THE CITY OF WINNIPEG

BY-LAW NO. 130/2007

A By-law of THE CITY OF WINNIPEG relating to the Brookside, St. Vital and Transcona Cemeteries

THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short Title

1. This By-law may be referred to as the "**Cemetery By-law**".

Definitions

2. In this by-law:

"**Administrator**" means the Administrator of the Municipal Cemeteries Division or his/her designate.

"**Cemetery**" or "**Cemeteries**" means Brookside, St. Vital or Transcona Cemeteries or any other cemetery operated by the City as the context requires.

"**Child lot**" or "**Infant lot**" means an area of land sufficient in size for the interment of one child or infant casket.

"**City**" means The City of Winnipeg.

"**Columbarium**" means an above ground structure or building in a cemetery designed and used for the interment of the cremated remains of a deceased person/s.

"**Council**" means the Council of The City of Winnipeg.

"**Cremated remains lot/plot**" means an area of land designated to be used solely for the interment of the cremated remains of a deceased person/s.

"Cremorial" means a compartment in an in-ground structure for the interment of cremated remains of a human being.

"**Crypt**" means a sub-surface vault used for the interment of the cremated remains of more than one deceased person.

"**Director**" means the Director of the department responsible for the cemeteries operated by the City, or his/her designate.

"**Double depth interments**" means a lot dug at extra depth at time of the interment of the first casket to accommodate a second interment at regular depth.

"Funeral Director/Home" means any individual, firm, partnership or corporation who arrange funerals on behalf of their private clients.

"**Interment**" means the burial, placement or scattering of human remains or cremated remains in a lot, plot, crypt or niche.

"Interment Fee" includes the charges for the opening and closing of a lot, plot, cremated remains lot/plot, crypt or niche, use of lowering device, grave linings, earth cover, and other necessary services.

"**Lot**" means an area of land sufficient for the interment of one adult casket.

"Marker" means a flat memorial marker installed flush with the surrounding turf on a lot, plot or cremated remains lot/plot, in memory of a deceased person.

"**Medical Section**" means the section of a cemetery where the remains of persons who have donated their bodies to the University of Manitoba are interred.

"**Memorial**" means a monument, plaque or flat marker installed in memory of a deceased person.

"**Memorial Dealer**" means any individual, firm, partnership or corporation who manufactures, sells or installs memorials.

"**Monument**" means an upright memorial.

"**Niche**" means a compartment in a columbarium for the interment of cremated remains of a deceased person.

"Ossuary" means a vault used for the interment of loose cremated remains.

"**Owner**" means the owner of a lot, plot, cremated remains lot/plot, cremorial or niche

"**Plot**" means an area of land sufficient for interment of two or more caskets.

"Scattering Bed" means an area of land set aside for the inground scattering of cremated remains.

"Vault" means a reinforced box placed inside a lot/plot, cremated remains lot/plot.

Purchase Terms and Conditions

3(1) The purchase price of lots, plots, cremated remains lots/plots, cremorials and niches and other goods or services including interment fees, disinterment fees, foundations fees and other fees will be as determined by Council from time to time.

(2) No interment may be made, no deed may be given and no memorial may be erected or installed until all fees and the purchase price of the lot, plot, cremated remains lots/plots, cremorial or niche have been paid in full.

(3) Any person who purchases a lot, plot, cremated remains lot/plot, cremorial or niche and any person placing a request for an interment will be responsible for all related costs and must comply with all applicable legislation.

(4) Lots/plots cremated remains lots/plots, cremorials, or niches and other services or goods, can only be used for the purpose for which they are intended.

(5) Where no interment has taken place or memorial has been installed in a lot, plot, cremated remains lot/ plot, cremorial or niche, and where the said lot, plot, cremated remains lot/plot, cremorial or niche is suitable for resale, the Administrator may, at the request of the owner and upon proof of ownership, refund all monies paid, less an administration fee and may re-sell the lot, plot, cremated remains lot/plot, cremorial, or niche.

Instalment Payment Plans

4(1) Lots, plots, cremated remains lots/plots, cremorials, niches and standard open and close fees may be purchased on installment by individuals provided final payment of all monies owed is made within one year of the signing of the agreement to purchase and prior to any use.

(2) Where payment in full is not received within one year, ownership of the respective lot, plot, cremated remains lot/plot, cremorial, or niche will revert to the City and the purchaser or their estate is entitled to a refund of all monies paid less any administrative fee as determined by Council from time to time and without interest, on submitting, where necessary, Letters of Probate or Administration and a Death Certificate.

(3) Lots, plots, cremated remains lots/plots, cremorials and niches may be purchased on installment by religious groups or organizations on terms determined by the Administrator.

Deeds

5. All Deeds for the sale of any lot, plot, cremated remains lot/plot, cremorial or niche, must be approved as to form and content by the Director and will be subject to this By-law, any resolutions of Council and any rules and regulations made by the Director from time to time.

Rules and Regulations

6(1) The Director is hereby authorized to make rules and regulations for a cemetery or any part thereof, including, but not limited to, the following:

(a) the information required to be provided to effect a transfer, sale or re-sale of any lot, plot, cremated remains lot/plot, cremorial or niche.

(b) the designation of special sections within cemeteries, including restrictions or prohibitions on the types of interments or memorials, if any, that may be installed therein.

(c) the information required to be provided prior to any interment;

(d) the amount of notice required to be given prior to an interment, which may vary with the day or season.

(e) the hours of operation of each cemetery and the times during which interments may occur.

(f) the responsibilities of Funeral Directors, Memorial Dealers, or Contractors within a cemetery.

(g) the conduct of persons within a cemetery.

(h) the construction, size, type, installation and location of any memorial; and

(i) regulating, prohibiting or removing any landscaping, planting, gardening, fencing, railings, posts, the placement of any plantings or wreaths or any other construction.

Interments

7(1) No interments or scattering of cremated remains may take place on Saturdays, Sundays or Civic or Statutory Holidays except as determined by the Director.

(2) Cemeteries may only be used for the interment of human bodies or their cremated remains.

(3) No remains may be interred except in an approved urn, casket, vault, or shroud, and except for an interment into a scattering bed or an ossuary.

(4) No person may open a lot, plot, cremated remains lot/plot, cremorial, niche, or ossuary, or make use of a scattering bed for an interment or a disinterment unless employed by the City or its authorized agent .

(5) No remains may be interred or scattered without the knowledge and approval of the Administrator and without a City employee in attendance.

(6) All funeral processions within a cemetery must be under the supervision and control of the Administrator.

(7) The maximum number of interments in a lot is two caskets and two urns where the first interment was at double depth or, one casket and three urns or, where no casket interment has taken place, four urns containing cremated remains.

(8) The maximum number of interments in a child or infant lot is 1 casket and 2 urns or where no casket interment has taken place, 3 urns containing cremated remains.

(9) (a) Only one body, shall be contained in each urn, casket, vault, or shroud, unless duly authorised by the Administrator.

(b) Where more than one body or remains is authorised to be contained in a urn, casket, vault, or shroud, an interment fee for each body or remains shall be payable.

(10) Interment in the Field of Honour will be permitted for only those persons who have qualified military service as outlined in the guidelines of the Last Post Fund, Veteran Affairs Canada and the cremated remains of a spouse, or mother, or father or son, or daughter, or brother or sister will be permitted as an additional interment in the same lot to a maximum of 2 interments in total.

Double Depth Interments

8(1) Double depth casket interments or disinterments may not take place.

(2) Persons owning lots or plots purchased for double depth casket interments prior to August 01, 2001 may obtain two side-by-side lots, one in exchange for the previously purchased

double depth lot and the second lot at the same cost as the original purchased lot/plot.

(3) The charge for double depth cremation interments will be the prevailing interment charge, plus the applicable amount stated in the fees and charges.

(4) Where a second casket interment is made in a double depth lot, the second interment must have at least 36 inches (91.44 cm.) or in the case of any cremation interment 12” inches of earth over the top of the outside container.

Cremated Remains Lots and Plots

9(1) In any cremated remains lot having dimensions of two feet by two feet (60.96 cm x 60.96 cm), a maximum of two urns may be interred at single depth.

(2) In any cremated remains plot having dimensions of three feet by three feet (91.44 cm x 91.44 cm) a maximum of four urns may be interred and all urns must be interred at single depth.

(3) In any cremated remains lot/plot having dimensions of two feet by four feet (60.96 cm x 121.92 cm), where more than two urns are to be interred, the first, second and fourth urn must be interred at single depth and the third urn must be interred at double depth.

(4) In the Medical Section, only cremated remains may be interred at single depth and only the cremated remains of the spouse will be permitted as an additional interment in the same lot at single depth.

Disinterments

10(1) No disinterment will be allowed from any cremation crypt, ossuary, or scattering bed.

(2) No disinterment may occur from any other area without the approval of the Administrator and the receipt of such documentation as required by law is first obtained, and the Administrator or designate attends the disinterment.

Memorials

11(1) No person may construct, repair, install or re-locate any memorial unless they have obtained the required permit and have paid the appropriate fee and comply with any additional rules and regulations as determined by the Director.

(2) The owner of or person responsible for a memorial must ensure that it does not become unsightly, dilapidated or dangerous, and in the event the owner or person responsible fails to do so, the Director may remove or repair any such memorial and recover the costs from the owner or person responsible

(3) Only City employees may place or install flat markers.

(4) No more than one monument may be erected on any one lot.

(5) No memorial is permitted in or on a crypt or scattering bed.

Perpetual Maintenance Reserve

12(1) Each cemetery will have a separate Perpetual Maintenance Reserve Fund created with a sum equal to 25% of the purchase price of a lot, plot or cremated remains lot/plot, or a sum equal to 15% of a cremorial or niche purchase, or a sum equal to 10% of a scattering of cremated remains, set aside in the reserve, invested and applied to and for the perpetual care of the lot or plot or cremated remains lot/plot, cremorial, niche, scattering bed or ossuary area. Perpetual care includes general maintenance, of lots, plots, cremated remains lots/plots, columbarium niches or the cemetery enclosure.

(2) The City may, annually, utilize up to 50% of the yearly earnings from the relevant Perpetual Maintenance Reserve to undertake improvements or maintenance in the cemetery.

General

13. Where any person owes outstanding fees or charges, the Administrator may refuse to allow any other interments or work until all outstanding fees and charges are paid in full.

Closure of the Cemetery

14. The Administrator may close any cemetery from time to time as deemed necessary and appropriate.

Penalties & Enforcement

15. A person who contravenes a provision of this by-law or any of the rules and regulations made by the Director is guilty of an offence and is liable on summary conviction:

(a) in the case of an individual, to a fine of not more than $1,000.00, or imprisonment for a term of not more than six months, or both; and

(b) in the case of a corporation, to a fine of not more than $5,000.00.

Designated Employees

16. The Director and his/her delegates may conduct inspections and take steps to administer and enforce this by-law or remedy a contravention of this by-law in accordance with *The City of Winnipeg Charter* and, for those purposes, have the powers of a "designated employee" under *The City of Winnipeg Charter*.[1]

Address for Service

17. Where an address for service must be determined, it shall be determined by using the ownership records maintained by the Administrator.

Appeals

18. An appeal from an order or decision under this By-law may be made to the Standing Policy Committee on Planning, Property & Development in accordance with *The City of Winnipeg Charter.*

Consequential Amendment

19. Subsection 4(e) of The Execution of Documents By-law No. 7367/99 is amended by deleting "No. 1996/78" where same appears herein.

Previous By-laws Repealed

20. By-law No. 1996/78 is hereby repealed except that the fees referred to in Schedule A thereto shall remain in force and effect until Council amends or repeals them.

DONE AND PASSED, in Council assembled, this day of , 2007.

Approved:

_____
Director
Planning, Property & Development

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Mayor

_____
City Clerk

Approved as to content & details:

_____
Administrator
Municipal Cemeteries Division

Certified as to form:

_____
for City Solicitor/
Manager of Legal Services