

29

TOWN OF HIGH RIVER
IN THE PROVINCE OF ALBERTA
BYLAW 4559/2019 – CEMETERY BYLAW

A BYLAW OF THE TOWN OF HIGH RIVER TO ESTABLISH CONTROL AND REGULATION OF THE CEMETERIES OPERATED BY AND UNDER THE CONTROL OF THE TOWN OF HIGH RIVER.

WHEREAS the Town of High River Council has authority to pass bylaws, pursuant to the *Municipal Government Act*, RSA 2000, c. M-26, and any amendments thereto;

AND WHEREAS pursuant to Sections 3 and 4 of the *Cemeteries Act*, RSA 2000, c. C-3, the Town is authorized to establish municipally owned Cemeteries and Columbaria (Alberta);

AND WHEREAS the Town of High River owns and/or operates Cemeteries and Columbaria in the Town of High River;

NOW THEREFORE the Town of High River Council, duly assembled, enacts as follows:

PART I – PURPOSE, DEFINITIONS, INTERPRETATION AND APPLICATION

Purpose

1. The purpose of this Bylaw is to provide for control and regulation of any cemetery operated by and under the control of the Town of High River.

Short Title

2. This Bylaw may be cited as the “Cemetery Bylaw”.

Definitions

3. Words used in this Bylaw have the same meaning as defined in the *Municipal Government Act*, with the following changes or additions:
 - (a) “**Act**” means the *Municipal Government Act*, RSA 2000, c. M-26, together with any amendments and Regulations made thereunder;
 - (b) “**Burial Permit**” means a permit produced by a funeral director overseeing the process of registering a death;
 - (c) “**Bylaw**” means Bylaw 4559/2019 also known as the Cemetery Bylaw of the Town;
 - (d) “**Cemetery or Cemeteries**” means land within the Town of High River that is managed and/or operated by the Town and is used as a place for the Interment of dead human bodies or other human remains, cremated pets, or personal artifacts;
 - (e) “**Cemeteries Act**” means the *Cemeteries Act*, RSA 2000, c. C-3, together with any amendments and Regulations made thereunder;
 - (f) “**Certificate of Easement**” is issued upon payment of a Lot for the right to use a Lot that is sold to a Licensee. Ownership of any space remains with the Town. A Licensee has no right to the use of any Lot until the purchase price is paid in full. All Fees for the Lot must be paid in full prior to the arrangement of Interment into the Lot;
 - (g) “**Columbarium**” means a structure or structures containing Niches designed for storing the ashes of dead human bodies, other human remains that have been cremated, or cremated pet remains, or personal artifacts;
 - (h) “**Council**” means the Municipal Council for the Town of High River;
 - (i) “**Disinterment**” means the removal of buried or placed human remains or cremated human remains, pet remains or artifacts from a Lot site or Columbarium;
 - (j) “**Executor**” means a person appointed by a person to carry out the terms of their will.

- (k) **“Foundation”** means a rectangular concrete base to support a Monument or Memorial Tablet where no Ribbon is present;
- (l) **“Funeral Party”** means the gathering or assembly of people at a Lot, Columbarium, Niche or other structure or object in the Cemetery;
- (m) **“Indigent”** means those persons whose financial means are not sufficient to cover the fees for Interment;
- (n) **“Interment”** means the burial or placement of dead human remains or cremated human remains, cremated pet remains, or artifacts in a Lot or Columbarium;
- (o) **“Lot”** means a Lot as shown on a Plan of Subdivision of a cemetery on record in the Town Office;
- (p) **“Memorial Tablet”** means a horizontal structure of bronze, marble, granite or other materials for memorial purposes placed on any Lot, level with the surrounding ground;
- (q) **“Monument”** means a vertical structure of bronze, marble, granite or other material which projects above the level of the surrounding ground;
- (r) **“Niche”** means a compartment within a Columbarium designed for storing the ashes of human bodies or human remains, pet remains, that have been cremated, or artifacts;
- (s) **“Niche Cover or shutter”** means a door or plate that is used to open/close a Niche;
- (t) **“Licensee”** means the person who purchases a Certificate of Easement for a Lot or Niche from the Town or the Executor of such person;
- (u) **“Perpetual Care”** means the preservation, improvement, embellishment and maintenance, in perpetuity and in a proper manner, of Lots, Columbarium, or other space in a Cemetery;
- (v) **“Rate Bylaw”** means the Bylaw to levy fees, fines and other charges in the Town;
- (w) **“Ribbon”** means a strip of concrete poured in place for the complete length of a row to accommodate the placement of Monuments or Memorial Tablets;
- (x) **“Town”** means the municipal corporation of the Town of High River;
- (y) **“Town Office”** means the Municipal Office for the Town of High River;
- (z) **“Town Manager”** means the Chief Administrative Officer in accordance with the *Municipal Government Act*, or his or her delegate.

Interpretation

4. References in this Bylaw to a statute, regulation or other bylaw refer to the current laws at the time this Bylaw was enacted and as they are amended from time to time, including successor legislation.
5. Headings and sub-headings in this Bylaw are included for convenience only and shall not be considered in interpreting the substantive content of this Bylaw.
6. The preamble paragraphs that precede the numbered paragraphs of this Bylaw are an integral and necessary part of this Bylaw and not a mere recital.
7. Every provision of this Bylaw is independent of all provisions and it is the intention of the Council that if any provision of this Bylaw is declared invalid by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

Application

8. This Bylaw applies to all Town owned Cemeteries.

Officials

9. The Town shall be responsible for the enforcement of this Bylaw as it relates to sales, a Certificate of Easement, arrangements for Interments, improvements, care and maintenance, operation and supervision of the Cemetery, the Lots therein and the conduct of Interments and all general relations with the public, unless a written contract regarding the operation and/or maintenance of a Cemetery and/or Columbaria by a third party has been authorized for execution by Council.
10. The Town may construct, erect, place or allow to be constructed, erected or placed in the Cemetery:
 - a. Columbaria for the placement of cremated remains;
 - b. benches, seating, walkways and laneways; and
 - c. such other structures, developments and improvements deemed necessary for the proper operation of the Cemetery.

General Provisions

11. Unless permission has been obtained from the Town, no person shall remove, destroy, prune or otherwise interfere with any trees, shrubs, plants or flowers in the Cemetery. All trees, shrubs, plants, or flowers shall be planted only under the direction of the Town.
12. No person shall remove any sod or earth from any portion of the Cemetery;
13. The top of Lots shall be kept level with the surrounding ground in accordance with Town standards.
14. The Town may remove from or prohibit any person placing in the Cemetery any stand, holder, vase or other receptacle for flowers or plants, any glass-encased wreath, or any flower pots, jars, bottles, iron or wire work or any ornaments or construction of any kind which the Town deems to be unsightly or otherwise unsuitable for such Cemetery.
15. The Town may remove from or prohibit any person from placing mementoes, flowers or any other items on the Columbaria or Niche Covers.
16. If, in the opinion of the Town, any trees, shrubs, or plants on any Lot become detrimental to adjacent Lots, walks, or driveways, or prejudicial to the general appearance of the grounds, the Town shall have the right to remove any such trees, shrubs, plants, or any parts thereof.
17. The Town may remove from all Lots, any weeds or grass and may also remove any floral pieces which have become wilted, unattractive, or otherwise displeasing.
18. All persons employed in the construction, erecting of Monuments, Foundations, Memorial Tablets, Columbaria, Niche Covers or doing other work in the Cemetery, whether employed by the Town or not, shall be subject to the direction and control of the Town.
19. The Town shall have the right to remove from the Cemetery any person who disturbs the quiet or good order of such Cemetery whether by noisy or improper conduct or otherwise.
20. Any society desiring to hold a memorial service shall give the Town at least seventy-two hours (three business days) notice of their intention to do so.
21. The plans of land used for Cemetery purposes shall be open for inspection free of charge at any time during which the municipal offices are open to the public.

22. The Town shall record all Interments in accordance with the plans of the lands used for Cemetery purposes.
23. No person shall erect borders, fences, railing, walls, copings, rails, curbs, plant hedges, or trees, in or around any Lot.
24. No Lot shall be covered by any slab of cement or other similar matter.
25. The Town shall have the right to remove such fences, borders, railings, walls, hedges, curbs, copings and other enclosures or coverings now in existence as the Town may deem advisable.
26. No person shall ride or drive a bicycle or other vehicle over any Lot or boulevard in the Cemetery.
27. The owner of any vehicle shall be responsible for any damage done by such vehicle in the Cemetery.
28. The Town may prohibit the driving of vehicles in any part of the Cemetery.
29. No animal shall be allowed in the Cemetery, "Except animals used for human assistance such as seeing-eye dogs, etc.", subject to Section 5 of the Revised Statutes of Alberta 2000, Chapter B-3, Blind Persons' Rights Act.
30. No person shall destroy, damage, deface or write upon any Monument, Memorial Tablet, Niche Cover or other structure or object in the Cemetery.
31. No person shall enter or use any portion of the Cemetery for purposes of recreation or entertainment, including camping, picnicking and social gathering.
32. No fires are permitted within any portion of the Cemetery.
33. Monuments are placed in the Cemetery at the Licensee's risk. The Town, including contractors hired by the Town, shall not be held responsible for any damage, destruction or defacement to any Monument, Memorial Tablet, Niche Cover, Lot or other structure or object in the Cemetery except for damages resulting during the performance of its normal duties.
34. Perpetual Care or repair needed to any Monument, Memorial Tablet or Niche Cover is the responsibility of the Licensee of the Lot.
35. Perpetual Care of any third-party Columbaria placed in the Town owned Cemeteries, with the prior approval of the Town, is the responsibility of the third-party.
36. No person shall enter any portion of the Cemetery, which is set apart for nursery grounds, garden, or storage area, without first having obtained the consent of the Town.
37. Funeral Parties departing the Cemetery after 4:00 p.m. will be subject to an overtime rate, in accordance with the Rate Bylaw, if it is necessary for Town employees to remain after their usual working hours.
38. All Funeral Parties shall be under the supervision and control of the Town while they are within the Cemetery.
39. Disinterment of a body shall not take place without written notification from the Licensee of the Lot, along with a Disinterment Permit issued in accordance with section 42 of the Vital Statistics Act and written authorization of the Town.
40. Disinterment of cremated remains shall not take place without written notification from the Licensee of the Lot and written authorization of the Town.

Lots/Niches

41. The Town shall keep proper records and plans, and each Lot/Niche in the Cemetery shall be shown numbered on such plans. The records kept by the Town shall show the Licensee of each such Lot/Niche together with all other information required pursuant to the Cemeteries Act and regulations passed thereunder.
 - a. The Town may divide the Cemetery into areas and may reserve any such areas in the Cemetery for the Interment of the remains of persons who at any time were with or were attached to, the Naval, Army or Air Forces of Her Majesty or a power allied or associated with Her Majesty;
 - b. The Town shall determine the location of any and all Lots that are to be sold.
 - c. The Town will allow 6 (six) additional cremation Interments in a preoccupied full Interment casket Lot. The Interments will be centrally located within the Lot and run the length of the Lot.
 - d. The Town will allow up to a maximum of 2 (two) cremations in a single cremation plot where the size allowance permits. In circumstances where the size allowance does not permit, the Town will allow for only 1 (one) urn per cremation plot.
 - e. The right to use any vacant space may be transferred provided that:
 - i. the Licensee or their legal representative signifies, in writing, to the Town to transfer their rights to another person; and
 - ii. the Town is provided with the full particulars of the name, address or other description of the person to whom such transfer is desired to be made and the consideration to be paid therefore;
 - iii. a transfer fee as specified in the Rate Bylaw shall be paid to the Town at the time of the application for transfer;
 - iv. after the transfer is implemented, any Interment made in the Lot space shall be subject to the Interment fees specified in the Rate Bylaw.
 - f. The Town shall have the right to refuse to sell the use of more than 4 (four) Single Lots or Niches to any one individual or estate.
 - g. If the Town for any reason deems a previously purchased Lot unusable, the Town will supply a similar Lot at no additional cost to the Licensee and the original Lot shall revert back to the Town.
 - h. If the Licensee of a Lot decides they no longer need the Lot, they may sell the Lot back to the Town for the original purchase price.

Interments

42. No Interment shall be permitted in the Cemetery unless a proper Burial Permit is produced to the Town by the party applying for the Interment. All applications for Interments shall be made during regular business hours, provided that such time, as may reasonably be required, shall be allowed for the opening of a Lot and in any case no less than 72 (seventy-two) business hours prior to the Interment, except as otherwise allowed by the Town.

43. Interment Options:

- a. The Interment of the cremated remains of a spouse may be permitted with a predeceased veteran in the Field of Honour Section, or after the Interment of a predeceased veteran in the Field of Honour Section.
 - b. The Town does not provide a Lot-liner, Lot-dressings or lowering apparatus. This is to be provided by the funeral home.
 - c. A Columbarium Niche Licensee is solely responsible for purchasing urns that will fit within the area inside the Niche.
44. No Interment shall be permitted until the Cemetery Request form, provided by the Town, has been completed.
45. Interments taking place on the weekend or on a statutory holiday will be charged an additional fee in accordance with the Rate Bylaw.
46. Lots shall be dug and Interments made only by persons employed by the Town and under the direction of the Town, and no person or persons not in the employment of the Town shall open any Lot for the purpose of Interring or removing a body.

Monuments, Memorial Tablets and Niche Covers

47. The purchase of a Columbarium Niche includes the supply of a granite Niche Cover. At the expense of the Licensee, the Niche Cover can be etched with lettering and pictures that can be coordinated with a funeral home or monument company.
48. No person shall do any Monument, Foundation, or Memorial Tablet work in the Cemetery:
- a. on a Saturday, Sunday or other holiday; and
 - b. between the hours of 4:30 p.m. and 8:30 a.m. Monday to Friday.
49. Monument, Memorial Tablets, for multiple Interments of 6 (six) cremated Interments in a preoccupied full Interment casket Lot:
- a. When the Lot is purchased for the intent to accommodate 6 (six) cremated Interments, and one full casket Interment, the Licensee shall consider at that time the design of the Monument/Memorial Tablet, that there are areas reserved to accommodate the additional Interments;
 - b. Memorial Tablets for multiple Interments of 6 (six) cremated remains in a pre-occupied Lot (casket) with an existing Monument/Memorial Tablet, the Memorial Tablets shall be placed above each cremated remain Interment, as long as they are contained within the boundaries of the 4'x8' full Interment Lot.
50. The surface area of the Lot shall control all Monuments and Memorial Tablets sizes. The face area of a Monument shall not exceed 15% of the area of the Lot on which it is to be erected and the length of the base shall not exceed 75% of the width of the Lot. The base area of the Monument shall not exceed 9% of the area of the Lot.
51. The Monument of the spouse of a veteran being Interred in the Field of Honour section must not obstruct the view of the veteran's monument or commemoration. The Memorial Tablet of the spouse must be separate from the veteran's monument and placed as a Memorial Tablet only, near the foot of the plot.

52. Where there is a Ribbon present, all Monuments/Memorial Tablets will be placed upon this ribbon. In the case of multiple cremated Interments in a preoccupied full Interment casket Lot, Memorial Tablets may be placed within the boundaries of the Lot but must be level with the surrounding ground.
53. No Monument work shall be delivered to the Cemetery until the area of the Lot is sufficiently developed for placement and/or until a Foundation is completed.
54. All Foundations, whether pre-cast or poured on site for the erecting of Monuments, shall be the sole responsibility of the firms who are retailing or handling Monuments.
55. All Memorial Tablets placed upon a Lot shall be of granite, marble, stone or bronze and shall not project above the surface of the ground except when erected as a Monument. Bronze Memorial Tablets shall be blind mounted, or tamper proof hardware mounted, on a concrete base, where no ribbon is present.
56. Except as otherwise provided in this Bylaw, the Town shall report to the Licensee, in writing, any Monument/Memorial Tablet or Foundation requiring repair and it shall be the duty and obligation of the Licensee at their sole expense to repair such Monument/Memorial Tablet or Foundation within 30 (thirty) days.
57. If an Licensee of a Monument/Memorial Tablet or Foundation fails to make the required repairs or alterations to the Monument/Memorial Tablet or Foundation within 30 (thirty) days of issuance of the written notice or report from the Town;
 - a. the Town shall have the power to remove such Monument/Memorial Tablet or Foundation from the Cemetery; or
 - b. to repair or replace such Monument/Memorial Tablet or Foundation and charge the cost to the Licensee.
58. If a Monument/Memorial Tablet, at the Town's discretion, is of a historical significance to the Town, the Town shall have the power to repair such Monument/Memorial Tablet at the expense of the Town but will provide adequate notice to the Licensee.

Fees

59. The Town is entitled to sell Lots, Niches and Interment services in the Cemetery, in accordance with Fees set forth in the Rate Bylaw, in advance of Interment.
60. All persons who purchase a Lot/Niche in the Cemetery shall be held responsible for the cost thereof and for all charges in connection therewith;
 - a. The person completing an application for Interment will be held responsible for charges in connection with such Interment.
61. The Town shall keep proper books of account showing all monies received from the sale of Lots/Niches and for all services rendered in the Cemetery, and showing all expenditures made in connection with the Cemetery.
62. The Town shall, upon payment by any person of the full price of any Lot(s) or Niche(s), furnish such eligible person with a Certificate of Easement for the sum paid and a document indicating the right to use such Lot or Niche to such person or to whom such person may appoint.
63. Right to cancel the Certificate of Easement by the Licensee on any unused Lots:
 - a. The Licensee may cancel the Certificate of Easement on any unused Lot at any time for any reason.

- b. When a Licensee cancels the Certificate of Easement on an unused Lot they will be refunded the amount paid for the Lot at the time of purchase.
 - c. When the Licensee cancels the Certificate of Easement, the Town has 60 (sixty) days to refund the purchase amount owed to the Licensee for the Lot, not including any interest that has accrued.
 - d. To cancel a Certificate of Easement, the purchaser of the certificate must give written notice of cancellation to the Town and must deliver the same to the Town via registered mail, email, fax, courier or personal delivery.
64. Resale of Interment Space:
- a. The Town will not allow the Licensee of a Certificate of Easement to resell the Interment space.
65. No second Interment shall be permitted in any Lot or Niche in the Cemetery on which there are unpaid charges due and payable to the Town.
66. The Town shall have the discretion to make available Lots in the Cemetery, without charge, for the use of the Indigent.

Regulations for Contractors and Workers

67. All contractors performing work in the Cemetery are required to produce evidence of public liability and property damage insurance in an amount not less than two million dollars (\$2,000,000.00) on an annual basis.

Limit of Liability

68. The Town, its officers, employees, servants, contractors, agents and elected officials shall not be liable for any injury to any person or property in the Cemetery for any cause whatsoever except any loss or damage directly caused by the negligence of the Town, its officers, employees, servants, contractors, agents or elected officials.
69. Without limiting the generality of subsection (53) above, the liability of the Town, its officers, employees, servants, contractors, agents, and elected officials for any claims, actions, causes of action, damages, costs (including solicitor and client costs), or expenses arising whatsoever from or in relation to any error or inaccurate description of any Lots, Niches or other structures or Interment rights shall be limited to the fees paid to the Town.

Enforcement

70. Where a Peace Officer believes that a person has contravened any provision of this Bylaw, the Peace Officer may commence proceedings against the person by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*.
71. This section shall not prevent a Peace Officer from issuing a violation ticket requiring a court appearance of the defendant pursuant to the *Provincial Offences Procedures Act* or from providing educational information instead of issuing a violation ticket.

Penalty

72. Where there is a specified penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the specified penalty for the offence. *Specified penalty* means an amount that can be paid by a person who is issued a violation ticket and is authorized to make a voluntary payment without a Court appearance.
73. Where there is a minimum penalty listed for an offence in Schedule "A" to this Bylaw, that amount is the minimum penalty for the offence.

PART II - GENERAL

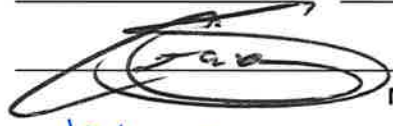
Effective Date

74. This Bylaw comes into effect when it is passed by the Council.


Repeals

75. Bylaw No 3510/84 is being repealed, being the Control and Regulation of Cemeteries Bylaw, is hereby repealed.


READ A FIRST TIME THIS 19th DAY OF August, 2019.


MAYOR/DEPUTY MAYOR
N. Chepil
Acting TOWN MANAGER

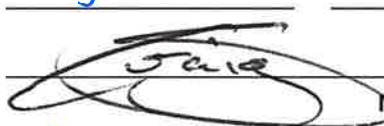
READ A SECOND TIME THIS 19th DAY OF August, 2019.


MAYOR/DEPUTY MAYOR
N. Chepil
Acting TOWN MANAGER

READ A THIRD TIME THIS 19th DAY OF August, 2019.


MAYOR/DEPUTY MAYOR
N. Chepil
Acting TOWN MANAGER

SIGNED AND PASSED THIS 19th DAY OF August, 2019.


MAYOR/DEPUTY MAYOR
N. Chepil
Acting TOWN MANAGER

BYLAW 4559/2019

SCHEDULE "A" – PENALTIES

Section	Description of Offence	Minimum Penalty	Specified Penalty
11	Interfere with trees, shrubs or flowers	\$ 150	\$ 200
12	Remove sod or earth	\$ 150	\$ 200
23	Erect borders, fences, railing, walls or rails	\$ 150	\$ 200
26	Drive a bicycle or vehicle	\$ 150	\$ 200
29	No animals allowed	\$ 150	\$ 200
30	Destroy, damage or deface monument	\$ 250	\$ 300
31	Use for recreation or entertainment	\$ 150	\$ 200
32	No fires	\$ 150	\$ 200
36	Entering areas set apart	\$ 150	\$ 200
39	Disinterment of a body	\$ 250	\$ 300
40	Disinterment of cremated remains	\$ 150	\$ 200
42	Proper burial permit required	\$ 150	\$ 200
44	Requirement of a proper form	\$ 150	\$ 200
48	No work on a weekend or after hours	\$ 150	\$ 200
53	No monument until lot sufficiently developed	\$ 150	\$ 200
55	Restrictions on memorial tablets	\$ 150	\$ 200

In the event of a second offence within a twelve (12) month period, the minimum and specified penalty shall double. In the event of a third and subsequent offences within a twelve (12) month period, the minimum and specified penalty shall triple.