

By-Law Number 1026

Town of Castor

A BYLAW OF THE TOWN OF CASTOR, IN THE PROVINCE OF ALBERTA, TO REGULATE AND CONTROL CEMETERIES OPERATED AND MAINTAINED BY THE TOWN OF CASTOR.

WHEREAS it is deemed necessary to provide and update regulations and controls for the operation of the cemetery operated and maintained by the Town of Castor; 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 Town of Castor deems it expedient to pass a Bylaw to provide for the control and management of the Castor Municipal Cemetery.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE TOWN OF CASTOR DULY ASSEMBLED ENACTS AS FOLLOWS:

SECTION I – SHORT TITLE

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

SECTION II – DEFINITIONS

1. 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 the Town;
 - b) “Ash Inurnment” means the act of placing cremated human remains in a funeral urn;
 - c) “Burial” means the interment of human remains or cremated human remains in a grave;
 - d) “Burial Permit” means a permit which is required by the Town of Castor prior to burial;
 - e) “Cemetery” means cemeteries owned and operated in accordance with the Act by and under the control of the Town of Castor.
 - 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 Town of Castor;
 - 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 Town of Castor;
 - k) “Deed” means the application for a Plat deed or niche deed;
 - l) “Disinterment” means the removal and relocation of human remains;
 - m) “Employee” means an employee of the Town;
 - n) “Field of Honor” means the land set apart for or used as a place for the interment of the Veterans or Legion members for burial.
 - o) “Funeral Director” means any registered embalmer or mortician licensed in Alberta;
 - p) “Grave” means a plot that has been opened or used as a place of burial; an opening dug in a burial plat for the purpose of the interment of human remains or cremated human remains;

- q) "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;
- r) "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;
- s) "Marker" means a structure of granite, marble, concrete or bronze for memorial purposes placed on any grave or plot level with the base.
- t) "Monument" means an upright structure or memorial of bronze, granite, marble, or other stone material for memorial purposes which projects above the surrounding ground.
- u) "Niche" means a single compartment of a columbarium large enough to house one or two funeral urns;
- v) "Ongoing Maintenance" means a general term used to designate all the various types of work the Town does or contracts to be done on behalf of the owner 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;
- w) "Owner" shall mean a person or persons who purchase a plot or plots or compartment or compartments of a Columbarium in the Cemetery;
- x) "Plot" means a parcel of land for the purposes of a burial in the Cemetery and the area for a full burial (casket and outer burial receptacle);
- y) "Policy" means the Cemetery Administration and Rate Policy as approved by Council.
- z) "Reserve Plot" means a plot or a number of plots which lie adjacent to one another and which are to be reserved for the burial of more than one deceased member of a family;
- aa) "Town" means the Town of Castor, in the Province of Alberta;
- bb) "Veteran" means a person as defined in by Veterans Affairs Canada and the Department of National Defense;
- cc) "Woody Ornamental" means any trees, shrubs, creepers, and climbers;
- dd) "Working Hours" means regular hours of work (8:30am – 4:30pm), Monday to Friday, inclusive, excluding declared or statutory holidays;

SECTION III – 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 Castor Municipal Cemetery: SE 35-37-14-W4.
2. In addition to the lands described above, the Town may, from time to time, designate certain other lands, whether adjoining or abutting the said lands, for Cemetery purposes and these lands shall be regulated and controlled in accordance with this Bylaw.

SECTION IV – ADMINISTRATION

1. The operation of the Castor Municipal Cemetery shall be in accordance with established policy by the Town 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 Town shall be responsible for the sale of Plots and Niches, keeping of all necessary records which shall include the location, the name of the proprietor or 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 Town shall have sole control of all matters related to the Cemetery, including maintenance, burials, and enforcement of this Bylaw.

4. The Town reserves the right to limit the number of Plots developed and/or make available for sale each year; and to direct the area and sequencing of development and Plot sales.
5. Council shall, by policy, establish the rates to be charged for the sale of plots and columbarium niches, as well as all services provided in relation to interment and disinterment.
6. The CAO shall have the right to have removed, any existing or new fences, borders, railings, walls, hedges, copings, and other enclosures as she may deem advisable 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.
7. The CAO shall have 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.
8. If, in the opinion of the CAO, any vegetation situated on or about the cemetery shall 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 to the grounds or dangerous or inconvenient to the public, the CAO shall have the right to remove such vegetation, or any parts thereof.
9. Benches of a style approved by the CAO may be permitted in the Cemetery under such conditions as the CAO may order.
10. 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 name of the Town.
11. The Town shall take all reasonable precautions to protect the property rights of the owners within the Cemetery from loss or damage; but the Town distinctly disclaims all responsibility or liability for loss or damage from causes beyond its control and especially from damage caused by elements, of an act of God, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or an act of war. The Town shall also take all reasonable precautions when repairing grave sites and during a necessary monument move for grave digging. The Town shall not be liable for damages to the contents of niches whether resulting from theft, vandalism or other damage howsoever caused.

SECTION V - 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 Town.
2. The owner may sell his/her Plot to the Town and the Town will buy back the Plot at an amount representing at least 75% of the market value of the Plot at the date of resale.
3. If a previously purchased Plot is deemed unusable by the Town for any reason, the Town will supply a similar Plot at no cost to the owner or his/her heirs and the original Plot shall revert to the Town.
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 Town Office except by special written permission of the Town Council.
5. It is a condition of every burial Plot purchased that the owner expressly waives any claim arising from an error caused by the Town. The Town's liability shall only extend to a refund of any money paid to the Town for a Plot(s) providing that the Plot(s) suggested as alternatives are not acceptable by the Owner.

6. The Town reserves the right to refuse to provide Cemetery services on Sundays and legal holidays. The final authority concerning funerals on these days will be the decision of the CAO. Sunday and legal holiday interments shall be charged and as set under the Town's Schedule of Fees established by resolution of Council. The only exception will be burials ordered by the Provincial Health Department.
7. The activities and obligations of Funeral Directors are governed by the Occupational Health & Safety Act of Alberta, R.S.A. 2000, Chapter 0-2, and amendments and regulations thereto.
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 Town's Schedule of Fees established by resolution of Council.

SECTION VI - INTERMENTS AND DISINTERMENTS

1. No Plot shall be used for any other purpose than for the burial of a deceased human body.
2. No interment or inurnment shall be permitted in the Cemetery until an approved burial permit has been filed with the Town.
3. The CAO shall have the 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 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 Town personnel or operations providing that it was not reasonably possible to avoid such error. The Town's liability shall only extend to a refund of any money paid to the Town for a plot(s) and/or niche(s) providing that the plot(s) and/or niche(s) suggested as an alternative is/are not acceptable to the purchaser.
6. Notwithstanding any other provisions of this Bylaw, orders for Sunday 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 reasons otherwise allows.
7. The owner of a plot or the person instructing the Town to open a grave shall give complete and precise instructions regarding the size and location of the grave, and the Town shall not be responsible for any errors resulting from the lack of proper instruction.
8. Concrete liners for coffins or caskets shall be at the cemetery at least two (2) hours before the time set for interment.
9. The Town shall furnish graves in the Cemetery, for the unclaimed bodies of deceased persons and bodies of indigent persons in accordance with section 12 of the Act.
10. All work in the immediate vicinity of a grave shall be discontinued during the burial service.
11. Interment will not be permitted in Cemetery Sections where written records are insufficiently accurate to confirm either ownership or occupancy.
12. A full Plot may only be used for:
 - a) The single burial of a person when the length of the outer casket exceeds five (5) feet; or

- b) The single burial of a person as provided in a) above but with the provision that up to four ash interments may also occur; or
 - c) Cremation purposes only for up to six (6) ash interments; or
 - d) Special consideration will be given to burial of one adult and one infant (12 months or younger) within one casket.
13. 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 VII – COLUMBARIUM

1. The CAO or designate shall supervise all sales of columbarium niches and interments in the Cemetery.
2. A niche shall have the minimum dimensions of 12” 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 performed only by the Town.
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 Town shall not be liable for damages to the contents of niches whether resulting from theft, vandalism or other damage howsoever caused.
7. Granite plaques and inscriptions shall be purchased through the Town. All costs are to be paid by the purchaser of the niche for the plaques and inscriptions shall be charged as set under the Town’s Schedule of Fees established by resolution of Council.

SECTION VIII – MONUMENT REGULATIONS

1. All persons employed in the construction, erection, and maintenance of monuments or markers, whether employed by the Town or not, shall be subject to the direction and control of the Town.
2. The base of all monuments or markers should 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 plots. 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 Town.
4. No fencing, railing, roping, earth mound, or any other type of memorial other than a monument in accordance to 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 Town. The Town 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 Town will forward written notification prior to undertaking this action to the last known address 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 Town 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 Town 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 may have an overall size greater than 3 feet 6 inches wide, 21 inches deep and 18 inches high (to the top of the monument, including the base and vase). A shared monument may not be placed wholly or partly on the empty grave unless the grave is intended for a cremation.

SECTION IX – 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 Town as follows:
 - a) Flowers 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 Town employee.
 - e) Affixing floral pieces or any items to a niche is prohibited.
2. The Town may, at its discretion, remove and dispose of any loose or inappropriate items and decorations from any graves, columbarium or memorial wall in the Cemetery.

SECTION X – LEGION FIELD OF HONOUR SECTION

1. The area set aside known as the Field of Honour shall be reserved for the burial of Veterans of the Canadian Forces and their spouses as defined by Veterans Affairs Canada and the Department of National Defense.
2. The area set aside known as the Field of Honour shall also be reserved for the burial of Royal Canadian Legion Members as per authorization of the Royal Canadian Legion, Castor Branch number 119.
3. No interments shall take place in the Field of Honour Section until an approved burial permit has been filed with the Town.
4. Only head stones, consistent with those approved by Veterans Affairs Canada are permitted.
5. There is no charge for a plot in the Field of Honour for Veterans, their spouses, or Legion Members unless deemed otherwise by the Royal Canadian Legion – Castor Branch #119.

SECTION XI – 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.
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 XII – ENFORCEMENT OF RULES

1. The Town is hereby empowered to enforce all rules and regulations and to exclude from the Cemetery any person(s) violating same. The Town shall have charge of the grounds and the 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 Town may be removed by the Town.
3. All installations at the Cemetery not conforming to the rules, regulations and provisions of the Bylaw may be made to conform to the Town.
4. Any Peace Officer or Town employee from time-to-time in charge of the Cemetery may evict therefrom, or deny entrance to any person who contravenes any of the provisions of this Bylaw.

SECTION XIII – SUMMARY CONVICTIONS

1. Any person who lawfully 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.

This Bylaw takes effect on the date of the third and final reading.

READ A FIRST TIME this 12th Day of August, 2013

READ A SECOND TIME this 12th Day of August, 2013

READ A THIRD AND FINAL TIME this 12th Day of August, 2013

Mayor

Chief Administrative Officer

