

**BYLAW NO. 937-19
OF THE TOWN OF VAUXHALL
IN THE PROVINCE OF ALBERTA**

A BYLAW OF THE TOWN OF VAUXHALL IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF REGULATING AND CONTROLLING THE OPERATION OF THE VAUXHALL CEMETERY.

WHEREAS the *Council* of the Town of Vauxhall wishes to regulate and control the operation of the Vauxhall *Cemetery* for the purpose of the burial of human *remains* and *cremated remains*; and

WHEREAS the Cemeteries Act, Revised Statutes of Alberta 2000, Chapter C-3 authorizes the *Council* to regulate and control the operation of a *Cemetery*;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE TOWN OF VAUXHALL IN COUNCIL ASSEMBLED ENACTS AS FOLLOWS:

SECTION 1 - TITLE

1.0 This Bylaw shall be known as the "***Cemetery Bylaw***"

SECTION 2 - DEFINITIONS

2.0 In this Bylaw the following terms shall have the following meaning:

1. **Act** - means the Cemeteries Act and all regulations thereto
2. **Base** – is a permanent support providing a foundation for a monument
3. **Block** - means any number of adjoining *lots*.
4. **Burial Permit**- means a burial permit issued under the *Vital Statistics Act*;
5. **Cemetery** - land operated by and under the control of the *Town* which is set aside for, or used as a place for *Interment* of the dead or in which *remains* and *cremated remains* have been buried;
6. **Columbarium** – is a permanent, freestanding structure containing a number of small enclosures, or niches, designed for the placement of cremated human remains.
7. **Continuous Concrete Base "ribbon"**- means a strip of concrete poured in place for the complete length of a row to accommodate the placement of monuments;
8. **Council** - the Municipal *Council* of the *Town*;

9. **Cremated Remains** - means the *cremated remains* of a human body.
10. **Deed** - the receipt, issued by the *Town*, confirming the cost to purchase a *Plot* (s) in the *Cemetery* has been paid;
11. **Director** – Chief Administrative Officer or designate responsible for maintaining the records for the cemetery and directing the *Town* work force in the Public Works Department or his designate;
12. **Field of Honour** - the area of the *Cemetery* reserved for burial of former members of His / Her Majesty's Armed Forces;
13. **Grave Liner** – means a concrete outer casing/container that encloses a coffin.
14. **Infant** – any person under the age of two years.
15. **Interment** - the placing of *remains* or *cremated remains*.
16. **Licensee** - a *Person* that acquires burial rights for one or more *Plot*(s) within the *Cemetery*;
17. **Marker** - temporary locating device to indicate location of grave until a *Monument* is installed;
18. **Monument** - any structure in the *Cemetery* constructed on any grave for memorial purpose including flat *Monuments*, above ground *Monuments* such as tombstones, headstones or other items of memorial;
19. **Niche** (s) is a single/large compartment of a columbarium for cremated human remains
20. **Person** - any individual or a firm or a corporation;
21. **Plot** – a single grave site;
22. **Remains** - a deceased human, referred to as a corpse, but does not include *cremated remains*.
23. **Town** - the Municipal Corporation of the Town of Vauxhall;
24. **Undertaker** - any registered or licensed embalmer or mortician or any other *Person* authorized by Province of Alberta statute to inter deceased *Person*(s);
25. **Veteran** - a member or former member of His/Her Majesty's Armed Forces; and may include a member as described in the War *Veterans* Allowance Act.
26. **Working Day** - any day Monday through Friday (during normal working hours of the Public Works Department of the *Town* of Vauxhall) except where a Statutory Holiday or Civic Holiday falls on any one of those days

SECTION 3 - LOCATION

- 3.1 The following land is hereby established and set apart for the sole purpose of a public *Cemetery* to be known as *Vauxhall Cemetery*:

The parcel of land and premises composed of that portion of the South West Quarter of Section Eleven (11) in Township Thirteen (13) Range Sixteen (16) West of the Fourth Meridian in the Province of Alberta bounded as follows...

- commencing at an iron post in the Southerly limit of the roadway as shown on Plan 2055 H.X. at a distance of ninety one (91.44) meters more or less from its intersection with the westerly boundary of the said Quarter Section, thence southerly perpendicular to the said southerly limit a distance of ninety one (91.01) meters, thence easterly parallel with the said southerly limit a distance of two hundred and ten (210.31) meters, thence northerly perpendicular to the said southerly limit to intersection with the said southerly limit, thence westerly along the said southerly limit to the point of commencement containing 0.20193 km² more or less, reserving unto Her Majesty all mines and minerals and deemed to be the *Vauxhall Cemetery*, according to Certificate Title 137J21, a copy of which shall be kept on file in the office of the Administrator of the Town of Vauxhall.

SECTION 4 - ADMINISTRATION AND DUTIES

- 4.1 All powers granted to the *Director* shall be subject to the supervision of the Chief Administrative Officer.
- 4.2 The *Director* shall supervise and direct all maintenance and operations of the *Cemetery*;
- 4.3 The *Director* shall ensure a correct accounting for all monies received and expended in connection with the operation of the *Cemetery* is maintained and shall keep record describing any *Licensee*, recording (including date) the sale or transfer of every *Plot*, and maintain a record of all the burials and such other records as may be required from time to time.
- 4.4 The *Director* shall in the event of any dispute, have final authority to approve location of *remains* or *cremated remains* interred in the *Cemetery*.

SECTION 5 - REGULATION OF PLOTS

- 5.1 Sale of Plots
- a) *Council* is hereby empowered and authorized to establish the charges to be made for grave *Plot(s)* in the *Vauxhall Cemetery* and any other charges as deemed necessary, including opening/closing costs. These shall be appearing in the *Town Rate Bylaw*.
- b) The *Town* being a municipality is not required by the *Act* to establish a fund for perpetual care.

- c) Reservations
 - i) At the time a *Plot* (s) is/are reserved, all applicable fees and charges shall be collected. The fees for opening and closing charges shall be collected at the time of burial. Per our *Town Rate Bylaw*.
 - ii) The *Town* reserves the right to limit the number of *Plots* reserved to any one *person* to three *plots*.
- d) No *Plot(s)* in the *Cemetery* may be transferred to any other individual other than immediate family but must be returned to *Town* who shall compensate the purchaser or beneficiary at the initial purchase price less a 10% administration fee. No transactions between the *Town* and any *Licensee* intended to convey burial rights shall be valid unless authorized in writing on the form "Authorization to Convey Burial Rights" as per Appendix "C" of this Bylaw.
- e) Those *Persons* owning *Plot(s)* in the *Cemetery* shall not allow any *Interment of remains or cremated remains* in a *Plot(s)* for remuneration.
- f) It is a condition of every *Deed* in the *Cemetery* that the *Licensee* expressly waives any claim arising by reason of any error or improper description of any burial *Plot(s)*. The *Town* undertakes that it will attempt insofar as is reasonably possible to avoid such errors but it's liability, in case of error, shall only extend to a refund of any money paid to the *Town* for a *Plot(s)* and an undertaking to make an equivalent quality of *Plot(s)* available in lieu of those originally allocated.
- g) When a *Plot* becomes vacant by removal of the *remains* or *cremated remains* therein, the land may revert to the *Town*, if at the *Licensee's* request and approved by the *Director*, the *Town* will in such case rebate the initial purchase price less a 10% administration fee, however the *Town* is not required to repurchase said *Plot*.
- h) Lists of recent *Interments*, etc. shall not be given to any commercial establishment, employee or agent thereof.
- i) Sale of Columbarium niche's will be collected (a portion to be allocated to future cement ribbons as per Res# 17:149)

5.2 Interments of Remains and Cremated remains

- a) No *Person* shall bury any *remains* and / or *cremated remains* in the *Town Cemetery* until such *Person* has complied with all applicable legislation.
- b) Applications must be made at least two *working days* in advance of the time established for the burial. This notification may be waived at the discretion of the *Director*. Winter operations require thawing of the site prior to preparation as per Grave Site Preparation Policy.
- c) The *Director* must be in receipt of one copy of the Burial Permit before an interment of *remains* shall be allowed to proceed.

- d) The Licensee of a plot or Person instructing the town to open a plot shall be the responsibility to give complete and precise instruction regarding the location of the plot and the town shall not be responsible for any errors resulting from lack of proper instruction
- e) Burial rights in *Plot(s)* in the *Cemetery* shall be sold upon payment by the *Licensee* of all required fees and charges.
- f) Burial rights, and burials will be subject to and conducted in accordance with the rules and regulations of the *Town*.
- g) Every *Licensee* obtaining a *Plot(s)* in a *Cemetery* shall be held responsible for the cost thereof and for all charges in connection therewith including disinterment or removal of a *remains* or *cremated remains* when requested by a *Licensee*. Any *Person* signing an order for *Interment* will be held responsible for all charges in connection with such *Interment*. Such *Persons* shall, in addition be held responsible for compliance with the regulations governing erection of *Monument(s)* applicable to that part of the *Cemetery* where the *Interment* is made.
- h) A grave liner meeting the *Directors* required specifications must be provided for the purpose of burial of *remains*. Exceptions shall only be made at the discretion of the *Director*, in situations where it is not physically possible to install a grave liner.

Upon request, other grave liners not currently specified by the Town may be considered, pending the approval by the Director.

- i) *Undertakers* shall make their own arrangements for the placing of mats, wreaths, flowers, etc. around the grave.
- j) The remains of no more than one body shall be buried in a regular sized *Plot* except:
 - i) A mother/father and her/his infant child when both are in the same casket or coffin; or
 - ii) *Cremated remains* up to a maximum of six (6) containers. There shall be a minimum of one half (1/2) metre and a maximum of 1 metre of earth placed over each container;
 - iii) *Cremated remains* up to a maximum of six (6) containers, (conditions may affect the number of containers interred) may be interred on the same site with another body or other *cremated remains* upon registering such with the office of the *Director* but a body shall not be buried in a *plot* where *cremated remains* have previously been interred.

- k) If an individual wishes to inter *remains* in a *Plot* not owned by him/her, he/she shall obtain a letter of permission from the owner of the *Plot* in which such *Interment* is to be made, or from the legal representative of the owner of such *Plot*. This letter of permission shall be in the exact form as shown on Appendix "A", attached to and forming part of this Bylaw, and provided to the *Director* for filing with the applicable records.
- l) Columbarium
 - i) Any columbarium situated within the Town of Vauxhall Cemetery shall be considered for administrative purposes to be part of the cemetery
 - ii) Columbarium niches must be used for interment of cremated remains and must not be used for memorialization purposes only
 - iii) Inscription on the Columbarium will be permitted only on the granite slab provided for the niche. Inscriptions should contain name, date of birth, date of death, pictures and memorial inscription are optional.

5.3 Disinterment

- a) No *Person* shall disinter or remove *remains* from any *Plot* without first producing a written order from the owner of such *Plot*. (Cemeteries Act, Revised Statutes of Alberta 2000, Chapter C-3) Disinterment of a body shall not take place until a disinterment permit has been issued in accordance with Section 42 of the Vital Statistics Act. No permit is required for disinterment of *cremated remains*. However authorization must be obtained from the *Director*.
- b) In case of disinterment for re-interment in another *Plot* in the *Cemetery*, or burial to a greater depth, the excavation shall be done by the Public Works Department of the *Town*, as authorized by the *Director*. The charge for such disinterment will be the fee as established in *Town of Vauxhall Rate Bylaw*.
- c) In case of disinterment of *remains* or *cremated remains* in the *Cemetery* for re-interment in another *Cemetery*, the excavation shall be done by the Public Works Department of the *Town*, as authorized by the *Director*. The charge for such disinterment will be the fee as established in *Town Rate Bylaw*, based on the estimated use of labour and equipment.

5.4 Monuments

- a) No *Licensee* may erect upon any *Plot* any *Monument* while any charges in connection therewith are due and owing to the *Town*.
- b) Only one *Monument* will be allowed on each burial *Plot*, with the exception of the Field of Honour, where in addition to a headstone, a foot stone may be placed.

c) Type and Size of *Monument(s)*.

- i) *Marker(s)* for graves shall be of the type approved by the *Director* and shall be installed as directed by the *Director*.
- ii) The base of *Monument(s)* must be at least 15 cm wider than the widest portion of the stone, and of sufficient depth to support the weight being imposed thereon. In no case may the base be of less than six inches of concrete on top of gravel or stone in the absence of a continuous concrete ribbon. Monuments may be stacked for additional space for name placements.
- iii) all *Monument(s)* must be of granite, marble, limestone or bronze. No *Monument(s)* or covers shall be constructed unless same is professionally finished and adequately reinforced and approved by the *Director*.
- iv) maximum height of any *Monument(s)* shall not be greater than one (1) metre.
- v.) full length grave covers shall not be permitted.
- iv) the Town of Vauxhall is not responsible for errors on monuments or in the placement thereof.

d) Placement of Monuments

- i) all *Monument(s)* must be placed
 - a) at the head of the *Plot*, this will be west end of all *Plots*;
 - b) placement of approved *Monument(s)* shall be made by the *Licensee* under the direction of the *Director*;
 - c) replacement of any *Monument(s)* accidentally or mistakenly moved may be done as directed by the *Director*.
- ii) *Licensees* will be responsible for removal of all earth or masonry litter accumulated in improving any *Plot*, such material are to be removed as directed by the *Director*.
- iii) All work to erect monuments must be performed in such a manner to reduce the potential for damage to the surrounding landscape and other gravesites or monuments.

e) Maintenance of Monuments

- i) the *Town* will not be responsible for any damage which may be caused in any way whatsoever to any improvement or *Monument(s)* design placed in the *Cemetery* with the exception of any damages caused by *Town employees* during the course of performing work related duties

5.5 Maintenance

- a) To ensure neatness and preserve the beauty of the *Cemetery* the *Director* shall have supervision of:
 - i) wreaths, flowers, other removable memento's and objects placed upon graves and any stand, holder or receptacle for these items;
 - ii) any trees, shrubs, plants, grass or any other article or growing thing situated on any part of the *Cemetery*;

and should in the opinion of the *Director* it be necessary or desirable to remove same from the *Cemetery* the *Director* shall be authorized to remove any item. If the article removed is the property of an individual known to the *Director* and the *Director* considers the removed article to have any value, the *Director* shall send notification to the *Licensee* to call forthwith and remove said item. Should the owner of the item not call at Public Works Department during working hours and request the removed item within 15 *Working Days* the *Director* may dispose of the item as he deems appropriate.

- b) No shrubs, trees or flowers may be planted in any part of the *Cemetery* other than those planted under the authorization of the *Director*.

SECTION 6 - FIELD OF HONOUR

6.1 From the date of the enactment of this Bylaw a spouse of a *veteran* may be buried in the *Field of Honour* conditional to:

- a) The *veteran's* spouse shall be interred in the same or adjacent *Plot* to the *Veteran*.
- b) The *Veteran* must be interred in the *Field of Honour* prior to the body *remains* or *cremated remains* of the spouse being allowed to be interred in the *Field of Honour*. *This may be waived at the discretion of the director.*

6.2 All *Monuments* to be located in the *Field of Honour* will be as per regulations established by Veterans Affairs.

6.3 There shall be no charge for *Plots* in the *Field of Honour* section of the Vauxhall *Cemetery* except for the charges for Opening and Closing, Saturday Burial, Holiday Burial or After Hour Burial are still applicable and shall be at the rates established in the *Town Rate Bylaw*.

SECTION 7 – MEMORIAL BENCHES

7.1 Maintenance

- a) To ensure neatness and preserve the beauty of the *Cemetery* the *Director* reserves the right, subject to Council resolution to remove any Memorial structures, statues, ornaments, etc. which may become unsightly.

SECTION 8 - VIOLATION AND SEVERABILITY

8.1 A Person who:

- a) wilfully destroys, mutilates, defaces, injures or removes a tomb, *monument*, gravestone or other structure placed in a *cemetery*, or a fence, railing or other work for protection or ornament of a *cemetery* or of a tomb, *monument*, gravestone or other structure or a *cemetery lot* within a *cemetery*,
- b) discharges firearms in a *cemetery*, except at a military funeral,
- c) wilfully and unlawfully disturbs *persons* assembled for the purpose of burying human *remains* or *cremated remains* in a *cemetery*, or
- d) commits a nuisance in a *cemetery*

is guilty of an offence and is liable to a fine of not less than Five Hundred Dollars (\$500.00) and not more than One Hundred Thousand Dollars (\$100,000.00) and in default judgement may be obtained by the *Town*.

8.2 Should any clause of this Bylaw be found to be unlawful or illegal it shall be deemed removed and the remainder of the Bylaw shall remain in effect.

8.3 Should penalties be considered as provided for in this Bylaw, consideration should be given to enforcement under the offence Section 77 of the Cemeteries Act.

SECTION 9 - REPEAL

9.1 Bylaw No. 916-17 is hereby repealed.

READ a first time in open Council this 5th day of March, 2019.

READ a second time in open Council this 5th day of March, 2019.

READ a third and final time in open Council this 16th day of April, 2019.


MAYOR


CHIEF ADMINISTRATIVE OFFICER

APPENDIX "A"
Section 5.2 (k)

AUHTORIZATION TO CONVEY BURIAL RIGHTS

I, _____ being the licensee of Plot _____,

Lot _____, Block _____ do hereby authorize the interment in said Plot _____,

Lot _____, Block _____, the body or remains of _____
(name of body to be interred)

Dated at Vauxhall in the Province of Alberta _____ day of _____, _____.

Signature of Witness

Signature of Licensee

SECTION 5 - REGULATION OF PLOTS

5.2 *Interments of Remains and Cremated remains*

- k) If an individual wishes to inter *remains* in a *Plot* not owned by him/her, he/she shall obtain a letter of permission from the owner of the *Plot* in which such *Interment* is to be made, or from the legal representative of the owner of such *Plot*. This letter of permission shall be in the exact form as shown on Appendix "A", attached to and forming part of this Bylaw, and provided to the *Director* for filing with the applicable records.