

**BYLAW 1132/2017**

**CEMETERY BYLAW**

**Village of Delburne**

**A BYLAW OF THE VILLAGE OF DELBURNE, IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL THE CEMETERY OPERATED AND MAINTAINED BY THE VILLAGE OF DELBURNE.**

WHEREAS it is deemed necessary to provide and update regulations and controls for the operation of the cemetery that is operated and maintained by the Village of Delburne; and

WHEREAS: Pursuant to the provisions of the Municipal Government Act, R.S.A. 2000, Chapter M-26 as amended, and the regulations set forth in the Cemeteries Act, R.S.A. 2000, Chapter C-3, Council of the Village of Delburne deems it appropriate to pass a Bylaw to provide for the control and management of the Delburne Cemetery.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE VILLAGE OF DELBURNE DULY ASSEMBLED ENACTS AS FOLLOWS:

**SECTION 1 – SHORT TITLE**

1. The Bylaw shall be referred to as the “Cemetery Bylaw”.

**SECTION 2 – DEFINITIONS**

2. In this Bylaw, the following definitions shall apply:
  - a) “Ash Interment” means the act of burying cremated remains in a grave. The Act includes the digging and backfilling of the grave by those designated to do so as recognized by the Village of Delburne;
  - b) “Ash Inurnment” means the act of placing cremated human remains in a funeral urn;
  - c) “Burial” means the act of placing human remains or cremated human remains in a grave;
  - d) “Burial Notification” means notice conveyed to the Village of Delburne prior to burial;
  - e) “Cemetery” means the Delburne Cemetery which is operated by the Village of Delburne;
  - f) “Cemeteries Act” means the Cemeteries Act of the Province of Alberta, R.S.A. 2000, Chapter C-3, as amended together with its Regulations from time to time;
  - g) “Chief Administrative Officer” means the Chief Administrative Officer of the Village of Delburne;
  - h) “Columbarium” means a structure designed for storing the ashes of dead human bodies or other human remains that have been cremated;
  - i) “Concrete liner” means an unsealed outer burial receptacle, commonly referred to as a burial vault, grave liner, or grave box, placed in the grave to house a casket and that is capable of withstanding the weight and pressures of the earth above and surrounding the receptacle;
  - j) “Council” means the Municipal Council of the Village of Delburne;
  - k) “Deed” means the application for a plot deed or niche deed;
  - l) “Disinterment” means the removal and relocation of human remains;
  - m) “Employee” means an employee of the Village of Delburne;
  - n) “Funeral Director” means any registered embalmer or mortician licensed in Alberta;
  - o) “Grave” means a plot that has been opened or used as a place of burial; an opening dug in a burial plot for the purpose of the interment of human remains or cremated human remains;
  - p) “Grave Cover” means a structure of marble, granite, plastic, fiberglass, or similar material for memorial purposes placed on top of and covering the entire plot;
  - q) “Interment” means the burial of human remains or cremated remains in a grave, the entombment of human remains in a crypt, or the placing of cremated remains in a niche;
  - r) “Marker” means a structure of granite, marble, concrete or bronze for memorial purposes placed on any grave or plot level with the base.
  - s) “Monument” means an upright structure or memorial of bronze, granite, marble, or other stone material for memorial purposes which projects above the surrounding ground.

- t) "Niche" means a single compartment of a columbarium large enough to house one or two funeral urns;
- u) "Ongoing maintenance" means a general term used to designate all the various types of work that the Village does or contracts to be done on the Village's behalf to ensure that the burial plots are kept in good repair and that the surrounding grounds are properly cared for. This does not include monuments or grave covers;
- v) "Owner" means a person or persons who purchased a plot or plots or compartment or compartments of a columbarium in the cemetery;
- w) "Plot" means a parcel of land for the purposes of burial in the cemetery and the area for a full burial (casket and outer burial receptacle);
- x) "Policy" means the Cemetery Administration as approved by Council;
- y) "Reserved" means a plot or a number of plots which are to be reserved for the burial of a specific person;
- z) "Village" means the Village of Delburne, in the Province of Alberta;
- aa) "Live ornamental" means any trees, shrubs, creepers, and climbers;
- bb) "Business Hours" means regular Village working hours Monday through Friday excluding declared or statutory holidays.

### **SECTION 3 – DESCRIPTION OF LAND**

1. The following land is hereby established and set apart for the sole purpose of a public cemetery to be known as the Delburne Cemetery: Plan 1621881 Block 1 lot 2
2. In addition to the lands described above, the Village may, at a future date, designate other lands, possibly adjoining or abutting the said lands, for Cemetery purposes and those lands shall be regulated and controlled in accordance with this Bylaw.

### **SECTION 4 – ADMINISTRATION**

1. The operation of the Delburne Cemetery shall be in accordance with established policies and procedures by the Village and in accordance with the Cemeteries Act.
2. The CAO shall have charge of the cemetery and shall exercise control over all employees and contractors therein.
3. The Village shall be responsible for the sale of plots and niches, keeping all necessary records which shall include the location, the name of the owner of each plot or niche, the name and location of each and every interment and disinterment, and for collection of fees and charges in connection with the cemetery. The Village shall have sole control of all matters related to the cemetery, including maintenance and enforcement of this Bylaw.
4. The Village reserves the right to limit the number of plots and niches developed and/or make available for sale each year; and to direct the area and sequencing of development and plot sales.
5. Council shall, via Bylaw 1115/2015 Fees and Charges Schedule, establish the rates for sale of plots and columbarium niches, as well as all services provided in relation to interment and disinterment.
6. The CAO shall have the authority to have removed any weeds or grass, funeral designs or floral pieces which may become wilted or any other article or thing which is deemed unsightly or requires maintenance staff to work around.
7. If, in the opinion of the Public Works Foreman, any vegetation situated on or about the cemetery shall become by means of their roots or branches or in any way detrimental to adjacent plots, walks or driveways, detrimental to the general appearance of the grounds or dangerous or inconvenient to the public, the CAO shall have the right to remove such vegetation, or any parts thereof, after 30 days' notice of her intention to do so has been given to the owner of the plot, or to their relatives if the owner is deceased, or published in a newspaper circulated in the area, if the relatives are unknown.

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8. Benches of a style approved by the CAO may be permitted in the cemetery under such conditions as the CAO may order.
9. Any person acquiring a plot or plots under the provisions of the Bylaw shall only acquire the right and privilege of burial of the deceased therein subject to the provisions of this bylaw and shall not be deemed to acquire any title to the land which shall remain vested in the Municipality.
10. The Village shall take all reasonable precautions to protect the property rights of the owners within the cemetery from loss or damage; but the Village definitively disclaims all responsibility or liability for loss and damage caused by elements, of an act of God, thieves, vandals, strikers, malicious mischief, explosions, unavoidable accidents, invasions, insurrections, riots, or acts of war. The Village shall also take all reasonable precautions when repairing grave sites and during a necessary monument move for grave digging. The Village shall not be liable for damages to the contents of niches whether resulting from theft, vandalism, or other damages howsoever caused.

#### **SECTION 5 – GENERAL RULES AND CONDITIONS – BURIAL PLOT PURCHASES AND UTILIZATION**

1. No owner shall sell or transfer any plot deed or niche deed to any other person. Niche deeds and plot deeds may be transferred from one family member to another, but no transfer shall be valid unless such transfer is registered with the Village and administration fees applied.
2. The owner may sell his or her plot to the Village and the Village will buy back the plot at an amount not to exceed the original purchase price less an administration fee.
3. If a previously purchased plot is deemed unusable by the Village for any reason, the Village will supply a similar plot at no cost to the owner or his or her heirs and the original plot shall revert to the Village.
4. No person shall further subdivide or alter any block, lot, or plot in any manner at variance with the subdivision plans on record in the Village Office except by special written permission of the Council.
5. It is a condition of every burial plot purchased that the owner waives any claim arising from an error caused by the Village staff. The Village's liability shall only extend to a refund of money paid to the Village for a plot or plots providing the plots suggested as alternatives are not acceptable by the owner.
6. The Village reserves the right to refuse to provide Cemetery services on Saturdays, Sundays, and legal holidays. The final authority concerning funerals on these days will be the CAO. Weekend and legal holiday interments shall be charged and as set under the Village's Fees and Charges Bylaw established by resolution of Council. The only exception will be burials ordered by Alberta Health Services.
7. The activities and obligations of Funeral Directors are governed by the Occupational Health and Safety Act of Alberta, R.S.A. 2000, Chapter 0-2, and amendments and regulations therein.
8. No body shall be disinterred or removed from the Cemetery for any purpose unless a Licensed Funeral Director applies to do so, the RCMP are Advised, and a disinterment permit has been issued by the director of Vital Statistics. Disinterment fees will be as set out in the Village's Fees and Charges Bylaw established by resolution of Council.
9. Internment will only be permitted once a Burial Permit has been submitted to the Village of Delburne Cemetery Caretaker.  
Work permits will be available by fax or email and signatures will be accepted via fax or email as well.

#### **SECTION 6 – INTERMENTS AND DISINTERMENTS**

1. No plot shall be used for anything other than the burial of a deceased human body.
2. No interment or inurnment shall be permitted in the Cemetery until an approved burial notification has been conveyed to the Village.

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3. The CAO shall have authority over all matters relating to burials with the exception of disinterment. Disinterment of a body shall not take place until a permit for disinterment is issued by the Provincial Director of Vital Statistics. The CAO may establish any procedures relating to burials in the Cemetery subject to the provisions of the Cemetery Act.
4. All caskets must be placed inside a concrete liner.
5. It is a condition of sale of every burial plot and columbarium niche that the purchaser expressly waives any claim arising from an error caused by the Village personnel or operations providing that it was not reasonably possible to avoid such error. The Village's liability shall extend only to a refund of any money paid to the Village for a plot(s) and/or niches(s) providing that the plot(s) or niche(s) suggested as an alternative is/are not acceptable to the purchaser.
6. Notwithstanding any other provisions of this Bylaw, orders for weekends or holiday burials must be placed with the CAO's office at least 48 consecutive hours before the burial is to take place, unless the CAO for emergent purposes allows otherwise.
7. The owner of a plot or the person instructing the Village to open a grave shall give complete and precise instructions regarding the size and location of the grave, and the Village shall not be responsible for any errors resulting from the lack of proper instruction. As well, the Village will require the assistance of a Funeral Director to be involved, at the expense of the person requesting the grave opening.
8. The Village shall provide graves in the Cemetery, for the unclaimed bodies of deceased persons and bodies of indigent persons in accordance with section 12 of the Cemetery Act.
9. All work in the immediate vicinity of a grave shall be discontinued during the burial service.
10. Interment will not be permitted in Cemetery areas where written records are insufficiently accurate to confirm ownership or occupancy.
11. A full plot may only be used for:
  - a) The interment of two caskets when one is dug at least 8 feet first and the second at 6 feet; or
  - b) The single burial of a casket at 6 feet but with the provision that up to two (2) ash interments may also occur; or
  - c) Cremation purposes only for up to four (4) ash interments; or
  - d) Special consideration will be given to burial of one adult and one infant (12 months or younger) within one casket.
12. No grave shall be less than six (6) feet in depth from the surface of the surrounding ground. No grave for the burial of cremated remains shall be less than eighteen (18) inches in depth from the surface of the surrounding ground. Cremated remains may not be placed under an existing grave cover.

#### **SECTION 7 – COLUMBARIUM**

1. The CAO or designate shall supervise all sales of columbarium niches.
2. A niche shall have the minimum dimensions of 18" by 12" by 12".
3. Niches shall be used only for the purpose of placement of cremated remains of one or two human bodies, as the space within a niche permits.
4. The opening and closing of a niche shall be approved by the Village at least 48 hours in advance.
5. Vases, flowers, and other funeral designs or floral pieces may be placed only at the base of the columbarium during the interment. No permanent placements shall be allowed. Placements on the niche doors or on the top of the columbarium are prohibited.
6. The Village shall not be liable for damages to the contents of niches whether resulting from theft, vandalism, or other damage howsoever caused.
7. Granite or metallic plaques and inscriptions may be installed at the approval of the Village, at the expense of the requesting party.

#### **SECTION 8 – MONUMENT REGULATIONS**

1. All persons employed in the construction, erection, and maintenance of monuments or markers, whether employed by the Village or not, shall be subject to the direction and control of the Village.





2. The base of all monuments or markers shall be firmly secured to the concrete foundation. The foundation must be adequate to carry the weight of the monument or marker and shall be confined within the boundaries of the respective plot(s). Monuments shall be installed so that it is in alignment with other stones in that particular row. The foundation must be of adequate size to allow for a border of at least six (6) inches on all sides of the stone to allow for mowing.
3. No fixture of any type, such as pictures or ornaments may be attached or affixed to any part of a monument unless by prior approval of the Village.
4. No fencing, railing, roping, earth mound, or any other type of memorial other than a monument in accordance with the provisions of this Bylaw shall be placed on any burial plot.
5. All foundations and monuments not installed in strict conformance to this Bylaw shall be removed at the direction of the Village. The Village may also remove and dispose of any monument or memorial structure placed in the Cemetery if such would fall into disrepair and/or become unsightly. The Village will forward written notification prior to undertaking this action to the last known address or any known relatives of the Owner of the plot.
6. All persons erecting monuments shall ensure that the surrounding areas are restored to, and left in the same condition as found prior to installation.
7. Grave covers over graves are prohibited in all areas of the Cemetery. Existing grave covers shall remain but cannot be replaced. The Village reserves the right to remove any grave covers that are in a state of disrepair or become unsightly.
8. Monuments are placed in the Cemetery at the owner's risk and the Village assumes no responsibility for damage or loss due to vandalism, etc. It is the owner's responsibility to contact an insurance agent to discuss the possible coverage.
9. No monument in the Cemetery may have an overall size greater than 3 feet 6 inches wide, 21 inches deep, and 36 inches high (to the top of the monument, including the base). A shared monument may not be placed wholly or partly on the empty grave unless the grave is intended for a cremation.
10. Notification of Monument Placement (Monument Permit) must be completed to the satisfaction of the Cemetery Caretaker before the grave will be marked for monument placement. 48 hours notice not including weekends is required.

#### **SECTION 9 – GRAVE DECORATION**

1. A grave decoration is anything that is placed on a grave or columbarium. These decorations must meet certain conditions imposed by the Village as follows:
  - a) Flowers or solar lights must be placed in a vase that is already part of the monument.
  - b) The grave decorations must not include any of the following items: lawn ornaments, wooden, glass china, plastic or metal receptacles, other than those used on a wreath stand.
  - c) No vegetation may be planted at the gravesite.
  - d) Flowers and other funeral designs or floral pieces may be placed only at the base of the grave or columbarium for a period of seven (7) days after interment, after which time they may be removed by a Village employee.
  - e) Affixing floral pieces or any items to a niche is prohibited.
2. The Village may, at its discretion, remove and dispose of any loose or inappropriate items and decorations from any graves or columbarium in the Cemetery.

#### **SECTION 10- VEHICLES IN THE CEMETERY**

1. All vehicular traffic shall travel at speeds no greater than 10 km/hr. and shall be restricted to roadways only. Service vehicles will be permitted off the roadways when providing the necessary services of the Cemetery.
2. The CAO may prohibit the driving of vehicles in any part of the Cemetery.

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3. The CAO may prohibit the driving of any vehicle in the Cemetery when the roads are in an unfit condition.
4. The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the Cemetery.
5. The use of snowmobiles and other all-terrain recreation vehicles shall not be permitted.

#### **SECTION 11 – ENFORCEMENT OF RULES**

1. The Village is hereby empowered to enforce all rules and regulations and to exclude from the Cemetery any person(s) violating same. The Village shall have charge of the grounds and any future buildings including the conduct of funerals, traffic, employees, owners, and visitors and at all times shall have supervision and control of all persons in the Cemetery.
2. All installations at the Cemetery made without authorization by the Village may be removed by the Village.
3. All installations at the Cemetery not conforming to the rules, regulations, and provisions of the Bylaw may be made to conform to the Village.
4. Any Peace Officer or Village employee from time to time in charge of the Cemetery may evict therefrom, or deny entry to any person who contravenes any of the provisions of this Bylaw.

#### **SECTION 12 – SUMMARY CONVICTIONS**

1. Any person who destroys, mutilates, defaces, injures or removes a tomb, monument, grave stone or other structure placed in the Cemetery or a fence, railing, or other work for protection or ornament of a Cemetery or of a tomb, monument grave stone or other structure or a cemetery plot within the Cemetery, contravenes a provision of this Bylaw and is guilty of an offence.
2. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a fine of up to but not exceeding Ten Thousand Dollars (\$10,000.00) or to imprisonment for not more than one (1) year, or to both fine and imprisonment.
3. If a person is found guilty of an offence under this Bylaw, the Court may, in addition to any other penalty imposed, order the person to comply with this Bylaw.
4. The levying and payment of any fine or the imprisonment for any period provided in the Bylaw shall not relieve a person from the necessity of paying any fees, charges or costs from which he/she is liable under the provision of this Bylaw.


#### **SECTION 13 – REPEAL OLD BYLAW**

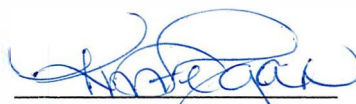
1. Bylaw 1113/2015 is here by repealed.
2. This bylaw shall come into force and effect on the date of the third and final reading and signing thereof.

READ A FIRST TIME this 27<sup>th</sup> Day of June, 2017

READ A SECOND TIME this 15<sup>rd</sup> Day of August, 2017

READ A THIRD AND FINAL TIME this 15<sup>rd</sup> Day of August, 2017.

  
Mayor Ray Reckseidler

  
CAO Karen Fegan, CLGM