

BY-LAW NO. 7151

AS AMENDED BY BY-LAW NO. 7165.

BEING A BY-LAW of The City of Brandon to establish and maintain a public cemetery and to adopt rules and regulations for the maintenance of, order in, and for the proper care of such cemetery.

WHEREAS The Cemeteries Act, RSM 1987 c.C30 authorizes and governs the establishment of rules and regulations pertaining to every cemetery established in the Province of Manitoba;

AND WHEREAS the City of Brandon has established and deems it expedient to continue a public cemetery and to adopt rules and regulations for the maintenance of, order in, and for the proper care of same.

NOW THEREFORE the Council of the City of Brandon duly assembled enacts as follows:

PURPOSE AND DEFINITIONS

1. This by-law shall be known as the “Cemetery By-law” and is for the establishment and continuation of a public cemetery, including the adoption of rules and regulations for the maintenance of order in and for the proper care of such cemetery.
2. Unless the context otherwise requires:
  - (a) “AUTHORIZATION” means written authorization signed by the Director.
  - (b) “CEMETERY” means that area set aside by the City for the burial of human remains, including cremated remains.
  - (c) “CITY” means the municipal corporation of The City of Brandon.
  - (d) “CITY TREASURER” means the Treasurer of the City or designate.
  - (e) “COLUMBARIUM” means an above-ground structure of vaults lined with recesses for cinerary urns.
  - (f) “COUNCIL” means the Council of the City.
  - (g) “DIRECTOR” means the Director of Community Services of the City or designate.
  - (h) “FEE SCHEDULE” means those fees related to the Cemetery as established annually by Council in conjunction with their budget deliberations and maintained by the City Treasurer.
  - (i) “GRAVE” means any lot within the cemetery which has been or will be used for the interment of human remains, including cremated remains but does not include columbarium.
  - (j) “LEADHAND” means the person or designate placed in charge of the day-to-day operation of the Cemetery and under the supervision of the Director.
  - (k) “LEGAL HOLIDAY” means and includes any Statutory Holiday, Civic Holiday, or any other general holiday which may be established by any level of Canadian government.
  - (l) “LINER” means any product, such as wood, steel, fibreglass, plastic or polypropylene, used to enclose a casket and approved by the Director.
  - (m) “LOT” means any location established for use as a grave, whether occupied or not, within the cemetery which shall be designated by a distinct Lot, Block, and Section description in accordance with the plan of subdivision referenced in Section 3, herein.
  - (n) “OWNER” means that person on record with the City who is entitled to receive a deed of title for a cemetery lot, regardless of whether one has been requested by or issued to that person, and includes any agent or person appointed to represent the owner, and in the case where the owner is deceased their heirs or executors.
  - (o) “VETERAN” means any person who is or has honourably served in the Canadian Armed Forces, Allied Forces, Reservists and Peacekeepers, as outlined in the guidelines of the Last Post Fund/Veteran Affairs Canada.

### SALES AND CONVEYANCES

3. (a) The plan of subdivision into Lots, Blocks and Sections, of the land described in Title Number 2826296/2, BLTO, known as 1901 – 18<sup>th</sup> Street, now on record and under control of the Director, together with all subsequent plans of subdivision of such lands and any future acquisitions or expansions, approved from time to time by the Council, shall be the plan of the Cemetery herein referred to; and all interments shall be made and records kept in accordance with such plan, a duplicate of which shall be kept by the Leadhand.
- (b) Sections of the cemetery have special allocation for specific burial purposes:
  - i) Children's Section - sections 18 and 37
  - ii) Cremation Section - sections 44 and 53
  - iii) Lawn Section - sections 40, 41, 45 and 52
  - iv) Regular Section - all other sections are referred to as regular sections
  - v) Roman Catholic Section - sections 1, 20, 21, 36, 46 and 50 have historically been referred to as the Catholic Section
  - vi) Veterans' Section - sections 25, 26, 27, and 32;
  - vii) Veterans' Field of Honour – sections 33 and 34 (cremation)
  - viii) all future cemetery developments shall be governed by this by-law
4. Any person wishing to purchase a lot should select a location in consultation with Cemetery Staff and attend at the Cemetery office, or such other designated location, to pay for the selected lot(s), at such rates set out in the fee schedule. No lot is reserved until payment in full is received.
5. The Director shall issue particulars to the City Treasurer giving the description of the lot(s) and the price. On the presentation of a receipt issued by the City Treasurer for the proper amount, the Director shall issue the Deed.
6. Following the purchase of such lot(s) and upon request, a Deed in a form as set out in Schedule "A" hereto, will be issued by the Director to the owner.
7. (a) No sale or other transfer of any lot or niche, or any interest therein, will be accepted by the Director until a duly executed authorization has been received from the owner specifying the name and address of the transfer and the appropriate fee has been paid in full.
- (b) Where the lot or niche is inherited, the new owner must provide proof of ownership to the Director by submitting a notarial copy of the probate or letter of administration, or such other proof as is satisfactory to the Director.

### TARIFF OF CHARGES

8. The prices to be paid for the purchase of lots in the cemetery, the charges for interment or disinterment, and all related surcharges, shall be established annually by Council in conjunction with its budget deliberations and included in the City's annual fee schedule.
9. Prepayment of interment charges will not be accepted.

### RULES AND REGULATIONS

#### GENERAL

10. The Cemetery shall be closed to the public after sunset and before sunrise of each day.
11. All persons, unless otherwise authorized, are required to confine themselves to the avenues or walks to avoid walking on graves.
12. All persons are prohibited from writing upon, scratching, defacing or injuring any monument, fence or other structure in or belonging to the Cemetery.
13. All persons, except authorized employees, are prohibited from picking flowers, either wild or cultivated, or damaging or injuring any tree, shrub or plant in the Cemetery.
14. No vehicle is permitted to enter the Cemetery except through the regular entrances. No unauthorized person shall drive a vehicle over any part of the Cemetery except on the roadways. No person shall ride a bicycle over any grave, nor lean same against any monument or marker. No vehicle shall travel in the Cemetery at a speed greater than twenty-five (25) kilometres per hour.

15. All pets shall be on a leash or other such restraint and confined to the paved walkways in the Cemetery. Pet owners must comply with all provisions of the Animal Control By-law.
16. No alcohol shall be permitted in the Cemetery, except for religious ceremony.
17. The use of mylar, plastic or other non-biodegradable balloons and/or ribbon shall not be permitted in the Cemetery
18. No person shall engage in any game or sport, or discharge any firearms (except at a military funeral) in the Cemetery, or unlawfully disturb persons assembled for the burial of the dead, or commit a nuisance, or behave in any indecent or unseemly manner at the Cemetery.
19. No all-terrain vehicles or snowmobiles shall be allowed within the limits of the Cemetery with the exception of City vehicles.
20. The Leadhand, or other authorized employee, shall have the power to remove from the Cemetery any person disturbing the quiet or good order of the Cemetery by noisy or improper conduct or language, or any person violating any of the provisions of this by-law.
21. The Director, in his sole discretion, shall have other powers as such arise by necessary implication from this by-law or other statutes to make administrative decisions for the conduct and operation of the cemetery.

### **INTERMENTS AND DISINTERMENTS**

22.
  - (a) No person shall dig or open any grave or cause any graves to be dug or opened in any place within the Cemetery 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 Cemetery other than as aforesaid.
  - (b) All interments and disinterments of a deceased person must be conducted in strict compliance with provincial and/or federal legislation.
23. All persons applying for an interment in the Cemetery, whether as principals, agents or funeral directors, shall furnish to the Director such particulars for the purpose of record as the City requires before such interment will be allowed.
24. Upon receipt of the information required by Section 22 hereof, the Director shall issue an Interment Order and provide same to the Leadhand 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.
25. Graves shall be dug and interments made only by persons in the employ of the City, and under the direction of the Leadhand.
26.
  - (a) During the period from October 15 to April 15, forty-eight (48) hours' notice, exclusive of Saturdays, Sundays, and legal holidays, must be given to the Leadhand to prepare graves for interment or disinterment.
  - (b) During the period from April 16 to October 14, twenty-four (24) hours' notice, exclusive of Saturdays, Sundays, and legal holidays, must be given to the Leadhand to prepare graves for the interment or disinterment of persons.
  - (c) Any notice period less than identified above shall be subject to a surcharge as noted in the fee schedule.
27.
  - (a) Every regular interment of an adult shall be at a minimum of six (6) feet in depth from the surface of the ground surrounding the grave.
  - (b) Every interment of cremated remains shall be not less than two (2) feet in depth from the surface of the ground.
  - (c) Any regular grave shall have no more than four (4) interments with the following restrictions:
    - i) one body and a maximum of three cremated remains; or
    - ii) a maximum of four cremated remains where there is no body interred; or
    - iii) where the first opening of the grave is a minimum seven and one-half (7½) feet in depth, two adult bodies and two cremated remains per grave shall be allowed, subject to the regulations and surcharges pertaining to extra-depth interments as noted in the fee schedule.
    - iv) in the case of children under two (2) years of age, a burial may be made above another body.
    - v) other combinations as approved at the sole discretion of the Director.

27. (d) Interment on a Saturday, Sunday or legal holiday is subject to the payment of a surcharge as noted in the fee schedule.
- (e) Interments shall be conducted between 0830 hours and 1600 hours daily except Saturdays, Sundays, and legal holidays, on which days special arrangements will be required. Funeral arrivals later than 1600 hours shall be levied an additional surcharge in accordance with the fee schedule. Interments outside of these hours require special arrangement and are subject to an additional surcharge.  
[AM. B/L 7165]
28. Children, stillborn to ten (10) years of age, may be interred in a standard lot in the Children's Section at a minimum of four (4) feet in depth from the surface of the ground.
29. No reservation shall be allowed in that portion of the Cemetery set aside for the burial of children.
30. Whenever liners for caskets are used in burials, such liners shall be at the Cemetery one business day prior to the time set for the interment. A surcharge, as noted in the fee schedule, shall be charged for any liner not delivered as noted above.
31. (a) Installation of a liner will be charged a fee as set out in the City's annual fee schedule.
- (b) No burial shall be allowed in the Lawn Section without an approved liner installed under the supervision of the Leadhand.
- (c) First burial in an extra-depth grave shall require an approved liner installed under the supervision of the Leadhand.
- (d) Wooden and biodegradable liners will not be approved for use in the Lawn Section or extra depth graves.
- (e) No concrete liners shall be permitted within the Cemetery.
32. (a) No person shall disinter or remove the remains from any grave until the requirements of "The Vital Statistics Act" as to disinterments have been fully complied with, a permit has been produced for such disinterment or removal from the Minister responsible for public health, and a receipt from the City has been produced showing that the necessary fees have been paid. City staff will only expose to the liner or casket. All handling of interred remains shall be the responsibility of the funeral director.
- (b) No person shall remove cremated remains from a grave or niche without first producing a written order from the City, and receipt showing that the necessary fees have been paid. The removal of all cremated remains shall be the sole responsibility of the Leadhand.

#### MONUMENT REGULATIONS

33. All monuments, headstones, landmarks, grave coverings or any other work done by a monument company, funeral home, or any other business or organization or individual is subject to the approval, control, and direction of the Director. Any work done in contravention of any approval, control, or direction, may be removed or altered at the expense of the offending party.
34. (a) All foundations for monuments, headstones, or any other object whatsoever shall be laid by the City under the direction of the Leadhand. Such work will be charged at the costs noted in the City's annual fee schedule, to the party submitting the foundation request.
- (b) The foundation will have a minimum projection of three inches (3") on all sides of such monument, headstone, or other object, whereby such projection shall 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.
- (d) The City shall not assume any responsibility or costs incurred as a result of vandalism to monuments located in the cemetery.
35. (a) Borders, fences, railings, trellises, copings, hedges, iron posts or any ornamental material shall not be constructed in or around any grave or lot.
- (b) Borders, fences, railings, trellises, copings, hedges, iron posts or any ornamental material in existence prior to October, 2000 are entitled to remain.

35. (c) Notwithstanding Section 35. (b), the City may remove any border, fence, railing, coping, hedge, iron posts, or any other bounding or enclosing material erected 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 their last known address.
- (d) 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.
- (e) The minimum thickness/depth for a flat marker installed in any section of the cemetery shall be four inches (4").
36. Monument dimensions shall be as follows:
- (a) the dimensional measurements of a monument shall be consistent with the lot direction, as follows:  
W - is the measurement of the monument across the width of the lot  
L - is the lengthwise measurement of the monument at the head or foot of the lot  
H - is the height of the monument
- (b) Cremation Section  
Only flat markers are allowed with a 2" rise at the back.  
24" W X 14" L (maximum)  
16" W X 8" L (minimum)
- (c) Lawn Sections  
Only flat markers are allowed with a 2" rise at the back  
Marker/single lot - 38" W (maximum) X 14" L  
Marker/double lot - 76" W (maximum) X 14" L
- (d) Regular Sections  
Base/single lot - 32" W X 18" L (maximum)  
Base/double lot - 80" W X 18" L (maximum)
- (e) Section 39 and 48 only:  
Base/single lot - 30" W X 18" L X 16" H (set size)  
Die size/single lot - 24" W X 12" L (set size)  
Base/double lot - 36" W X 18" L X 16" H (set size)  
Die size/double lot - 30" W X 12" L (set size)
- (f) Children's Sections  
Base/single lot only - 22" W X 14" L X 24" H (maximum)
- (g) Veterans' Sections  
Veterans Affairs Canada type upright marker - 15" W X 3" L X 39" H  
Flat marker for spouse only of grey polished granite shall be placed in a cement foundation abutting the veteran's headstone in proper alignment and flush with surrounding turf, being 16" W X 8" L unless otherwise authorized by the Director.
- (h) If not part of the monument, vases must be placed at the side of the monument provided the vases and the monument combined do not exceed the allowable monument size. No more than two vases per monument are permitted.
37. All headstones erected shall be confined within the boundaries of the respective family lots or graves purchased; and any straightening of headstones beyond the capacity of the City shall be at the responsibility and expense of the owner.
38. Only one (1) upright monument is permitted on any plot. When a secondary stone is desired/requested, a flat marker may be accommodated provided that same is installed flush to the ground below the original upright monument and does not exceed the W & L dimensions of the upright marker.
39. All headstones or monuments shall be placed in such a manner as to maintain a proper alignment.
40. 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, is condoning 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.
41. Notwithstanding the provisions of Section 40, donated or sponsored items such as park benches shall be permitted in the cemetery providing the design, location and inscription, has received previous approval of the Director.

**FLORAL ARRANGEMENTS/LANDSCAPING/DECORATIVE ORNAMENTATION**

42. Fresh and artificial flowers shall be permitted, provided they are in an approved receptacle and adjacent to the base and/or marker.
43. The Leadhand will remove or prevent the placing of any stand, holder, vase, or other receptacle for flowers or plants, or decorative ornamentation which is deemed to be unsuitable for such purpose or is unsightly in appearance or is not physically attached to the monument or base. No glass of any kind will be permitted.
44. The Leadhand 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 is in his opinion unsightly.
45. The City may at any time cause any lot to be cleaned of weeds and grass.
46. No trees or shrubs shall be planted in the Cemetery, and no trees or shrubs growing therein shall be moved, destroyed, pruned or otherwise interfered with, except under the direction of the Leadhand.
47. Herbaceous perennials and annual flowers of a suitable character may be planted and maintained on a grave in permitted areas. Planting of flowers in those areas set aside as Cremation, Veterans' and Lawn Sections shall not be permitted.
48. Grave coverings shall not be allowed.
49. The grading and sodding of all lots shall be under the control of the Leadhand, and made to conform to the Section in which the lot may lie.

**COLUMBARIUM SECTION**

50. Not more than two (2) urns shall be allowed per niche. Urns must be non-biodegradable.
51. To maintain uniformity, a memorial plaque will be utilized and two (2) plaque service requirements are included. Any further service requirements will be at a fee as set out in the City's annual fee schedule.
52. No decorative attachment or ornamentation shall be permitted on any niche.

**CREMATION SECTION**

53. Sections No. 44 and 53 of the Cemetery are set aside as a lawn section for the burial of cremated remains. A maximum interment of two cremated remains shall be permitted in each grave under this section except by special written permission of the Director.

**VETERANS' BURIALS**

54. Those portions of the lands shown upon the key map or plan of the Cemetery as the "Veterans' Cemetery" are hereby set apart, dedicated and continued as a Veterans' interment ground.
55. Sections 25, 26, Rows A, B and C of Section 27, and Section 32 of said Veterans' Cemetery, shall be for the exclusive use of veterans who saw active service with the Canadian Armed Forces during the South African War, World War I, World War II, or the Korean War.
56. Notwithstanding Section 8 of this by-law, no charge shall be made for a lot or for interment of a body in the sections of the Veterans' Cemetery as identified in Section 55 of this by-law. Upon exhaustion of those lots, this same exemption of charge shall be provided within those sections designated in Section 60 of this by-law as "Field of Honour" for those veterans who saw active service in the conflicts set out in Section 55 of this by-law. Further, the provisions of Sections 4, 5 and 6 of this by-law shall not apply to burials therein.
57. No lot in the Veterans' Cemetery shall be available for reserve other than for use by a veteran's spouse, who is also a veteran.
58. No interment shall be made in the "Veterans' Cemetery" unless written confirmation of service with the Canadian Armed Services has been provided whereby confirmation shall be in the following form:
  - (a) regiment and service number; and
  - (b) discharge papers or other equivalent documentation.

59. Notwithstanding Section 57 hereof, the burial of a Veteran's spouse shall be allowed in such Veteran's grave subject to the following regulations:
- (a) written consent of the Director;
  - (b) prior interment of the Veteran;
  - (c) payment of the interment charges established in the City's annual fee schedule.

#### FIELD OF HONOUR

60. Sections 33 and 34 of the Veterans' Cemetery shall be designated as the "Field of Honour" and are hereby set apart and dedicated as an interment ground for any Veteran as defined in this by-law.
61. Section 34 shall be set aside for the burial of cremated remains only, and a maximum interment of two cremated remains shall be permitted in each grave within this section.
62. The purchase of a lot and/or interment in the "Field of Honour" shall be subject to such charges and related surcharges established annually in the City's fee schedule.
63. Interment of remains in the Field of Honour shall be subject to all applicable rules and regulations as set out in this by-law.

#### INDIGENT BURIALS

64. The burial of indigent persons, whether resident of the City of Brandon or otherwise, shall be in a regular burial lot and not in a portion of the Cemetery set apart for the burial of indigents, and the current or regular fees for lot and interment shall be charged to the appropriate government agency which is liable for the burial of such indigent person.

#### REPEAL AND PENALTY

65. By-law No. 6632, and all amendments thereto, to establish a public cemetery for the City of Brandon and to adopt rules and regulations for maintenance and proper care of such cemetery, be and the same are hereby repealed.
66. Any person violating any of the provisions of this By-law shall, upon conviction before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding One Thousand Dollars (\$1,000.00) and costs, and in default of payment thereof to imprisonment for a period not exceeding thirty (30) days, unless said penalty and costs are sooner paid.
67. This By-law shall come into force and take effect on January 1, 2017.

DONE AND PASSED, in Council at the City of Brandon this 3<sup>rd</sup> day of October A.D. 2016.

"R. Chrest"

MAYOR

"H. Ewasiuk"

CITY CLERK

Read a first time this 18<sup>th</sup> day of July A.D. 2016

Read a second time this 3<sup>rd</sup> day of October A.D. 2016

Read a third time this 3<sup>rd</sup> day of October A.D. 2016

I, Heather Coreen Ewasiuk, Clerk of the City of Brandon, DO HEREBY CERTIFY the above within to be a true and correct copy of By-law No. 7151, as amended by By-law No. 7165.

"H. Ewasiuk"

H. Ewasiuk, City Clerk

**SCHEDULE "A"**

**KNOW ALL MEN BY THESE PRESENTS** that the City of Brandon in consideration of \$ \_\_\_\_\_ paid to it by \_\_\_\_\_ of \_\_\_\_\_ (the receipt whereof is hereby acknowledged) doth grant unto the said \_\_\_\_\_ his (or her) heirs and assigns, Lot No. \_\_\_\_\_ in Block No. \_\_\_\_\_ and Section No. \_\_\_\_\_ shown on Plan of the Public Cemetery of the City of Brandon, adopted by By-law of the City of Brandon, No. \_\_\_\_\_ which Public Cemetery is established by said By-law No. \_\_\_\_\_.)

**TO HAVE AND TO HOLD** the same unto and to the use of the said \_\_\_\_\_ his (or her) heirs and assigns for the purpose only of a burial lot and subject to all such regulations and by-laws as may be adopted from time to time or passed by the City Council of the City of Brandon, respecting said Public Cemetery.

**IN WITNESS WHEREOF** the Corporate Seal of the City of Brandon has been hereto affixed, attested by the signature of the Director.