

## Bylaw No. 1032 - Amended

**BEING** a Bylaw of the Town of Carstairs in the Province of Alberta, the purpose of this bylaw is to provide for the care, control and regulation of Carstairs Cemetery.

**WHEREAS** Section 7. (i) of the Municipal Government Act, Chapter M26RSA 2011 as amended: A Council may pass bylaws for municipal purposes respecting the following matter of enforcement of bylaws made under this or any other enactment, and:

**WHEREAS** the Cemeteries Act Revised Statutes of Alberta 2000 Chapter C-3 and the Cemeteries Act General Regulation 249/1998 as amended, outline the requirements for Cemeteries located within the Province of Alberta,

**NOW THEREFORE**, the Municipal Council of the Town of Carstairs, in the Province of Alberta, duly assembled, enacts as follows:

1. This Bylaw shall be known as the Town of Carstairs Cemetery Bylaw.
2. In this Bylaw:
  - a. **"Base"** shall mean a foundation or footing of concrete to support a monument or marker.
  - b. **"Block"** shall mean a group of lots that may be divided into plots or a group of plots as shown on the plan of subdivision of the Cemetery on record in the Town Office.
  - c. **"Cemetery"** shall mean land with the Town of Carstairs set apart for or used as a place for the interment of the dead or at which human bodies have been buried and known as Carstairs Cemetery.
  - d. **"Columbarium"** shall mean a permanent structure containing a number of niches for the placement of cremated human remains.
  - e. **"Columbarium Replacement Fund"** shall mean all funds received by the Town of Carstairs from the Columbarium Replacement fee and interest from the fund for the purpose of purchasing new columbaria.
  - f. **"Council"** shall mean the Council for the Town of Carstairs.
  - g. **"Deed"** shall mean the exclusive right to use a plot or niche in Carstairs Cemetery, as described in the said Deed for burial of human dead.
  - h. **"Flowering Ornamental"** shall mean any perennial, annual and bi-annual flowering plant.
  - i. **"Grave"** shall mean an excavation for the burial of human bodies or cremated remains.
  - j. **"Indigent"** shall mean a person without means, support, or known relatives requiring burial at the Carstairs Cemetery.
  - k. **"Interment"** shall mean the ceremonial service of burial of human bodies or cremated remains, the lowering of the human body or cremated remains into the grave or placement of cremated remains in the columbarium and the time required for the bereaved to leave the grave site or columbarium until closing of the grave or columbarium can commence. *On the occasion of interring two cremations in a niche or two burials in the same plot, at the same time, the Town shall consider it as one interment.*
  - l. **"Marker"** shall mean a structure of granite, marble, concrete or bronze for memorial purposes placed on any grave or plot level with the base.
  - m. **"Military Funeral"** shall mean the formal military participation at a member's funeral. A member may be entitled to a military funeral in accordance with QR&O 24-15 (Military Funeral). The discharge of fire arms will not be permitted unless approved by Council.
  - n. **"Monument"** shall mean an upright structure or memorial of bronze, granite, marble



or other stone material for memorial purposes which projects above the surrounding ground.

- o. **"Niche"** shall mean a single compartment of a columbarium.
- p. **"Outer Burial Receptacle"** shall mean an unsealed polypropylene or concrete liner 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.
- q. **"Perpetual Care Fund"** shall mean all funds received by the Town of Carstairs from the Perpetual Care Fee for the purpose of providing perpetual care and named the Carstairs Cemetery Perpetual Care Trust Fund.
- r. **"Plot"** shall mean a parcel of land for the purpose of a burial in the Cemetery and the area for a full burial (casket and outer burial receptacle) will normally be 1.2 meters by 2.8 meters.
- s. **"Resident"** shall mean a person who has resided within the Town of Carstairs immediately preceding his or her death or his or her application to purchase a plot.
- t. **"Town"** shall mean the Town of Carstairs, in the Province of Alberta.
- u. **"Chief Administrative Officer"** shall mean the person duly appointed by the Council as the Chief Administrative Officer of the Town of Carstairs and shall include any person designate by the Chief Administrative Officer to carry out his duties.
- v. **"Woody Ornamental"** shall mean any trees, shrubs, creepers and climbers.

#### Regulations

- 3. No person shall further subdivide or alter any block, lot or plot in any manner of at variance with the subdivision plans on record in the Town Office except by special written permission of the Town Council.
- 4. The Town has the sole management of the affairs of the Cemetery and this Bylaw may be amended from time to time by the Council. The Chief Administrative Officer or his designate shall have charge and be responsible for the care and maintenance of the Cemetery, according to the provisions of this Bylaw and amendments hereto.
- 5. The Town shall have plots available for the burial of human remains at all times.
- 6. The blocks, lots and plots in any particular section of the Cemetery shall be laid out in accordance with the Cemeteries Act and its General Regulations.
- 7. The Town shall have the authority to remove any weeds or grass, funeral designs or floral pieces which may become wilted or any other article or thing which in its opinion is unsightly.
- 8. No person shall move or remove any monument, marker, fence, railing or other work that is placed for the protection or ornamentation of a cemetery or grave lot and is installed in accordance with the by-laws of the cemetery.
  - 1) The Town may direct or permit:
    - (a) any monument or other item referred to in section 8 to be removed for necessary repairs, and
    - (b) any fence or railing or other work for protection or ornamentation erected on or around a grave lot to be removed if the fence or railing or other work is in such a state of disrepair as to be unsightly or dangerous.
  - (2) Where a monument or other item is removed it shall be returned as soon as practicable.
  - (3) The owner of a cemetery shall not act until the owner has taken reasonable steps to determine that:
    - (a) no interested person, including any close relative of the deceased, is prepared to make repairs.



- (b) no contract or other arrangement exists by which the owner has undertaken to maintain the fence, railing or other work.
- (4) Where the owner of a cemetery acts under subsection (1) (b), the owner may dispose of or otherwise deal with any material removed and no person has any claim in respect of that material.
- (5) The owner of a cemetery may direct that a monument or marker be moved to be in line with other monuments or markers or to facilitate care of the cemetery.
- (6) Where a monument or marker is moved under subsection (5) (a) the monument or marker must in its new position continue to relate directly to the grave for which it was erected, and (b) the owner of the cemetery is responsible for any damage to the monument or marker that may occur when it is moved.
9. Whenever the owner of a monument or marker neglects to make the required repairs or alterations within thirty (30) days after receiving notice from the Town to do so, the Town shall have the power to repair such monument or marker and charge the cost thereof to the owner which may be recovered as a debt from the owner to the Town.
10. No person shall disturb the quiet or good order of the Cemetery by noise, improper conduct or otherwise and the Town shall have the right to deny access or remove from the Cemetery any person who contravenes this section.
11. Employees of the Town are not permitted to do any work for plot owners except upon order by the Chief Administrative Officer.
12. Persons within the Cemetery shall only travel on the roads, walks and alleys as provided and no one is permitted to walk upon or across plots.
13. Vehicles in the Cemetery shall travel only on the roadways provided for the purpose and shall not travel at a speed greater than 10 km per hour.
14. A person who:
- (a) willfully destroys, mutilates, defaces, injures or removes a tomb, monument, grave stone 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, grave stone or other structure or a cemetery lot within a cemetery,
  - (b) willfully destroys, cuts, breaks or injures any tree, shrub or plant in a cemetery,
  - (c) discharges firearms in a cemetery, except at a military funeral,
  - (d) willfully and unlawfully disturbs persons assembled for the purpose of burying a body in a cemetery, or
  - (e) commits a nuisance in a cemetery,
- is guilty of an offence and subject to the penalties under the Cemeteries Act and this Bylaw.
15. No person shall plant any woody ornamentals or flowering ornamentals on the plots. However, if a person wishes to provide a plant for the cemetery, arrangements with the Town can be made for planting in an appropriate location.

#### Plots

16. The plans or subdivision of the lands made available by the Town for burial purposes now on record in the Town Office, together with all subsequent plans of subdivision of such lands approved by the Council of the Town, shall be the plans of the Cemetery herein referred to and all interments shall be made and records kept by the Town Office in accordance with such plans. Copies of all such plans shall be available for inspection free of charge at the Town Office during normal office hours.
17. The Chief Administrative Officer or designate shall supervise all sales of plots and interments in the Cemetery.
18. The Town shall, upon payment by any person to the Town of the partial or full price of any plot, furnish such person with a receipt for the sum paid and a transfer of such plot to such person or to such other person as such person may appoint by the issuance of a deed.



19. The Town shall sell plots in the Cemetery upon the purchaser paying in advance the amounts set out in the current years Rates & Fees Bylaw.
20. In the case where a plot is sold twice, the first sale notification received by the Town shall be considered valid. Second sale notification will get an alternate choice.
21. Plots shall not be resold to any other party, however plots may be transferred from one family member to another family member but no transfer shall be valid unless such transfer is duly registered with the Town.
22. Notwithstanding section 20, the owner of a plot may return it to the Town and shall be entitled to a refund of 85% of the prevailing rate as per the current years Rates and Fees Bylaw, including the perpetual care fee.
23. All persons who purchase plots or have plots transferred to them are responsible for all charges in connection therewith.

#### **Perpetual Care**

24. A perpetual care fee will be added to the interment price of all burial plots, cremation plots and columbarium niches and is set forth in the current years Rates & Fees Bylaw.
25. The Cemetery Perpetual Care Trust Fund shall be established for the future care of the cemetery once the Town establishes that the cemetery is full as determined by the Chief Administrative Officer.
26. Interest from the perpetual care fund shall be used for maintenance of the cemetery as determined by the Town.
27. Perpetual Care to be supplied by the Town shall not include the care, maintenance, upkeep, repair or replacement of any monument or marker which has been placed in the cemetery.
28. Tax deductible donations will be accepted and held in the Carstairs Perpetual Care Trust Fund.
29. When plots or niches are sold back to the Town the perpetual care fee shall be refunded in accordance with Section 22.

#### **Interments**

30. No interment shall be made in the Cemetery until the provisions of the Public Health Act and Vital Statistics Act of the Province of Alberta have been complied with and with the Cemeteries Act and its General Regulations issued hereunder.
31. No interments shall be permitted in the Cemetery unless a Vital Statistics Burial Permit is produced by the party applying for the burial. All applications for burial shall be made to the Town Office at least forty-eight (48) hours before time for interment. Any short notice burials may be assessed an additional fee as per the current years Rates & Fees Bylaw.
32. All orders for interment in the Cemetery shall be signed by the owner of the plot in which such interment is to be made, or as per the Royal Canadian Legion Carstairs Branch No. 53 representative (for plots owned by the Legion), except in the case of the Funeral Homes who have entered into an agreement with the Town whereby the said Funeral Homes agree to be responsible for all interments ordered by telephone, fax or otherwise. No interment shall be permitted until the forms provided by the Town have been completed and given to the Chief Administrative Officer.
33. Interment shall be made only between the hours of 8:00 A.M. and 8:00 P.M. Opening and Closing fees for services are set forth in the current years Rates & Fees Bylaw
34. The owner of a cemetery shall ensure that all graves are dug to a depth so that between the top of the casket and the ground surface level there is a distance of at least 0.6 meters if a substantial grave liner is used or at least 0.9 meters if such a grave liner is not used. More than one body may be interred in one grave if the top of the uppermost casket is at least 0.6 meters below the ground level if a substantial grave liner is used or at least 0.9 meters below the ground level if such a grave liner is not used.
35. Before interment the Town will ensure that there is an outer burial receptacle in place.



36. A charge for overtime will be payable by the applicant for any burials requiring Town employees to remain after working hours as set forth in the Rates & Fees Bylaw.
37. Cremated remains may be placed in or on the casket at the same time that interment takes place or cremated remains may be interred in the same grave plot at any time following initial interment of the original casket.
38. Graves shall be dug and interments made only by persons employed by the Town.
39. The Funeral Home shall be responsible for lowering the casket and the placing and removal of "greens." The Funeral Home representative shall be present until the outer burial receptacle is closed.
40. Whenever a plot is held by two or more persons, an order for interment in such plot or any part thereof will be accepted by the Town from any one of the said persons or their personal representative.
41. No person shall accept any fee or reward for the interment of any body in a plot of which such person is the owner or over which he exercises any power of control.
42. No plots shall be used for any purpose other than burial grounds for human bodies, and the cremated remains of human bodies.

#### **Disinterment**

43. No person not employed by the Town shall disinter or remove a body from any plot. A written order from the owner of the plot and a permit for the disinterment or removal of a body, as per Vital Statistics Act requirements, must be provided to the Town prior to the Town disinterring a body.
44. Disinterment shall be made only between the hours of 8:00 A.M. and 3:30 P.M. Fees for services are set forth in the current years Rates & Fees Bylaw.

#### **Care of Plots, Monuments and Markers**

45. To obtain the best landscape effects, it is essential that the Town shall assume the general care of the entire Cemetery. The owner(s) of plots shall observe all rules and regulations passed from time to time by the Town for keeping the plots in order.
46. No person shall be permitted to do any work on any plot except with the written consent of the Town.
47. All grading, seeding of grass and sodding work shall be done by the Town.
48. Fences, railings, walls, enclosures, copings, hedges, woody ornamentals, flowering ornamentals in or around the plots are prohibited. Coverings or slabs placed over any plot are prohibited.

#### **Installation of Monuments and Markers**

49. 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.
50. No work shall be done upon any monument nor shall any monument be installed or removed from the grave or plot without permission from the Town. A monument permit form must be completed and returned to the Town Office before any work is undertaken. The monument form is Schedule "A" (Revised) attached to and forming part of this Bylaw. All persons erecting monuments shall ensure that the surrounding areas are left in the same condition as found. An appointment must be made with Parks and Recreation prior to any monument being installed or removed. Office hours and contact information is located on the monument form. Schedule "A".



51. No monuments or markers shall be erected on Saturdays, Sundays or holidays unless permission in writing has been granted by the Town.
52. All monuments or markers should be firmly secured to the base and the foundation must be adequate to carry the monument marker.
53. a. Monuments must be constructed of stone resistant to weathering and cannot be constructed of concrete. In certain cases, metal may be used but it cannot be subject to oxidization.
- b. All bases of monuments or markers shall be confined within the boundaries of the respective plots. All monuments and markers shall be placed at the head of the plot on solid ground and shall be in line with other monuments in that section of the cemetery. No foot markers are permitted.
- c. Upright monuments will be no larger than 40" high, 36" wide and 18" in depth. Flat markers will be no larger than 2" high, 36" wide and 18" in depth.
54. No monuments shall be erected from November 1<sup>st</sup> to April 30<sup>th</sup>.
55. All work of any description shall cease while a funeral or interment is being conducted nearby. All trucks, equipment and workmen shall withdraw from view from the location of the funeral service.
56. Upon receipt of a Cemetery Monument Application, the Town may refuse the placement of any monument which may otherwise conform to the regulations of this Bylaw, but is not in keeping with the general appearance of the cemetery.
57. Any monument not conforming to the Bylaw specifications shall be removed by the Town following a thirty (30) day notification to the owner and/or installation company and will be held for sixty (60) days by the Town.
58. a. The Town shall not be liable for damages resulting from theft, vandalism or damage howsoever caused to monuments or markers erected upon a plot.
- b. The Town will not be responsible for any errors resulting in monuments or markers being designed or the description on the face being inaccurate.

#### **Penalty**

59. Any person who destroys, damages, defaces or writes upon any monument or marker or other structure or object in the cemetery in contravention of Regulation 14 of this Bylaw shall be guilty of an offense and liable upon summary conviction to a fine of not less than five hundred dollars (\$500.00) and to a total fine of not more than two thousand, five hundred dollars (\$2,500.00) plus all costs of restoration and in default of payment to imprisonment for a period not exceeding six (6) months.
60. Any person who commits a breach of any of the other provisions of this Bylaw shall on conviction for such breach, be liable to a penalty of not less than one hundred dollars (\$100.00) and not exceeding two thousand dollars (\$2,000.00) exclusive of costs, or in the case of nonpayment of the fine and costs imposed to imprisonment for any period not exceeding sixty (60) days.
61. A person who contravenes a provision of the Cemeteries Act General Regulations is subject to the penalties under the Cemeteries Act.
62. The Town will pay a reward of one hundred dollars (\$100.00) to any person for information that will lead to the conviction of any person committing a breach of this Bylaw.

#### **Provisions for Rules and Regulations:**

63. The Chief Administrative Officer may make rules and regulations consistent with this Bylaw for the effectual carrying out of this Bylaw and for the efficient management, control and regulation of the Cemetery.
64. The Carstairs Cemetery is governed under the Cemeteries Act and the Cemeteries Act General Regulation. If any definitions or regulations enacted for the purpose of this Bylaw conflict with the Act or Regulation, then the Act and Regulation shall prevail.

**Severability**

65. Should any section or part of this Bylaw be found to have been improperly enacted or ultra vires, for any reason, then such section or part shall be regarded as being severable from the Bylaw remaining after such severance shall be effective and enforceable as if the section found to be improperly enacted had not been enacted as part of this Bylaw.
66. This Bylaw comes into full force and effect on the date of its final passing.
67. This Bylaw is to repeal Bylaw 806 and Bylaw 984 and Amends Bylaw No. 1032.

**READ A FIRST TIME THIS 25<sup>TH</sup> DAY OF MAY A.D., 2021**

**READ A SECOND TIME THIS 25<sup>TH</sup> DAY OF MAY A.D., 2021**

**READ A THIRD AND FINAL TIME THIS 25<sup>TH</sup> DAY OF MAY A.D., 2021**



\_\_\_\_\_  
Deputy Mayor, Rick Blair



\_\_\_\_\_  
CAO, Carl McDonnell



**Revised Schedule "A"**  
**CEMETERY PERMIT**

**APPLICATION FOR A PERMIT TO INSTALL A PERMANENT MARKER IN THE CARSTAIRS CEMETERY**

**Date of Application:**\_\_\_\_\_ **Permit Fee:** \$30.00 + GST **Date of Proposed Installation:**\_\_\_\_\_

Type of Monument: \_\_\_\_\_(Double / Singe / Flat / Pillow / Military)

Placement of Monument: Double / Single / Military / Other: \_

Bylaw # 1032 Amended 53© states that no upright monument shall be larger than 40" in height, 18" in depth and 36" in width.

Flat monuments shall be no larger than 2" high (flush to ground), 18" in length and 36" in width. NO foot markers are to be placed within the Carstairs Cemetery.

(NO CONCRETE FOUNDATIONS WITH IN CARSTAIRS CEMETERY)

Monument / Marker Size (L x W): \_\_\_\_\_ Height: \_\_\_\_\_

Monument / Marker Base (L x W): \_\_\_\_\_ Height: \_\_\_\_\_

Granite Foundation (L x W): \_\_\_\_\_ Continuous Foundation – Yes or No

Name of Deceased: \_\_\_\_\_

Location of Deceased Plot: Lot \_\_\_\_\_ Block \_\_\_\_\_

Name of Reserve: \_\_\_\_\_

Location of Reserve Plot: Lot \_\_\_\_\_ Block \_\_\_\_\_

Name of Purchaser: \_\_\_\_\_

Monument Company: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Signature for Monument Company \_\_\_\_\_

This application for permission to install a grave marker in the CARSTAIRS Cemetery must be faxed to the Town Office prior to any installation with **at least 3 working days' notice to have the plot located and marked.**

**NO INSTALLATION WILL BE DONE UNLESS THE PLOT HAS BEEN LOCATED AND MARKED.**

Installations will be done from May 1 to October 31 weather permitting.

**PERMISSION IS GRANTED TO INSTALL A PERMANENT MONUMENT IN THE CARSTAIRS CEMETERY.**

Such installation shall be made in compliance with the Town of Carstairs Cemetery Regulations.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Town of Carstairs Representative

THE INFORMATION IS BEING COLLECTED UNDER SECTION 33(C) OF THE *FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT* AND WILL BE PROTECTED UNDER THE PROVISIONS OF THE ACT. FOR MORE INFORMATION PLEASE CONTACT THE FOIP COORDINATOR AT 403.337-3341

\_\_\_\_\_  
Date of approved Install

\_\_\_\_\_  
Authorized Town of Carstairs Representative