

Office Consolidation

CITY OF WHITEHORSE

BYLAW 2003-09

A bylaw to provide for the regulation of cemeteries

WHEREAS section 265 of the *Municipal Act* (1998) provides that a council may pass bylaws for municipal purposes, subject to the *Cemeteries and Burial Sites Act*, respecting cemeteries; and,

WHEREAS section 266 of the *Municipal Act*, provides that, without restricting section 265, council may in a bylaw regulate, control, or prohibit, and provide for a system of licences, inspections, permits, or approvals; and,

WHEREAS the *Cemeteries and Burial Sites Act* (1986) provides for the regulation and restriction of use of lands identified as a cemetery;

NOW THEREFORE the Council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

SHORT TITLE

1. This bylaw may be cited as the "**Cemeteries Bylaw**".

DEFINITIONS

2. In this bylaw,

"ATTENDANT" means the Attendant at the cemetery.

"ASHES" means the cremated remains of a deceased human body.

"BURIAL PLOT" means a piece of ground measuring 120 centimetres wide x 240 centimetres long, which has been designated for the interment of a casket or urn containing human remains.

"CASKET" means the container/coffin in which deceased human remains are interred.

"CEMETERY" means those areas of land within the municipal boundaries that are set aside for the interment of human remains or ashes, as described in Appendix "A" to this bylaw.

"CITY" means the municipality of the City of Whitehorse.

"COUNCIL" means the duly elected Council of the City of Whitehorse.

"DISINTERMENT" means the digging, removal and re-interment of a casket or urn.

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"HOLIDAY" means a statutory or declared holiday as well as any day designated in a collective agreement of which the City is a signatory.

"HUMAN REMAINS" means the remains of a deceased human body.

"IMMEDIATE FAMILY" is defined as spouse, mother, father, sister, brother, son, daughter, grandparents, and may also include common-law relationships.

"INTERMENT" means the digging and preparation of the grave, placing of the casket or urn, filling the grave, levelling the ground, and re-establishing the grass.

"MANAGER" means the Manager of the Parks and Recreation Department of the City of Whitehorse or his/her designate.

"MEMORIAL TABLET" means a structure of bronze, marble or granite or other material for memorial purposes placed on any grave or plot level with the surrounding surface.

"MONUMENT" means a memorial of stone or other material which projects above the level of surrounding ground.

"NORMAL BUSINESS HOURS" means the hours of 8:00 a.m. to 4:00 p.m., Monday to Friday, excluding statutory holidays.

"PLOT HOLDER" means:

- (1) A person for whom a Plot Reservation Certificate has been issued;
- (2) After the death of the person described in (1) or after the death of a person for whom a plot had not been reserved, the person with the right to control the disposition of the human remains.

"PLOT RESERVATION CERTIFICATE" means a certificate issued by the City reserving a plot in the cemetery for the interment of a casket or urn.

"URN" means the container for cremated human remains.

"VAULT" means a manufactured fibreglass or concrete shell that the casket is placed into prior to an interment.

"WINTER MONTHS" means the period from October 1 to April 30.

PUBLIC ACCESS

3. Cemeteries shall be open to public access from 8:00 a.m. until 11:00 p.m. or as designated. Vehicle access shall be available Monday to Sunday, from 8:00 a.m. until 5:00 p.m. from May 1 to September 30. For vehicle access from October 1 to April 30, prior arrangements shall be made with the Manager.

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4. No person shall enter or remain in a cemetery between the hours of 11:00 p.m. and 8:00 a.m. without the permission of the Manager.
5. No person shall drive an automobile or other vehicle anywhere in a cemetery other than on a designated road or lane, with the exception of vehicles or equipment necessary for the operation and maintenance of the cemetery.
6. No person shall at any time take into a cemetery an off-road motorcycle, snow machine or all-terrain vehicle.
7. No person shall drive any vehicle through the cemetery at a rate of speed greater than 15 kilometres per hour.

ADMINISTRATION

8. The cemeteries of the City shall be under the general supervision and control of the Manager.
9. The computerized records, plans, documents and instruments relating to the cemeteries shall be under the supervision, charge and control of the Manager.
10. The Manager shall:
 - (1) On application and payment of fees, make all sales of plots;
 - (2) On application and payment of fees, issue the Plot Reservation Certificate;
 - (3) On application by the holder, cancel reserved plots and refund any fees paid;
 - (4) On application and payment of fees, issue Interment Permits;
 - (5) Ensure that documentation is sent to the City Clerk's office.

PLOTS

11. A grave in a cemetery shall be dug to a minimum depth of:
 - (1) One point five (1.5) meters for the interment of a casket;
 - (2) Zero point six (0.6) meters for the interment of an urn.
(Bylaw 2010-37 passed September 27, 2010)
12. Urns may be interred in a plot which:
 - (1) Contains the casket or urn of a member of the deceased's immediate family; or
 - (2) When sold, was designated by the purchaser to be used for the interment of the ashes of specified individuals in addition to the casket or urn of the person for whom the first plot was purchased.

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13. Vaults are compulsory for all casket interments and each vault used in the cemetery shall be made of fibreglass not less than 50 mm thick and shall consist of two sidewalls, two end walls, a base and a cover sufficient to bridge the casket over its entire length.
14. Such vaults may be supplied by the City but at the expense of the person applying for the Interment Permit.
15. Except as otherwise provided in this bylaw, no casket shall be interred within twenty-four (24) hours after the issuance of an Interment Permit.
16. Only the Medical Health Officer may order the immediate interment of a casket.
17. Interments shall take place between the hours of 8:00 a.m. and 4:00 p.m. during the weekdays of Monday to Friday, excluding statutory holidays.
18. No plot shall be defined by a fence, railing, curbing or hedge or by other markings save by a memorial marker or monument as set out in the monument section of this bylaw.
19. Flowers and wreaths, adornments, standards, plants, artificial or otherwise may be placed on a plot but may be removed when their condition is deemed to be detrimental to the general appearance of the cemetery. Any container permitted by this section is subject to the approval of the Manager.

MONUMENTS

20. A monument shall be made of granite, marble or other suitable material commonly used for that purpose.
21. All monuments are considered to be the property of the purchaser and required care or repair is the responsibility of the purchaser. It is the responsibility of the purchaser to arrange for the delivery of the monument to the cemetery for placement.
22. Only one monument shall be permitted on a plot unless written permission is obtained from the Manager.
23. A monument shall not be installed except by the Attendant with the approval of the Manager.
24. No work shall be done upon any monument, nor shall the monument be removed from any plot without permission from the Manager.
25. A monument shall be installed on a base provided by the City or a base approved by the Manager.
26. The dimensions of a regular monument shall not exceed twenty centimetres (20cm) in height, seventy-five centimetres (75cm) in width, and thirty centimetres (30cm) in depth unless prior approval has been obtained from the Manager.

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27. The cost for the placement of a regular size monument shall be included in the purchase of the plot. Oversized monuments shall be subject to approval and charges as specified in the Fees and Charges Bylaw.
28. An organization or group wishing to construct a specific monument shall submit detailed design drawings of the monument to the Manager for approval.

PLOT RESERVATION AND ASSIGNMENT

29. A person may apply to the City for reservation of a plot within the cemetery and upon payment of the fee shall be issued a Plot Reservation Certificate, provided that the plot is available.
30. A Plot Reservation Certificate shall be a contract of sale and no interment permit may be issued or interment in the cemetery shall occur, prior to the issuance of a Plot Reservation Certificate or other existing reservation made pursuant to a previously applicable bylaw or regulation.
31. The issuance of a Plot Reservation Certificate does not grant the plot holder any rights regarding the plot, beyond the right to be interred in the plot.
32. The issuance of a Plot Reservation Certificate does not grant any plot holder the right or interest in any roads, paths or common areas of the cemetery other than as a means of access to the plot, nor any right of interest in the gardens, structures, buildings or other property or improvements of the cemetery.
33. A plot holder shall not allow or permit any interment in the reserved plot, and shall not transfer or dispose of the right to use the plot to another person, group, or organization unless that interment, transfer or disposal is made pursuant to this bylaw and all other applicable legislation.
34. Where a particular plot has been reserved, and the plot holder wishes to transfer the reservation to a different plot in the cemetery, the City may transfer the reservation upon receipt of the difference, if any, between the fee paid to reserve the original plot, and the fee due as of the date of transfer to reserve the new plot. A new Plot Reservation Certificate shall be issued.
35. A plot holder may request a transfer of the right of interment in a plot to a spouse or other family member by submitting the request in writing to the Manager.
36. Where a plot holder wishes to cancel a reservation for a plot that has not yet been used for interment, without transfer of rights to another plot or another person, they shall notify the Manager in writing requesting such cancellation.
37. Where a person has requested cancellation of a plot reservation pursuant to section 36, he shall be entitled to a full refund of the amount paid without interest, as evidenced in the City's records, for the reservation.

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38. In the event that an error on the part of the City is discovered in a plot reservation prior to the use of the plot for interment, and that plot is no longer available, the City shall:
- (1) Amend the affected Plot Reservation Certificate, or other reservation made prior to the enactment of this bylaw, so as to provide a plot of equal or greater value and similar location acceptable to the plot holder; or
 - (2) Cancel the plot reservation and refund the full amount paid as evidenced in the City's records.
39. The plot holder shall notify the City of the plot holder's preference within 30 days of the notification of the error, otherwise the City shall be entitled to make the decision.

PERMITS

40. In addition to any of the requirements of this bylaw, no human remains shall be interred or cremated prior to the issuance of a burial permit by a district registrar of vital statistics under the Vital Statistics Act.
41. No casket or urn shall be interred in the cemetery prior to the issuance of an Interment Permit.
42. Where no plot has been previously reserved for an interment, or transferred pursuant to this bylaw, a plot must be reserved through the application for and issuance of a Plot Reservation Certificate concurrent with the application for and issuance of an Interment Permit.
43. A person with the right to control the disposition of human remains may apply to the City for permission to have human remains or ashes interred in the cemetery, and upon payment of the interment fees may be issued an Interment Permit.
44. An application for an Interment Permit shall include the following information:
- (1) The name and date of birth of the deceased;
 - (2) The date and time of the funeral;
 - (3) The cause of death;
 - (4) And special instructions including any received from the Medical Health Officer relative to that interment; and
 - (5) Any other information necessary to comply with this bylaw and any other applicable legislation, or necessary to allow the Attendant to prepare the plot for interment.

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45. Where public health or safety, or personal moral or religious beliefs require interment within the 36 hours, an application may be submitted and the City may issue an Interment Permit.
46. Upon the issuance of any Interment Permit or upon receiving a valid request or order for disinterment, the City shall notify the Attendant of:
 - (1) The date and time scheduled for interment, or disinterment;
 - (2) The name of the deceased;
 - (3) The number and location of the plot to be used; and
 - (4) Any special instructions including any received from the Medical Health Officer relative to that interment, or disinterment.

INTERMENT

47. Each plot may be used for the interment of up to:
 - (1) One (1) adult sized casket and four (4) urns; or
 - (2) Five (5) urns.
48. Where the urns are to be buried in a plot with a casket, the urns shall be interred directly above the casket
49. Caskets shall be covered by at least zero point eight three (0.83) metres of earth between the general surface level of the ground and the top of the vault. (*Bylaw 2010-37 passed September 27, 2010*)
50. Urns shall be covered by at least zero point three (0.3) metres of earth between the general surface level of the ground and the top of the urn.
51. No casket other than a casket containing deceased human remains shall be interred in the cemetery.
52. No plot shall be dug or opened or closed by any person other than the Attendant, or other person duly authorized by the City.
53. If the scheduled date and time of an interment or disinterment is such that the plot must be dug, opened, or closed other than during normal business hours, the after normal hours fees shall be charged as set out in the Fees and Charges Bylaw.
54. No methods of interment above ground shall be permitted in the cemetery.
55. When a plot is required to be prepared a minimum of two (2) working days in summer (May 1 to September 30) and three (3) working days in winter (October 1 to April 30) prior notice must be given to the City.

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DISINTERMENT

56. No casket or urn shall be disinterred unless authorized by the Manager and will follow all guidelines and legislation of such.

GENERAL PROVISIONS

57. All applications for permits or certificates in this bylaw shall be made in the forms prescribed.

58. The City shall provide care and maintenance for all cemeteries governed by this bylaw.

59. One third (1/3) of the plot price shown in the Fees and Charges Bylaw shall be set aside in an interest-generating account.

60. No picnic, parties, or gatherings, except for funerals or some ceremony or observance permitted by the Manager shall be held or allowed within a cemetery.

61. No person shall play any game, recreational, sporting or play activity in any cemetery.

62. The Manager is responsible for the complete care and maintenance of the cemetery and individual planting or landscaping is expressly forbidden.

63. No person shall damage any tree, shrub or plant growing in a cemetery, nor pick or destroy any flower growing therein, or write upon, mark or scratch or deface any monument, plaque, cross, building or structure within or around a cemetery.

64. No owner of an animal shall permit such animal anywhere in a cemetery other than on a designated road, lane or walkway. The animal shall be on a leash, which is not longer than two metres, and which is held at all times by a person able to control the animal. The exception is animals used by visually impaired individuals as guide dogs.

65. All persons and funeral or other interment processions in the cemetery shall obey the instructions of the Attendant, and shall behave with proper decorum and respect, and shall not disturb the quiet and good order of the cemetery. The Attendant may remove any person not complying from the grounds of the cemetery.

66. The use of alcohol or drugs on the cemetery grounds is strictly prohibited.

ENFORCEMENT

67. Every person who violates any provision of this bylaw is guilty of an offence and is liable to a fine not exceeding ten thousand dollars (\$10,000.00) where proceedings are commenced pursuant to the summary conviction provisions of the *Criminal Code of Canada.*" (*Bylaw 2006-17 passed May 8, 2006*)

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BYLAW REPEAL

68. Cemeteries Bylaw 96-03, including all amendments thereto, is hereby repealed.

COMING INTO FORCE

69. This bylaw shall come into full force and effect on the final passing thereof.

FIRST and SECOND READING: May 12, 2003

THIRD READING and ADOPTION: May 26, 2003

ORIGINAL BYLAW SIGNED BY:

"Ernie Bourassa"

Ernest J. R. Bourassa, Mayor

"R. Fendrick"

Robert I. Fendrick, City Clerk

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APPENDIX "A"

CEMETERY LANDS

1. Grey Mountain Cemetery

The whole of Lot Four Hundred and Eighty-two (482) in Group Eight Hundred and Four (804), in the Yukon Territory, as said lot is shown on a plan of survey of record in the Land Titles Office for the Yukon Land Registration District under number 27069.

2. Pioneer Cemetery (Sixth Avenue)

The whole of Lots Two Hundred and Sixty-eight (268), Two Hundred and Sixty-nine (269), Two Hundred and Seventy-three (273), and Two Hundred and Seventy-four (274), in Group Eight Hundred and Four (804), in the Yukon Territory, as said lots are shown on a plan of survey of record in the Land Titles Office for the Yukon Land Registration District under number 19940.