

CITY OF PORTAGE LA PRAIRIE

BY-LAW NO. 02-8143

BEING A BY-LAW OF THE CITY OF PORTAGE LA PRAIRIE relating to cemeteries.

WHEREAS the City of Portage la Prairie owns and operates the cemetery known as Hillside Cemetery, the cemetery known as St. Mary's Cemetery, and the cemetery known as Hillside Memorial Park;

AND WHEREAS The Cemeteries Act R.S.M. 1987 c C30 governs the operation, maintenance and care of every cemetery;

AND WHEREAS it is deemed expedient to pass a by-law in accordance with The Cemeteries Act for the purpose of setting rules and regulations for the operation, maintenance and care of Hillside Cemetery, St. Mary's Cemetery, Hillside Memorial Park, and any other cemetery that may be at any time operated by the City.

NOW THEREFORE, THE COUNCIL OF THE CITY OF PORTAGE LA PRAIRIE IN OPEN SESSION ASSEMBLED HEREBY ENACTS AS A BY-LAW AS FOLLOWS:

PART ONE ADMINISTRATION

1. CITATION

This by-law may be referred to as "The Cemetery By-Law".

2. CONTINUING CONSOLIDATION

- 1) The Manager of Administration may cause to be prepared and printed, and kept up to date, a continuing consolidation of this by-law, and indices and appendices thereto, and may make such arrangements with respect thereto, and with respect to matters incidental thereto, as may be required.
- 2) Where a continuing consolidation of this by-law is prepared, all approved revisions thereto shall bear the designation and be located as follows:
 - a) When a specific portion has been amended or replaced by an amending by-law, the designation '[AM. B/L #]' shall be inserted immediately following the affected block of text.

- b) When a specific portion has been repealed or deleted by an amending by-law, the designation '[REP. B/L #]' shall be inserted adjacent to the current section, subsection, paragraph or clause number in place of the removed text.
- c) When a new portion has been enacted herein by an amending by-law, the designation '[EN. B/L #]' shall be inserted immediately following the added block of text.
- d) When any of the designations referred to in paragraphs a), b), and c) above are inserted within the text of this by-law, the figure '#' shall be replaced by the actual number of the respective amending by-law.
- e) Where more than one clause, paragraph, or subsection of any particular section is affected by the same amending by-law, the designation may be placed at the end of each clause, paragraph, or subsection so affected or, at the left aligned margin of the paragraph, subsection, or section so affected, whichever is deemed to have more clarity in each particular instance.

3. LIST OF SCHEDULES:

- 1) Schedule "A" – Deed Form
- 2) Schedule "B" – Transfer of Deed Form

4. AMENDMENT OF SCHEDULES

Council of the City of Portage la Prairie may from time to time, by resolution, amend each and every schedule attached to this by-law.

5. INTERPRETATION

In all parts of this by-law, any word importing the male gender shall include the female gender and vice versa, and any word importing the singular shall include the plural, and vice versa, as applicable and unless the context requires a different interpretation.

6. DEFINITIONS

- 1) In this by-law:
 - a) "Cemetery" means land that is set aside by the City and used for the burial of human remains, including cremated remains.
 - b) "Cemetery Foreman" means the person named or appointed by the City from time to time to manage cemeteries.

- c) "City" means City of Portage la Prairie.
- d) "Columbarium" means an above-ground structure of vaults lined with recesses for ash urns.
- e) "Crematory" means a building fitted with proper appliances for the purpose of the incineration or cremation of dead human bodies, and includes everything incidental or ancillary thereto.
- f) "Director" means Director of Operations for the City.
- g) "Division Registrar" means a Division Registrar appointed under The Vital Statistics Act of the Province of Manitoba.
- h) "Grave" means any lot within the cemetery which has been used for the interment of human remains, including cremated remains, but does not include columbarium.
- i) "Lot" means the area of land sufficient for a single Grave.
- j) "Mausoleum" means a structure, wholly or partly above the level of the ground and designed for the burial or storage of dead human bodies.
- k) "Owner" means the proprietor or Owner of a Lot to which he has or is entitled to a deed.
- l) "Perpetual care" means the preservation, improvement, embellishment, and maintenance, in perpetuity and in a proper manner of Lots, Plots, tombs, monuments or enclosures, in a Cemetery or of compartments in a Columbarium or Mausoleum.
- m) "Plot" means the area of land sufficient for more than one Grave, and contains not more than four lots.

7. INTERMENTS AND DISINTERMENTS

1) General

- a) No Grave or vault shall be opened for interment or disinterment except by a person in the employ of or under hire to the City.

- b) No person shall dig or open any Grave or cause any Graves to be dug or opened in any place within the City other than that now used and/or hereinafter appropriated for the purpose of a Cemetery; nor shall any person inter or deposit or cause to be interred or deposited any human remains in any Grave within the City other than as aforesaid.
- c) Notwithstanding subsection b) above, no cremated remains shall be interred or scattered on any public property other than approved locations.
- d) All interments and disinterments of a deceased person must be conducted in strict compliance with provincial and/or federal legislation.

2) **Interments**

- a) Every person who applies for an interment shall furnish to the Cemetery Foreman:
 - i) an acknowledgement that the death has been registered;
 - ii) a copy of the burial permit issued by the Division Registrar;
 - iii) the personal particulars of the deceased person in the prescribed form;
 - iv) the deed to the Lot or Plot.
- b) Upon receipt of the information required by section a) above hereof, the Director shall issue an Interment Order and provide same to the Cemetery Foreman as authorization for the interment. Any applicant for interment who does not own the Lot must obtain a written order from the Owner, and file same with the Director prior to an Interment Order being issued. If the Owner is deceased, then this permission must be received from the immediate family of the Owner.
- c) An employee of the City shall be in attendance at each interment.
- d) The applicant for interment shall be responsible for all charges incurred, in accordance with the current Fees and Charges By-Law.
- e) The interment fee shall include the opening and closing of Grave, Grave linings, earth cover and other necessary services.
- f) Interments shall not be made on Sundays or Statutory holidays except by order of the Department of Health of the Province of Manitoba or other competent authority. If an interment is made on a Saturday, the charge shall be as specified in the current Fees and Charges By-Law.
- g) Every coffin shall be closed and securely fastened before it is lowered into the Grave.

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- h) A second burial shall be made no earlier than twenty-five years from the date of the first interment unless double depth interment was arranged on first burial.
- i) Burial in the same Grave of the following relationships only will be permitted: father, mother, sister, brother, wife, husband, son, daughter, grandson, granddaughter, grandfather, and grandmother.
- j) Ashes may be interred in the same Grave with the remains of a relative named in paragraph i), but no more than four urns will be permitted in each single Grave.
- k) The Cemetery Foreman shall permit:
- i) No more than two earth interments in one Lot.
 - ii) No more than one body in each coffin except where the deceased persons are:
 - sisters;
 - brothers;
 - brother and sister two years of age or less; or
 - mother and child one year old or less;but in no case shall there be more than four bodies contained in two caskets placed in one Lot.
 - iii) No more than one urn in any ashes Lot having the dimensions of 0.6m by 0.6m (two feet by two feet).
- l) The second interment in a Grave shall have no less than 1.01m (40 inches) of earth over the top of the outside container.
- m) No pets shall be interred in any City-owned Cemetery.
- 3) **Disinterments**
- a) No disinterment shall be made until the applicant has obtained and filed with the Cemetery Foreman the consent of the City Manager, and such documents and consents as may be required by the Province of Manitoba from time to time. City staff will only expose to the liner or casket. All handling of interred remains are the responsibility of the Funeral Director.
 - b) No disinterment for the purpose of lowering remains to accommodate another interment shall be made without permission of the Owner of the Lot or Plot, except for the burial of the Owner thereof whose name appears on record at the offices of the City.

- c) No disinterment shall be made of the first interment from any Grave in which a second interment has been made unless the second interment is disinterred at the same time for burial in another Grave.
- d) No person shall remove cremated remains from a Grave or niche without first producing a written order from the City, accompanied by a receipt from the Director showing that the necessary fees have been paid.
- e) No disinterment will be allowed until the requirements of "The Vital Statistics Act" as to disinterments have been fully complied with, a permit issued by the Provincial Authorities and in the case of cremated remains, authorization received from the Director.

8. DIGGING OF GRAVES, SIZE OF COFFIN

- 1) Graves shall be dug and interments made only by persons in the employ of or under hire to the City under the supervision and direction of the Cemetery Foreman.
- 2) Every application for burial shall be made
 - a) during the period December 1st to April 30th, not less than 48 hours prior to the time of the funeral, exclusive of Saturdays, Sundays and legal holidays; or
 - b) at any other time, not less than 24 hours prior to the time of the funeral, exclusive of Saturdays, Sundays and legal holidays.

9. FOUNDATIONS, MONUMENTS AND MARKERS

- 1) **General**
 - a) All monuments, headstones, landmarks, Grave coverings or any other work done by a monument company, funeral home, or any other business or organization requires the issuance of a monument permit and is subject to the approval, control, and direction of the Cemetery Foreman. Any work done without such work order, or in contravention of any approval, control, or direction, may be removed or altered at the expense of that company.
 - b) Contractors, masons, stonecutters or other workmen shall lay planks on the Lots and paths over which heavy materials are to be moved to protect the Cemetery from injury.
 - c) Contractors, masons, stonecutters and other workmen are responsible to repair any damage done to turf to the satisfaction of the Cemetery Foreman.

- d) Workmen shall cease work in the vicinity of a funeral until conclusion of the service. Workmen shall not work in cemetery grounds on Sundays.
- e) The City shall not assume any responsibility or costs incurred as a result of vandalism to monuments located in the Cemetery.

2) **Foundations**

- a) All foundations for monuments and tombstones shall be installed in a good and workmanlike manner under the supervision of the Cemetery Foreman.
- b) The foundation will have a minimum projection of three inches, horizontally, on all sides of such monument, headstone, or other object at ground level, such projection to be on the same level as the surface of the surrounding turf.
- c) The City shall not be responsible for any maintenance to the foundation after installation including damage caused from natural ground settlement.

3) **Headstones, Monuments and Markers**

- a) Headstones or monuments shall be placed at the head of the Grave or Plot.
- b) All headstones or monuments shall be placed in such a manner as to maintain, wherever possible, a proper alignment.
- c) Every headstone or monument shall be constructed of durable material. The Cemetery Foreman may require the manufacturer or his agent to provide a warranty guaranteeing the uniformity of the product and providing for the replacement of any defective headstone or monument.
- d) All headstones erected, shall be confined within the boundaries of the respective family Lots or Plots purchased; and any straightening of headstones necessitated through settlement shall be the responsibility and at the expense of the Owner.
- e) Not more than one upright monument shall be erected on any one Plot, except that in the event that a Plot has been purchased and a monument erected prior to the effective date of this by-law, and where the monument is not in a central position of the Plot for the obvious purpose of accommodating a matching companion monument at a later date, special application may be made by variation of this section to provide for one additional matching monument.
- f) Additional monuments shall not be placed to memorialize persons whose bodies are buried as second interments in any Lot or Plot but the Cemetery Foreman may grant permission to place flat markers at the head and in front of the existing monument or such other location as he may decide.

- g) Where ashes are interred in a new ashes lot, only two flat markers shall be permitted, one at the head and one at the foot of the Grave.
- h) The City may remove or repair any monument, Mausoleum or tombstone which has become unsightly, dilapidated or dangerous and may recover the cost from the Owner.

4) **Accessories**

- a) Markers or memorials of marble, granite or bronze placed on the corners or at the head or foot of Lots or Graves are all that will be allowed and shall be placed so as not to project above the surface of the ground, except when erected as headstones or monuments.
- b) Statuary and open urns intended as receptacles for flowers and forming an integral part of a monument shall not be installed in any Cemetery unless such statuary and urns are contained within the limits of the base of the monument.
- c) After the passing of this by-law, borders, fences, railings, trellises, copings, hedges, iron posts or any ornamental material shall not be constructed in or around any Grave or Lot.
- d) Borders, fences, railings, trellises, copings, or hedges in existence before the passing of this by-law will be removed free of charge by the City upon written request by the Owner.
- e) The City may remove any border, fence, railing, coping, hedge or any other bounding or enclosing material erected before the passing of this by-law which, by reason of neglect or age becomes in a state of disrepair and the Owner neglects or refuses to repair or remove same within thirty (30) days after written notice has been forwarded to him at his last known address.
- f) Monuments, plaques, headstones, or any other type of landmark shall be exclusively for the purpose of memorializing deceased persons in the Cemetery. Any message which advertises a business, or condones a specific act, or is in any way inconsistent with the purpose of memorializing a deceased person or persons shall not be allowed in the Cemetery.
- g) Notwithstanding the above noted section f), donated or sponsored items such as park benches and flower pots, shall be permitted in the Cemetery providing the design, location and any inscription, has received previous written approval of the Director.

5) **Dimensions of Monuments on Standard Plots**

- a) On standard Plots, the face area of a monument shall not exceed 15% of the area of the Plot and the length of the base shall not exceed 60% of the width of the Plot. The base area of any monument shall not exceed 9% of the area of the Plot.
- b) Except in the case of a Plot for an infant or a single adult, no monument shall be less than 152mm (6 inches) in thickness at the base, no less than 76mm (3 inches) in thickness at the top and monuments 203mm (8 inches) in thickness shall not exceed 1.21m (4 feet) in height, including base.
- c) The height of monuments shall be governed by the size of Plots and in the smaller Plots shall not exceed the heights given as follows:

<u>Area of Plot</u>	<u>Limit of Height</u>
Lots over 3.72m ² (40 sq.ft.)	.81m (2 ft. 8 in.), including base
Plots over 3.72m ² (40 sq.ft.) but not exceeding 6.51m ² (70 sq.ft.)	.91m (3 ft.), including base
Plots over 6.51m ² (70 sq.ft.) but not exceeding 9.3m ² (100 sq.ft.)	1.01m (3 ft. 4 in.), including base
Plots over 9.3m ² (100 sq.ft.) but not exceeding 11.16m ² (120 sq.ft.)	1.21m (4 ft.), including base

- d) In the case of a Plot for a single adult, no monument shall be less than 101mm (4 inches) in thickness and in the case of a Plot for an infant, no monument shall be less than 101mm (4 inches) in average thickness.

6) **Monuments In Hillside Memorial Park**

- a) The foundations for monuments in Hillside Memorial Park shall be installed by the City.
- b) No monument shall be installed in Hillside Memorial Park without a permit issued by the Cemetery Foreman.

10. GARDENERS AND GARDENING

- 1) Subject to subsection 7) below, any person may, with the approval of the Cemetery Foreman and under his supervision, do planting or gardening work on a Lot or Plot provided that such work conforms with the section in which the Lot lies and the ground has first been stabilized or leveled.
- 2) No person shall do gardening for a fee or reward without first obtaining a permit from the City.
- 3) Except for Lot Owners who may remove plants from their own Lots or Plots, no person shall remove any plant, flower, slip or cutting from the Cemetery.
- 4) Gardeners, florists, or memorial erectors employed to maintain Graves shall remove all rubbish, sod, earth, etc. to such places of deposit as are provided for the purpose and shall carry on their work under the direction of the Cemetery Foreman.
- 5) Private gardeners or florists or their employees shall not work in the cemeteries on Sundays, public holidays or after 4:30 p.m. on week days.
- 6) No person shall plant any tree or shrub inside or outside any burial Lot without permission from the Cemetery Foreman. The City reserves the right to prune, or order to reduce in size or remove to ground level any tree or shrub extending outside the boundaries of any Lot or Plot.
- 7) No planting or gardening work shall be permitted in the area of Hillside Memorial Park.
- 8) Cut flowers, including artificial flowers, and/or fraternal emblems shall be permitted, provided that the flower container and/or emblem is adjacent to the base and/or marker.
- 9) The Cemetery Foreman will remove or prevent the placing of any stand, holder, vase or other receptacle for flowers or plants which is deemed to be unsuitable for such purpose or is unsightly in appearance or is not physically attached to the monument or base.
- 10) The Cemetery Foreman will remove from any Grave any funeral design or floral piece which has become wilted, or after a period of ten (10) days, whichever is sooner, or any other article or thing which, in his opinion, is unsightly.
- 11) The City may, at any time, enter upon any Lot for the purpose of cleaning of weeds and grass.

- 12) Herbaceous perennials and annual flowers of a suitable character, may be planted and maintained on a Grave in permitted areas. No person other than a member of the immediate family of the Owner of the Grave or person/contractor appointed by the immediate family shall be allowed to perform, execute or carry into effect the work of special care of a Grave, written confirmation of such must be provided to and approved by the Cemetery Foreman.

11. ARTIFICIAL FLOWERS AND DESIGNS

No person shall place artificial flowers into the turf of a Grave or as a permanent adornment on a Grave, but artificial flowers confined in a cut flower container may be placed at the base of a marker.

12. CONDUCT OF PERSONS IN A CEMETERY

- 1) No person shall:
 - a) walk on Graves; or
 - b) write upon, scratch, deface or injure any monument, fence, building or other structure in a Cemetery; or
 - c) pick any flower, damage any tree or shrub, or remove any tree, shrub or plant from a Cemetery; or
 - d) drive any vehicle at a speed in excess of 20 kilometers per hour on any road in a Cemetery; or
 - e) bring in a dog or other pet into a Cemetery except on a leash or other physical control, and is then responsible for cleaning up and removing any pet waste; or
 - f) enter a Cemetery before 7:00 a.m. or after sunset without the consent of the Cemetery Foreman; or
 - g) disturb the quiet or good order of a Cemetery.

13. PRICE OF LOTS AND OTHER CHARGES

The price of Lots, the charges for interment, disinterments and all other services shall be fixed and determined by the City from time to time and such prices until further fixed, shall be as set out in the Fees and Charges By-Law.

14. DEEDS

- 1) All deeds for Lots shall be issued by the City duly executed by the proper officer and shall be in the form as shown and attached hereto as Schedule "B".
- 2) No deed shall be issued under subsection 1) until the Cemetery Foreman has defined the location of the Lot selected and the purchase money prescribed by such certificate has been paid.

15. TRANSFERS OR ASSIGNMENTS OF LOTS

- 1) No person shall sell, transfer, convey or assign any Lot or Plot except with the approval of the City, but such approval shall not be unreasonably withheld.
- 2) Where the application for approval is made by the Owner, he shall file a duly executed transfer which shall state the consideration for the transfer and the name and address of the transferee.
- 3) Where the application for approval is made by a personal representative of a deceased Owner, he shall file with the transfer a certified, notarized or sworn copy of Letters Probate or Letters of Administration.
- 4) Where no personal representative of a deceased Owner has been appointed, the person entitled to become the Owner of the Lot or Plot shall file a transmission application together with such proof as the City may require.
- 5) A transfer may be in the form as shown in Schedule "B", attached hereto.
- 6) City will charge a Transfer Fee as set out in the current Fees and Charges By-Law.
- 7) No person shall purchase a Plot having more than four Lots and no funeral director or undertaker shall purchase any Lot or Plot except for his personal use.

16. PERPETUAL CARE FUND

For the purpose of creating, building up, and maintaining a Perpetual Care fund for the care and maintenance of Hillside Cemetery, there shall be paid to the Perpetual Care Fund of the City of Portage la Prairie, during the years 1980 to 2030, both inclusive, and not later than the first day of June of each of the said years, a sum equal to 25% of the proceeds of the sale of Plots and Graves in said Hillside Cemetery sold during the preceding year. The said monies shall be paid over to the said fund for investment and administration and shall be treated in the same manner as interest and

sinking fund charges. No withdrawals or disbursements shall be made from said fund prior to the first day of July, 2030. Upon said date and upon each and every first day of June thereafter, the yearly earnings of the fund for the previous year shall be paid over to the City of Portage la Prairie, and shall be used for the care and maintenance of Hillside Cemetery.

17. POWERS AND DUTIES OF THE CITY

- 1) The City may:
 - a) reserve the right to designate special sections within cemeteries and impose restrictions, including types of monuments and other markers to be employed therein.
 - b) construct a Mausoleum, a Crematory or a Columbarium;
 - c) permit the construction of a Crematory and make regulations respecting the construction, maintenance and operation thereof.
- 2) The City shall keep a register in which shall be entered, with respect to each Lot, Plot, compartment or other space, in the Cemetery, Columbarium or Mausoleum:
 - a) the date on which it is sold;
 - b) the name and address of the person to whom it was sold;
 - c) the name and address of any person to whom it is transferred, and the date of the transfer; and
 - d) the date when a dead human body is buried or interred in it.

18. PENALTIES

- 1) Any person who violates, contravenes, disobeys or refuses, omits, neglects, fails to observe, obey or comply with any or all provisions of this by-law is guilty of an offence and is liable on summary conviction to a fine not exceeding \$500.00 or to imprisonment for a term not exceeding 3 months, or to both such fine and such imprisonment.
- 2) Pursuant to Section 249 of The Municipal Act where such contravention, refusal, neglect, omission, or failure to obey or observe continues for more than one day, the person is guilty of a separate offence for each day that it continues.

SCHEDULE "A"

City of Portage la Prairie

DEED

KNOW ALL MEN BY THESE PRESENTS, that the _____

in consideration of _____ Dollars paid to it by _____

_____ of _____,

the receipt of which is hereby acknowledged, doth grant unto the said _____

Called _____ and situated in _____

and which Plot is delineated and laid down on a map of the said Cemetery, and is herein

designated as _____ and containing an

admeasurement _____ superficial feet.

TO HAVE AND TO HOLD the herein above named premises unto and to the use of the

said _____ heirs and assigns for ever _____.

PROVIDED ALWAYS, that the same shall be used subject in all respects to the by-laws

of _____ the said _____ now

or hereinafter to be in force affecting the same.

WITNESS WHEREOF, the City Manager of the said Municipality hath signed his name

hereto, and hath fixed the Corporate Seal of the said _____ this

_____ day of _____, A.D. 20_____.

City Manager

City of Portage la Prairie

SCHEDULE "B"

City of Portage la Prairie
TRANSFER FORM

I, _____, being the Owner
of

_____, do hereby in consideration of the sum of
(state Lot or Plot as described in the Deed)

\$ _____ paid to me by _____,
(state name and address of transferee)

the receipt of which sum I hereby acknowledge, transfer to said

_____ all my estate and interest in
(name of transferee)

said _____.
(Lot, Lots, Plots)

In Witness Whereof I have hereunto subscribed my name this _____ day of
_____, 20____.

Signed in the presence of: _____)

)

)

_____)

Witness _____)

Owner

)

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