or justice of the peace shall, in addition to any fine imposed, order the person to perform, within a specified period, any act or work necessary for the proper observance of the bylaw or to remedy the contravention of the bylaw.

(5) A person who fails to comply with an order made pursuant to subsection (4) within the period specified in the order, is guilty of an offence and liable on summary conviction to a fine of not more than \$250 for each day during which the failure continues, to imprisonment for a term of not more than 90 days or to both such fine and imprisonment.

19. Bylaws Nos. 4321 and 4395 are hereby repealed.

20. This Bylaw comes into force and effect on July 1st, 1987.

CERTIFIED A TRUE COPY


George Stratton,
City Clerk

Dated April 7/87

(Sgd.) "Patrick Guillaume"

A/MAYOR

(Sgd.) "G. Stratton"

Seal

CITY CLERK

READ a first time the 23rd day of March A.D. 1987

READ a second time the 23rd day of March A.D. 1987

READ a third time the 6th day of April A.D. 1987