

## BYLAW NO. 040-98

### A BYLAW IN THE TOWN OF PONOKA IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE CONTROL AND REGULATION OF CEMETERIES OPERATED BY THE TOWN OF PONOKA

WHEREAS the Cemeteries Act, R.S.A. 1980, c. C-2 as amended, and the regulations thereunder, permit a municipality to own and operate cemeteries within its boundaries;

AND WHEREAS, pursuant to the Municipal Government Act, S.A. 1994, c. M-26.1 as amended, any Council may pass bylaws for municipal purposes respecting services provided by the municipality;

AND WHEREAS the Council of the Town of Ponoka deems it necessary to pass a bylaw respecting the operation of cemeteries owned by the Town of Ponoka;

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

#### SHORT TITLE

This bylaw shall be called the "*Cemetery Bylaw*."

#### DEFINITIONS

In this Bylaw, unless the context otherwise requires:

1. "*Block*" shall mean a specific area within the cemetery as designated by the Town of Ponoka;
2. "*Cemetery*" shall mean the *Forest Home Cemetery* in the Town of Ponoka owned and operated by and under the control of the Town and situated on Lot A, Plan 737EO, Plan 5492HW and Lots C & D of Plan 818 NY;
3. "*Cemetery Supervisor*" shall mean the employee or department of the Town charged with the care and control of the Cemetery, or an employee of the Town to whom the Cemetery Supervisor delegates the responsibilities under this Bylaw;
4. "*Columbarium*" shall mean a structure designed for storing the ashes of dead human bodies or other human remains that have been cremated;
5. "*Council*" shall mean the Council of the Town of Ponoka;
6. "*Field of Honour*" shall mean an area in the Cemetery reserved for burial of service and ex-servicemen and women of Her Majesty's Armed Forces and their spouses;
7. "*Flowering Ornamental*" shall mean any perennial, annual or bi-annual flowering plant;

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8. "*Grave liner*" shall mean a concrete or metal rough box placed in a grave to house a casket;
9. "*Indigent*" shall mean a Person without means, support, or known relatives requiring burial at the Cemetery;
10. "*Land Use Bylaw*" shall mean the Town's Land Use Bylaw No. 013-97, as amended, and includes any Bylaw passed in substitution for Bylaw No. 013-97;
11. "*Lot*" shall mean a group of graves without a walkway or roadway between them;
12. "*Mausoleum*" shall mean a structure wholly or partly above the level of the ground and designed for the burial or storage of dead human bodies;
13. "*Monument*" shall mean any structure in the Cemetery erected or constructed on any grave or Plot, for memorial purposes;
14. "*Person*" shall include an individual, partnership or corporation;
15. "*Plot*" shall mean one grave;
16. "*Reserve Plot*" shall mean a Plot or number of Plots which lie adjacent to one another and which are to be reserved for the burial of one or more deceased members of a family;
17. "*Resident*" shall mean a Person who has resided within the Town of Ponoka or County of Ponoka No. 3 immediately preceding his or her death or his or her application to purchase a Plot;
18. "*Town*" shall mean the Town of Ponoka;
19. "*Town Bylaw Enforcement Officer*" shall mean a Bylaw Enforcement Officer appointed by the Town pursuant to the Municipal Government Act, to enforce the Town Bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized by Council, a Special Constable;
20. "*Veteran*" shall mean a Person who was a member of the Armed Forces of Canada, the United Kingdom or any Armed Forces of a country allied with Canada or the United Kingdom who served in any war;
21. "*Woody Ornamental*" shall mean any trees, shrubs, and creeping or climbing plants;
22. "*Working Hours*" shall mean the regular hours of work between 7:30 a.m. and 4:30 p.m., Monday through Friday, excluding declared or Statutory Holidays.

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### DUTIES, RIGHTS AND POWERS

23. The Cemetery Supervisor shall have the sole control of all matters within the Cemetery that are concerned with maintaining the grounds in a neat and pleasing condition, and to that end is hereby authorized to regulate and control the Cemetery grounds.
24. The Cemetery Supervisor is hereby authorized to remove, or have removed, any weeds, grass, funeral designs or floral pieces which may become wilted, or any other article or thing which, in the opinion of the Cemetery Supervisor, is unsightly.
25. If, in the opinion of the Cemetery Supervisor, any Woody Ornamentals situated on or about the Cemetery become, by means of their roots or branches, or in any other way detrimental to adjacent Plots, walks or driveways, prejudicial to the general appearance of the grounds, or dangerous or inconvenient to the public, the Cemetery Supervisor is authorized to remove such Woody Ornamentals, or any parts thereof.
26. No Person shall erect upon a Plot or Lot any fence, railing, wall, border, hedge, coping or the like and where any of the same have been previously erected around a Plot or Lot and have, by reason of age or neglect, become unsightly or objectionable, the Cemetery Supervisor may cause such to be removed, after 30 days notice of the intention to do so has been given to the owners of the Plot, or to relatives if the owner is deceased, or published in a newspaper circulated in the Town, if the relatives are unknown.
27. Every owner of a Monument or other erection upon any Plot shall maintain it in proper repair.
28. When, in the opinion of the Cemetery Supervisor, any Monument is in a state of disrepair, he shall notify the owner in writing thereof and require that repairs be promptly undertaken. Any Monument or structure not repaired within 90 days after a letter has been sent to the owner or his personal representative, to the last know address provided to the Town, may be removed and retained in the custody of the Cemetery Supervisor for a period of 90 days to allow the Person responsible for its maintenance to claim the Monument and return it to an acceptable condition.
29. The Cemetery Supervisor may remove any Monument from a Plot when necessary to gain access to another Plot, provided that such Monument is re-installed in a like manner.

### PLOTS

30. Plans for burial purposes, including a record of all interments and disinterments will be kept at the Town office. Copies of all such plans shall be available for inspection free of charge at the Town office during regular office hours.
31. Plots shall be available for the burial of human remains at all times.

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32. No Person shall make a reservation for one or more Plots without making payment in full at the time of the reservation.
33. Upon payment of the full price of any Plot, the Town shall provide a receipt for the said sum, and provide a certificate for such Plot to such Person or to that Person's personal representative, as such Person may appoint.
34. Plots shall not be resold, however, Plots may be transferred from one family member to another family member. No transfer shall be valid unless it is duly registered with the Town.
35. When a Plot is held by 2 or more Persons, an order for interment in such a Plot of any part thereof will be accepted by the Town from any one of the said Persons or their personal representative.
36. No Person shall accept any fee or reward for interment of any body in a Plot of which such Person is the owner, or over which that Person exercises any power of control.
37. Plots shall not be used for any purpose other than burial grounds for human remains.
38. All burials are to be made within the confines of a single Plot. There shall not be more than one full body burial in a single Plot. Notwithstanding the forgoing, ashes to a total of 4 cremated remains, may be buried in an occupied Plot when the Person in charge of the ashes has received permission for such burial in that Plot from the Cemetery Supervisor. A cremation plot will allow a maximum of 2 cremated remains.

### INTERMENTS AND DISINTERMENTS

39. No interment shall be permitted in the Cemetery unless and until there has been produced to the Cemetery Supervisor, the following:
  - a. a burial permit issued by the proper office of the Government of the Province of Alberta; and
  - b. a Town Burial Order completed and signed by the owner of the Plot in which such interment is to be made, or the personal representative of such owner, except in the case of 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 or otherwise.
40. Between May 1<sup>st</sup> and October 31<sup>st</sup> in any year, all applications for burials shall be made to the Town office at least 48 hours before the time for interment. Between November 1<sup>st</sup> and April 30<sup>th</sup>, all applications for burials shall be made at least 72 hours before the time of interment.

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41. Notwithstanding any other provisions of this Bylaw, orders for interment for Saturday, Sunday or Statutory Holidays, must be placed with the Town office at least 48 hours before the burial is to take place, unless the Cemetery Supervisor, for emergent reasons, otherwise allows.
42. Funerals must reach the Cemetery not later than 4:00 p.m. on the date of the burial. A charge for overtime will be made if it is necessary for personnel to remain after their usual Working Hours.
43. No interment shall be made without the written proof of ownership of the Plot.
44. The use of Grave Liners is mandatory.
45. No grave for the burial of a deceased Person of the age of 5 years or over shall be less than 6 feet between the top of the casket and the surface of the ground.
46. No grave for the burial of a deceased Person under the age of 5 years shall be less than 4 feet between the top of the casket and the surface of the ground.
47. No grave for the burial of cremated remains shall be less than 24 inches in depth from the surface of the ground.
48. The burial of cremated remains shall be in such portion or portions of the Cemetery as may be designated by the Cemetery Supervisor and indicated on the Cemetery plans located at the Town office.
49. The burial of destitute or Indigent Persons and unclaimed bodies may be placed in such a portion or portions of the Cemetery as may be designated by the Cemetery Supervisor, and as indicated on the Cemetery plans located at the Town office.
50. All work being conducted in the immediate vicinity of a Plot shall be discontinued during a burial service at that Plot.
51. Disinterment of a body shall not take place until a permit for disinterment is issued by the Provincial Director of Vital Statistics and delivered to the Cemetery Supervisor. No disinterment shall be allowed, except for re-burial in the same grave at greater depth, unless permission is first obtained for that purpose by the Cemetery Supervisor and, if given, such permission shall be in writing and signed by the Cemetery Supervisor.
52. The Person requesting a disinterment shall give complete and precise instructions regarding the location of the grave. The Town shall not be responsible for any errors resulting from the lack of proper instruction.
53. All interments and disinterments in the Cemetery shall be under the control of the Cemetery Supervisor.

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54. Every owner of a Plot in the Cemetery, or the owners personal representative, shall be held responsible for the cost of the Plot and for all charges in connection therewith, including disinterment or removal of a body when applicable. The Person signing the burial order will be held responsible for all charges in connection with such interment. Such Person shall, in addition, be held responsible for compliance with the regulations governing erection of Monuments applicable to that part of the Cemetery in which the interment is made.

### MONUMENTS

55. All Persons employed in the construction and erection of Monuments or doing other work in the Cemetery, whether they are employed by the Town or not, shall be subject to the direction and control of the Cemetery Supervisor. No work shall proceed until it is authorized by the Cemetery Supervisor.
56. No Person shall erect, or cause to be erected, any Monument without submitting an application to erect a Monument, including a description of the Monument, to the Town and receiving approval from the Town.
57. The placement of Monuments shall comply with the following requirements:
- a. A concrete foundation extending 6 inches on each side of the Monument not less than 6 inches in depth and being at the level of ground adjoining the grave Plot. Proper forms must be used for construction.
  - b. Monuments must be placed on that portion of the Plot undisturbed by excavation and must be in line with other Monuments in that section of the Cemetery.
  - c. Monuments shall be constructed of stone, such type of stone having a high resistance to weathering and erosion. Monument bases may be constructed in concrete. Boulder Monuments and Mausoleums may be permitted in designated blocks.
  - d. Inscriptions on Monuments must be of sufficient depth and quality so as to be legible and durable. Metal plaques which oxidate or deteriorate are not permitted.
  - e. No inscription shall be placed on any Monument which is not in keeping with the dignity and decorum of the Cemetery.
  - f. Upright and Boulder Monuments must not exceed the following dimensions:  
  
40 inches in height  
18 inches in depth  
48 inches in width

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- g. Pillow Monuments must not exceed the following dimensions:
    - 12 inches in height
    - 18 inches in depth
    - 48 inches in width
  - h. Flat markers must not exceed 24" x 48" and must be mounted securely, flush with the surface of the ground.
  - i. Flat markers will only be installed on the most easterly grave when a Plot is divided in half.
  - j. Notwithstanding the provisions of this Section, each Monument shall be in keeping with the appearance of other Monuments in the Cemetery and with the character of the Cemetery.
  - k. The Town may refuse the placement of any Monument, which may otherwise conform with these regulations, should it be determined that the proposed Monument is not appropriate for placement in the Cemetery.
  - l. The Town will not be responsible for any errors resulting in Monuments being designed, or the description on the face being inaccurate.
  - m. The Town will not be responsible for normal wear and tear on monuments, this includes small chips and scratches from maintenance equipment.
58. All foundations for the erecting of Monuments shall be level, flush with the ground, made of concrete, at least 6 inches in depth, and extend not less than 6 inches beyond the extreme lateral dimension of the Monument.
59. All Persons erecting Monuments shall ensure that such Monuments are firmly secured to the foundation, and that the foundation is adequate to carry the Monument.
60. All Persons erecting Monuments shall ensure that surrounding areas are left in the same condition as found.
61. No Monument shall be installed without a permit, nor shall any Monument be removed, from any Plot without the permission of the Cemetery Supervisor. If the Cemetery Supervisor grants approval, the Town shall issue a Monument permit.
62. When any Monument, grave stone, or memorial of any kind is to be removed, or any inscription made on a Monument or cleaning done, permission shall be obtained from the Cemetery Supervisor. Application for such permission shall be made in writing by the owner of the Plot, with a description of the work proposed.

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63. No Person shall erect or cause to be erected more than one Monument or structure on any one Plot.
64. Grave covers are prohibited except where one presently exists in which case the owner of the Plot, or personal representative, may install a stone to match an existing grave cover.
65. No Person shall install a Monument in any Block within the Cemetery unless it conforms to the type and style of Monument permitted to be installed in that Block as follows:

All types of Monuments, except Mausoleums and Boulders, are allowed in all Blocks with the additional following exceptions:

Block 5 SW	In the Field of Honour, Veteran upright Monuments only.
Blocks 8 & 8A	Flat and pillow Monuments, except Lots 1 - 27, flat Monuments only.
Block 9D	Flat Monuments only (cremations).
Blocks 10D & 11D	Flat Monuments only.
Block 12D	All Monuments, Mausoleums, and Boulder Monuments are permitted in this area of the Cemetery.
Block 16 (Field of Honour)	Upright Veteran Monuments only (flat grave markers may be installed at the foot of a grave in addition to the Veteran's Monument).

### VEHICLES IN THE CEMETERY

66. No Person shall drive any vehicle through the Cemetery at a speed exceeding 15 kph and then may only drive a vehicle upon the roadway provided for that purpose.
67. The Cemetery Supervisor may prohibit the driving of any vehicles in any part of the Cemetery.
68. The Cemetery Supervisor may prohibit the driving of any vehicles in the Cemetery when the roads are in an unfit condition.
69. No Person shall ride a bicycle, snowmobile, motorcycle or horse in the Cemetery unless they are a part of a funeral procession.



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70. The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the Cemetery.

### FIELD OF HONOUR

71. The Town may set aside and maintain an area in the Cemetery which shall be known as the Field of Honour.

### GENERAL PROVISIONS

72. No Person shall disturb the quiet and good order of the Cemetery by noise or other improper conduct.
73. A member of the Royal Canadian Mounted Police, the Town Bylaw Enforcement Officer, the Cemetery Supervisor, or any other designated Person in charge of the Cemetery, may evict therefrom, using such force as is reasonably necessary, or deny entrance to any Person who contravenes with this bylaw.
74. The Town will take all reasonable precautions to protect the property within the Cemetery, but assumes no responsibility for the loss of, or damage to, any Monument, marker or part thereof, or any other article placed on a Plot, or to a Plot itself.
75. No Person other than the Cemetery Supervisor shall disturb or remove or place any Flowering Ornamental, Woody Ornamental, sod or dirt anywhere in the Cemetery except as may be provided for herein.
76. Flowering Ornaments or Woody Ornaments donated in memory of a deceased Person will be planted by the Cemetery Supervisor at a place in the Cemetery designated by the Cemetery Supervisor.
77. No Person shall place Woody Ornaments on a Plot or at the head or foot of a grave.
78. No Person shall destroy, damage, deface or write upon any Monument or other structure or object in the Cemetery.
79. No Person shall deposit any litter of any kind on any portion of the lands within the boundaries of the Cemetery except in receptacles provided for that purpose.
80. No animal shall be allowed in the Cemetery unless such animal is on a leash and under the control of an adult Person.

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### ENFORCEMENT

81. Any Person who contravenes a provision of this Bylaw is guilty of an offence and is liable to pay a fine not exceeding \$5,000 exclusive of costs, for breach thereof, or in the case of non-payment of the fine and costs, imprisonment for a period not exceeding 60 days.

### SEVERABILITY

82. Should any provision of this Bylaw be invalid, then such invalid provision shall be severed and the remaining Bylaw shall be maintained.


### EFFECTIVE DATE

83. Bylaw No. 582-88 and Bylaw No. 9-94 are hereby repealed.
84. This Bylaw shall come into effect upon third and final reading.

First Reading	September 8 <sup>th</sup> , 1998
Second Reading	November 10 <sup>th</sup> , 1998
Third & Final Reading	November 10 <sup>th</sup> , 1998

### TOWN OF PONOKA

  
\_\_\_\_\_  
MAYOR

  
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TOWN MANAGER