

BYLAW NO. 1824

A bylaw relating to the operation, management and maintenance of the Cemeteries of the Town of Creston.

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WHEREAS the *Community Charter* authorizes municipalities by bylaw to develop, improve, regulate and maintain Cemeteries inside or outside of the Municipality;

NOW THEREFORE, the Council of the Town of Creston, in open meeting assembled, enacts as follows:

## Part 1 Citation

- 1.1 This bylaw may be cited as “Cemeteries Regulations and Operations Bylaw No. 1824, 2015”.

## Part 2 Severability

- 2.1 If a portion of this bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

## Part 3 Previous Bylaw Repeal

- 3.1 That Town of Creston bylaw cited as “Cemeteries Regulations and Operations Bylaw No. 1434, 1998” and all amendments thereto, are hereby repealed.

## Part 4 Introduction

- 4.1 This Bylaw is to provide for the control, regulation and operation of Forest Lawn and Pioneer Cemeteries in the Town of Creston.

### Forest Lawn Cemetery

(1) Parcel Identifier Number: 016-813-316

Legal Description: That part of Lot 25, District Lot 812, Kootenay District, Plan 730A lying West of a line which bisects the Northerly and Southerly boundaries of said Lot.

(2) Parcel Identifier Number: 017-152-551

Legal Description: That part of Lot 25, District Lot 812, Kootenay District, Plan 730A lying East of a line which bisects the Northerly and Southerly boundaries of said Lot.

(3) Parcel Identifier Number: 016-813-359

Legal Description: That part of Parcel A (See 7517-I), Lot 26, District Lot 812, Kootenay District, Plan 730A lying west of a line which bisects the Northerly and Southerly boundaries of said Lot.

## Pioneer Cemetery

(1) Parcel Identifier Number: 16-120-426

Legal Description: Part (2.09 acres) of District Lot 525, Kootenay District, Plan 693B.

- 4.2 The purpose of this Bylaw is threefold:
- a) It defines the rights, interests and privileges of the operator, plot owner, suppliers, and visitors;
  - b) It gives the Cemetery Administration and Personnel the guidelines under which they must operate; and,
  - c) It reflects the legislation of the Province, the policy of the Town of Creston, and the current Cemetery rules.
- 4.3 All Bylaws, Rules and Regulations of the Town of Creston Cemeteries are in accordance with the regulations of the *Cremation, Interment and Funeral Services (CIFS) Act (Provincial Cemeteries Act)*, *Regulation, Business Practices and Consumer Protection (BPCP) Act*, *Coroners Act*, *Public Health Act*, *Vital Statistics Act*, *Health and Safety Regulations*, and *Employment Standards*.

## Part 5 Definitions

- 5.1 In this Bylaw, unless otherwise indicated, the following terms as used in these Rules and Regulations shall have the meanings indicated:

**“Act”** means the *Cremation, Interment and Funeral Services Act*, which governs Cemetery and Funeral Practices in the Province of BC.

**“Ages”** means baby, infants and children to 2 years of age; child, any person from 2 years of age to 6 years of age inclusive; adult, any person 7 years of age or over.

**“Burial”** means the interment of human remains in an earth plot or above ground crypt or the interment of human cremated remains in each plot or niche. The act of burying a deceased person; interment or inurnment.

**“Burial Permit”** means a permit issued by the Funeral Home under the *Provincial Vital Statistics Act*.

**“Bylaws”** mean the Bylaws passed by the Town of Creston Council to conduct and administer the management of the Cemeteries. Bylaws set out the mission and rules that direct the operation of the Cemeteries. All Bylaws are binding on the owner, his/her heirs, executors and administrators, or any person visiting or using Cemetery services. The Town of Creston has the right to set, delete or amend any Bylaw for the operation, care and maintenance of the Cemeteries.

**“Bylaws Notice”** means a notice issued under this Bylaw to a person that has failed to comply with the regulations, prohibitions and requirements of this Bylaw, and that the person must comply within a certain period of time and meet certain conditions.

**“Cemetery”** means land that is set apart or used as a place of interment of human remains. Any Cemetery owned, maintained, used and operated by the Town of Creston, inside or outside the Municipality. Cemeteries shall mean all the Cemeteries and columbariums now or hereafter developed, acquired or erected by the Town of Creston.

**“Cemeteries Administration”** means the Administration of the Cemeteries, headed by the Director of Cemeteries and includes any person authorized by the Director to conduct and administer the management of the Cemeteries. Common using: Cemetery or Cemeteries or Cemetery Council.

**“Cemetery Care Fund”** means the fund established in accordance with the *Provincial Cemeteries Act* for the purpose of providing for the long term care and maintenance of the Cemeteries. Common usage: Perpetual Care Fund, Cemetery Fund, Future Care Fund.

**“Cemetery Caretaker”** means the person appointed by the Town of Creston to carry out the duties in the Cemeteries necessary for maintenance, burials, the recording of burials, memorialization, and the safety and all on-going and project work necessary to the running of the Cemeteries. Common usage: Works Superintendent, Field Crew, Cemetery Staff.

**“Cemetery Select Committee”** (CSC) means a Committee appointed by Council to advise Council on the operations and development of the Cemeteries within the Creston Valley that are managed by the Town of Creston. The CSC will consider and make recommendations regarding annual capital and operating budgets, care and development fund management, long term land use and site development, and interment and memorialization needs.

**“Cemetery Services”** means the supply of any service at a Cemetery, including the supply of goods incidental to and a part of interment burial rights, perpetual care, the opening and closing of graves, the supply of greens and lowering devices, the sale, storage and installation of grave liners, and the installation of memorials (markers and headstones).

**“Clerk”** means the person appointed by the Town of Creston to maintain records as required in the *Cremation, Interment and Funeral Services Act*, who will issue necessary permits and will work with the Cemetery Caretaker to arrange and schedule burials.

**“Columbarium”** means a structure or building in a Cemetery designed for the interment of cremated human remains in sealed niches.

**“Cremated Remains”** means the remnants of the human body that remain following the cremation process. Common usage: Cremains, Ashes.

**“Director of Cemeteries”** means the person, duly appointed by the Town of Creston, who is responsible for the operation of and maintaining order in the Cemetery. This responsibility includes the supervision, charge and control of the management of all records, books, plans, and documents. A permanent record must be kept of all sales, location descriptions and the names of any person buried, and the dates associated with these records or transactions. The Director has charge of all Cemetery property and all persons employed within and all works carried out, including Bylaw Enforcement. Common usage: Cemeteries Director, Manager, Director of Municipal Services.

**“Disinterment”** means the removal for the purpose of permanent relocation, of human remains and the container or the remains of the container that holds human remains, from the plot in which the human remains are interred.

**“Former Resident”** means an individual who has formerly resided in the Town of Creston or the Regional District of Central Kootenay, Areas A, B or C, for a minimum of ten (10) years. **BL#1865**

**“Grave Liner”** means a concrete box placed in the ground to enclose a casket in a grave in a Cemetery. The grave liner is designed and constructed to withstand the weight of soil and standard Cemetery equipment and thereby to prevent the grave from collapsing. Type, material, specifications and size of container shall be supplied or pre-approved by the Cemetery.

**“Interment”** means the burial or other placement of full body or cremated remains in a Cemetery. Entombment means the placement of a casket containing human remains in an above ground crpt. Inurnment means the placement of an urn containing cremated remains in a grave, crpt or columbarium niche.

**“Interment Right Contract”** means the contract made and signed between the purchaser of the location or service(s) or his/her representative and the Cemetery Administration Representative. Common usage: Permit, Cemetery Application, Purchase Agreement, and Invoice.

**“Invoice”** means the contract made and signed between the purchaser of the location or service(s) or his/her representative and the Cemetery Administration Representative. Common usage: Permit, Cemetery Application, Purchase Agreement, and Interment Right Contract.

**“Legal Representative”** means a person or persons directed in a deceased persons will or by the courts to carry out the requests of the deceased persons.

**“Memorial”** means a structure of approved bronze or stone placed on any grave, either upright or ground level as stipulated by the Cemetery, indicating the place of burial and the person buried in that site. Common usage: headstone, monument, marker, plaque.

**“Minister”** means the Minister of the Executive Council of the Government of British Columbia charged with the Administration of the *Cremation, Interment and funeral Services Act*.

**“Owner”** means the person(s) with the right(s) to use a plot in the Cemetery for the purpose of immediate or future interment. The owner is responsible for the cost of the plot and all related charges. The owner, purchaser and user may all be the same person, but the owner is not necessarily the person purchasing/paying for the space, or the person for whom the space is intended. After the initial owner is deceased, the Cemetery recognizes the plot ownership following the order of priority as set out in the Provincial Order of Disposition.

**“Order”** means taking a remedial action, giving an approval, making a decision or a determination, issuing a permit, or exercising discretion under this Bylaw.

**“Plot”** or **“Lot”** means a specific space area identified by a unique, individual description, designed for burial of casketed or cremated remains, or for the interment of cremated remains in a columbarium niche. Common usage: grave, niche, lot, space.

**“Perpetual Care Fund”** means the fund established in accordance with the *Provincial Cemeteries Act* for the purpose of providing for the long term care and maintenance of the Cemeteries. Common usage: Cemetery Care Fund, Future Care Fund.

**“Pre-need Contract”** means a contract for the purchase of burial rights and services prior to the death of the person for whom the services are purchased and assigned to.

**“Provincial Cemeteries Act”** means the *Cremation, Interment and Funeral Services Act (SBC 2004)*, current version. Common usage: *Cemetery and Funeral Services Act*.

**“Purchase Agreement”** means the contract for the purchase of burial rights and services prior to the death of the person for whom the services are purchased and assigned to.

**“Resident”** means a person who at the time of death resided in the Town of Creston or within Regional District of Central Kootenay Areas “A”, “B” or “C”, for a period of three years, or who has owned property within the Town of Creston or Regional District of Central Kootenay Areas “A”, “B” or “C” for three years or more.

**“Non-Resident”** means other than a resident of the Town of Creston or Regional District of Central Kootenay Areas “A”, “B” or “C”.

**“Right of Interment”** means the legal right to use a grave or columbarium niche for the purpose of interring human remains. The ownership of the plot remains with Town of Creston.

**“Veteran”** means a former member of Her Majesty’s Armed Forces, as determined by Veterans Affairs Canada.

## **Part 6 Administration of the Cemeteries**

- 6.1 Application: These Rules and Regulations shall apply to any columbarium or burial area in any Cemetery now in existence, or which may hereafter be erected in, or developed as, a Cemetery. The Cemeteries Administration is the sole judge of any question of interpretation or application of the Rules and Regulations. The interpretation or application shall be final and conclusive. If any party feels that Bylaws affect him/her adversely, that party has the right to appeal to the Cemetery Director within 30 (thirty) days of the event.
- 6.2 Non-limitation: In all matters not specifically covered by these Rules and Regulations, the Cemetery Administration reserves the right to do that, which in its judgement, is deemed reasonable in the Cemetery. Such determination shall be binding upon plot owners and all parties concerned.
- 6.3 Amendments: The Cemetery Administration may at any time, and hereby expressly reserves the right to, adopt new Rules and Regulations, amend, alter or repeal any item in these Rules and Regulations or Bylaws. Such changes shall be binding upon all parties without notice.
- 6.4 Special Cases: Circumstances may arise in which the literal enforcement of a rule or regulation may impose unnecessary hardship. The Cemetery Director therefore reserves the right to make exception, suspension or modification to any Rule or Regulation on a case-by-case basis, without notice, if the exemption is not in contravention of the Act.

Any exception, suspension or modification to any item by the Administration, when necessary, shall in no way be construed as affecting the general application of such Bylaw.

- 6.5 Error Correction: The Cemetery Administration reserves and shall have the right to correct any errors that may be made in making interments or disinterments, or in the description, sale or transfer of any interment property. The correction can be made by substituting another property of equal value and similar location, or by refunding the amount paid for the property. If the error involves the interment of the remains of any person, the Cemetery Management reserves and shall have the right to remove and reinter the remains into a property of equal value and similar location.
- 6.6 Disclaimer: The statement of any employee of the Cemetery shall not be binding upon the Cemetery Administration except if such statement coincides with the document conveying the right of interment and the Bylaws.
- 6.7 Admission: The general public is welcome to visit during regular hours of operation of the Cemetery. Administration reserves the right to refuse admission or the use of any Cemetery facilities at any time to any person or persons whom the Cemetery Administration may deem objectionable to the best interest of the Cemetery.
- 6.8 Enforcement: For the purposes of this Bylaw only, a person employed as Director of Municipal Services, Director of Cemeteries, or appointed by the municipality as a Bylaw Enforcement Officer has authority to enforce this Bylaw. This includes the Bylaws governance over the conduct of funerals and services, employees, plot owners and visitors. If the Director or Bylaw Officer finds that a provision of this Bylaw has been contravened or has not been fully and appropriately complied with, he/she may make an order to ensure full and proper compliance with this Bylaw.
- 6.9 Enforcement Penalty: A person who has been given an order but neglects or refrains from doing anything required by a provision of this Bylaw is deemed as committing an offence and may be issued a Bylaw Notice. The person to whom the Bylaw Notice is issued is liable, upon summary conviction, to a fine not exceeding \$10,000 and not less than \$2,500.

## **Part 7 Sale and Ownership of Plots**

- 7.1 Responsibilities: All persons that purchase plots in the Cemetery shall be responsible for the cost of the plot and all charges connected with the plot. The purchaser of a plot accepts responsibility of complying with all Rules and Regulations governing the ownership of the plot, interment into the plot and the erection of any memorial(s) related to that plot.
- 7.2 Address Change: It is the duty of the owner to notify the Cemetery Administration of any change in his/her mailing address. Notice sent to the owner at the last known address on file shall be considered sufficient and proper legal notification.
- 7.3 Cost: Plots for burial purposes shall be sold and services in any Cemetery shall be rendered in accordance with the fees listed in the current Town of Creston Fees and Charges Bylaw. The cost of plots always includes the right of interment and the Perpetual Care fund component. In the Fees and Charges Bylaw, the care fund is always identified as a separate charge.

- 7.4 Sales Limitations: The Cemetery Administration reserves the right to limit the number of sales to any person or entity. Plots are not sold for speculation. The sale of pre-need plots before price increases will be monitored, and sales may be restricted to plots for immediate burial only.
- 7.5 Right of Interment: A purchaser does not have the right to use any plot until the purchase price is paid in full. All fees for the plot must be paid in full prior to making arrangements for interment into the plot.
- 7.6 Hold Request: A chosen plot will be held for 30 (thirty) days before payment in full is required. If payment in full is not received by the end of the 30 (thirty) days, the hold will be removed and the plot will become available for sale without notification of the person for whom it was held.
- 7.7 Documentation: The Cemetery Office shall, upon payment by any person of the full price of any plot, provide such person with a receipt for the sum paid, and this receipt, with the purchase invoice, will entitle the owner to the Right of Interment for the designated plot.
- 7.8 Subdivide: No person shall further subdivide or alter any plot in any manner at variance with the divisions set out by the Cemetery and shown on the Cemetery plans.
- 7.9 Cancellation: The purchaser may cancel a purchase without financial penalty within 30 (thirty) days of the agreement being signed on any item(s) that have not been used for burial or memorialization by submitting a request as outlined in the Terms and Conditions of the Contract. After the 30 (thirty) days, cancellation of unused plot or services can be arranged with the Cemeteries by the Purchaser or designated person. An administration fee will apply for any cancellations made following payment.
- 7.10 Refunds: The Cemetery Administration will accept the return of an unused plot or niche as long as there is no reason that the plot or niche could not be used. The Cemetery Administration will accept the return of a plot or niche from which remains have been exhumed, providing the plot or niche is in a condition that allows reuse. The purchaser will receive an amount equal to 75% (seventy-five percent) of the fees established for a grave space, excluding the Care Fund Contribution as stipulated in the Bylaws at the time of the refund request. Where GST was paid on the original purchase price, it will be refunded according to the portion of the purchase price refunded. An administration fee will be charged at the time of cancellation.
- 7.11 Error Correction: It is a condition of sale and use of any plot in any Cemetery, that the owner expressly waives any claim arising from inaccurate description of any plot. In the unfortunate event that the Town is responsible for a burial being incorrectly placed in the Cemetery (i.e., incorrect plot or block), as per the applicable "Cemetery Interment Right Permit", the Town will refund the cost of the burial fee and applicable taxes, excluding additional fees (e.g., Extra Deep), as per the Town of Creston's current Fees and Charges Bylaw. In addition, if exhumation and relocation is required as a result of the Town's error, the Town will provide this service at no charge.
- 7.12 Interment Correction: If casketed or cremated remains are interred in a plot or niche that was not chosen by the purchaser or purchaser's family, the Cemetery shall disinter and reinter the remains without additional charges. Re-interment shall be in the correct plot or niche, or if the correct plot is not available, in a plot acceptable to the family. Within 30 (thirty) days after the re-interment, the Cemetery must notify the Department of Business Practices and Consumer Protection of this action.

- 7.13 Replacement: If there is any reason that a plot cannot be used for burial, or if there is any error in the plot description, the Town shall undertake to make an equivalent quality of plot or plots available in lieu of those originally allocated.
- 7.14 Resale: No person shall sell a Cemetery plot to any other person without registering the sale with the Cemetery Office and paying the appropriate administration fee in full. The amount of refund and administration, cancellation and/or transfer fees are set out in the Town of Creston Fees and Charges Bylaw.
- 7.15 Reclamation: Any plot may be deemed abandoned if there has been no interment or any recorded activity pertaining to the plot for a period of 50 years and the Terms and Conditions of the Interment Right Contract have been met, including the reclamation requirements set out in Section 25 of the *Cremation, Interment and Funeral Service Regulation of B.C.* Any plot designated as abandoned may be reclaimed by the Cemetery to be resold or otherwise disposed of by the Cemetery Administration.
- 7.16 Replot: Cemetery Administration maintains the right, from time to time, to change the layout of roads, paths or drives, or to resurvey and enlarge, alter or change any portion of the Cemetery as necessary for the creation of new interment space or construction of buildings, or to provide for new services.
- 7.17 Inheritance: Where a Cemetery plot, niche or crypt is inherited, the new owner must provide proof of ownership to the satisfaction of the Cemetery Administration. The order of disposition as set forth by the *Cemeteries Act* will be followed to determine the ownership or rights of interment to plots after the death of the original owner.
- 7.18 Ownership and Disposition Priority: The Cemetery Administration shall recognize the ownership of a right of interment to burial into plots in the following order of priority:
- a. the owner named in the will, signed instruction, or title transfer filed in the Cemetery Office;
  - b. the Executor/personal representative named in the will of the deceased;
  - c. the spouse of the deceased;
  - d. an adult child of the deceased;
  - e. an adult grandchild of the deceased;
  - f. if the deceased was a minor, a person who was a guardian with care and control of the deceased at the date of death;
  - g. a parent of the deceased;
  - h. an adult sibling of the deceased;
  - i. an adult nephew or niece of the deceased;
  - j. an adult next of kin of the deceased, according to the *Wills, Estates and Succession Act*; the Minister under the *Employment and Assistance Act*, or if the Public Guardian and Trustee is administering the estate of the deceased under the *Wills, Estates and Succession Act*, the Public Guardian and Trustee; or,
  - k. an adult having a personal or kinship relationship with the deceased, other than those listed.

With equal ranking persons – all agree to one single representative, or priority begins with eldest and descends in order of age.

- 7.19 Cemetery Care Funds: Funds will be set out separately, specified and paid into the Cemetery Care (also known as Perpetual Care) Fund Account. A specified portion of the plot sale shall be put aside for the future maintenance of the Cemetery. The Cemetery will, so far as these funds are available, do all that is necessary to keep the said plot, or



columbarium niche safe and in a neat and tidy condition. This does not include care, maintenance, or replacement of any monument or marker placed on the plot. The income from the fund, not the principal, will be used for the upkeep and maintenance of the Cemetery. The annual allocation of care fund income towards its intended purposes shall be determined by Council through the budget process.

## **Part 8 Burial/Interment/Disinterment**

- 8.1 Authorization: The person responsible for organizing Cemetery services shall make the necessary arrangements with the Town Office, sign the interment authorization and determine terms of payment for agreed upon goods and services. No interment will be approved or scheduled until proper, written authorization to inter has been approved and signed by the responsible person, or if there is no person, by a representative of the agency requesting the interment.
- 8.2 Deceased Preferences/Direction: Written preference by a deceased of disposition of their remains is binding on the person making arrangements, if the preference is stated in a will or pre-need Cemetery arrangement, and will not be an unreasonable or impractical hardship.
- 8.3 Plot User: The owner of the plot designates the user(s) of the plot. Permission to use the plot and place a memorial must be obtained in writing and signed by the owner, if the person making interment arrangements is not the owner on record. No person shall be permitted to inter in the designated military section without proof of service.
- 8.4 Responsibilities: Any person signing an order for interment, is responsible for the truthfulness of any facts set forth in the authorization, the identity of the person to be interred and his/her authority to order the interment. The authorizing signing party will be responsible for all charges personally or for the estate, in connection with such interment. If a third party is signing for interment on behalf of another, the other person must have delegated that person to act in their name and accept responsibility for all burial charges.
- 8.5 Burial Information: No burials shall be permitted in the Cemeteries until the information required by the Act has been provided to the Cemeteries. Information required is:
  - a. A burial permit, including the full legal name of the deceased, date of birth and death, and age at death. If the death occurred outside the Province, a copy of the burial permit/other document as required by the *Vital Statistics Act* for the interment.
  - b. Cemetery location of plot to be used; Day, date and time of interment;
  - c. Proof of ownership with name and address of the owner(s). Where the deceased person is not the owner, authorization for use of an interment site with name and address of person(s) listed as next of kin;
  - d. Written authorization from the person with authority under the Act to control the disposition of the remains, and the address of that person;
  - e. Name and address of person or agency responsible for payment of the interment fees;
  - f. Type of liner or vault if ground burial; Size of casket or urn receptacle, if needed;
  - g. Name of Funeral Home/Director/service;
  - h. For burial in the military section, the deceased's regimental and service number; and,
  - i. Consent or direction of the Medical Health Officer, if applicable.

- 8.6 Documentation: No interment will be permitted unless proper authorization is produced by the party applying for the burial or the Funeral Home with whom they have made arrangements. A Burial Permit issued by the proper officer of the government where the death occurred, and a complete, signed Cemetery invoice for permission to inter a body must be completed and provided to the Cemetery before the interment is considered complete. A Burial Permit is required for all fetuses of 20 weeks gestation or more prior to any disposition of the remains.
- 8.7 Ownership Proof: Cemetery Administration may request proof of purchase to identify the plot and/or prove the right to use the plot. Proof may be a deed, invoice or receipt that shows the purchase or payment for a specific plot. The owner of the burial right, or his/her representative, may authorize the use of the plot/niche/crypt for the interment of any person by submitting written and signed authorization/permission to the Cemetery office.
- 8.8 Burial Restriction: Plots in the Cemetery shall be used only for the burial of human bodies and human cremated remains. All burials, casket or cremated remains, must be arranged with and recorded by the Cemetery office. Cremated remains may be buried in Cemetery ground but may not be scattered in any area or on any grave.
- 8.9 Notice: All applications for in-ground burial shall be made at least 48 (forty-eight) hours before the proposed time of interment. Seasonal weather or type of burial may require longer notice and may incur additional fees. Winter cremation notification requires four (4) working days. Confirmation of the burial date, time and Cemetery, for the family or Funeral Home will be made by the Cemetery office at the time of invoicing.
- 8.10 Information: Cemetery Administration is not responsible for any errors or omissions in information received from the funeral home, arranger or supplier. The Administration is not responsible for the accuracy of the Burial Permit information or for the identity of the human remains or cremated remains to be interred.
- 8.11 Scheduling: Cemetery Administration reserves the right to limit the number of burials within a working day, the time of the burial in a Cemetery or facility and the right to assess fees accordingly.
- 8.12 Rescheduling: If, under extreme or adverse weather conditions, more time is required to prepare burial sites, the Administration shall notify the parties involved of the extra time required and this time will remain in effect until further notice.
- 8.13 Overtime: When it is necessary for Field Crew to remain after their usual working hours or come in on a Saturday, Sunday or Statutory Holiday, an overtime charge will be made as set out in the current Town of Creston Fees and Charges Bylaw. All charges shall be due and payable in full prior to the interment.
- 8.14 Burial Receptacle: All casket burials in the Cemetery require the use of an approved grave liner. Grave liners are sold by the Cemetery; upgraded vault boxes, which can be used to replace the standard grave liners, may be purchased from the Funeral Home or the Cemeteries as arranged by the purchaser. The base of the liner or vault will be set at a six foot depth to allow for at least three feet of soil above the top of the lid of the liner or vault.

- 8.15 Suitable Container: All remains and cremated remains shall be brought to the Cemetery in a suitable container, defined as one that is rigid, completely encloses the remains, and prevents any physical or visual contact by any person with the deceased, or with bodily materials associated with the deceased.
- 8.16 Further Usage: No memorialization or second interment shall be permitted in or on any plot in the Cemeteries on which there are unpaid charges due and payable.
- 8.17 Funeral Service: All funerals while within any Cemetery shall be carried out by persons under the supervision and control of the Cemetery Director or Works Superintendent. Funeral Directors must remain for the duration of the service and notify the Cemetery staff when the service has ended.
- 8.18 Casket Opening: The casket may not be opened at any time within the Cemetery or its buildings without the expressed permission, and in the presence of the Cemetery Administration. Such permission will not be given without the consent of the legal representative of the deceased, or without an order from the duly constituted authority having jurisdiction.
- 8.19 Veteran Burial: Areas are set aside in the Cemeteries for the interment of service and ex-service men and women of the Canadian Armed Forces, and/or their spouses, which may be subject to special provisions. The Royal Canadian Legion is permitted to fly the flag at half-mast at the Cemetery during funerals, provided the Legion looks after raising and lowering the flag.
- 8.20 Veterans Expenses: All burials made under the auspices of any Department of the Government of Canada shall be made at the sole expense of the authorizing Government Department.
- 8.21 Social Services Burials: The Cemetery may furnish graves in the Cemeteries for interments arranged by Provincial Social Services.
- 8.22 Disinterment Permission: The disinterment of human remains shall be permitted with the consent of the Cemetery Director and written consent of the plot owner, nearest next of kin or Executor and in accordance with proper legal procedure. Disinterment will only be approved and scheduled upon receipt of a Disinterment Permit issued by the Provincial agency responsible, and the payment in full of fees as set out in the current Town of Creston Fees and Charges Bylaw. A Funeral Home representative shall be present during the disinterment for the handling and transportation of the remains.
- 8.23 Disinterment Requirements: Responsibility for a disinterment by Cemeteries will end at the point where the soil is sufficiently excavated to permit access to the body for removal by the attending Funeral Home. The Cemetery Administration is not responsible for the condition of casket liners or vaults, or of the cremated remains or container.
- 8.24 Disinterment Restriction: Removal by the heirs of a body or cremated remains so the grave may be sold for profit or removal contrary to the expressed or implied wish of the original plot owner is absolutely forbidden.
- 8.25 Disinterment Procedures: The procedure to be followed in the disinterment and re-interment, if arranged, of remains within the Cemeteries shall be according to Town of Creston Cemetery Procedures.

## Part 9 Plot Burial Options

- 9.1 Casket Burial - Number: Only one or two casket burial(s) shall be buried in a single grave. The use of the plot for single or double casket burial can be decided at the time of the first burial, and the depth to which the plot is opened for that burial. An additional administration and documentation fee, and an additional opening and closing fee, will apply for the burial of the second casket.
- 9.2 Urn in Casket: An urn may be buried inside a casket with the payment of an administration and documentation fee. This fee will be charged to establish the burial record for the deceased in the urn. Proper documentation for both deceased persons, burial permit (casket) and cremation certificate (urn) must be provided at the time the interment is arranged.
- 9.3 Urn Burial - Number: A maximum of four (4) cremations in addition to two caskets shall be permitted in any full-sized plot. A maximum of four (4) cremated remains shall be permitted in any cremation plot. Urn burials shall take place only upon completion of the final casket burial. An administration and documentation fee and an opening and closing fee will apply for each urn burial.
- 9.4 Extra Deep Plots: Plots to be used for two casket burials shall be constructed to a depth that will accommodate two (2) separate caskets and two (2) separate grave liners or vaults. Grave liners or vaults may be installed at the same or different times so that one casket can be placed immediately above the other. A minimum of two (2) feet of soil is to be placed above the liner of the second (upper) casket. All graves constructed as extra deep plots shall be recorded with a single ownership.
- 9.5 Existing Occupied Plots: Any request to inter cremated remains into an occupied family plot and to add memorialization by other than the owner of the plot, must be accompanied by written permission of the Executor of the original Owner or their next of kin.
- 9.6 Unauthorized Additional Burial: If further cremated remains are found to be scattered or buried on an existing grave without the permission of the Cemetery, the owner of the plot will be notified and charged the costs to allow proper burial and registry of the additional burial in that plot.
- 9.7 Veterans Restrictions: In military areas of the Cemeteries, permission to inter the cremated remains of a spouse in the same plot shall be given only once the Veteran has already been interred in that plot. When side by side burials of caskets of the Veteran and spouse are permitted, the Veteran must be already buried in the plot adjoining the plot of the spouse that is to be buried. Only monuments or memorials approved by the *Department of Veterans Affairs* shall be placed on plots where the interment of the veteran has been provided through a Veterans agency.
- 9.8 Above-ground Interment: Above-ground interment is permitted in Cemeteries with columbariums. Columbarium (niche) burials are currently only permitted in Forest Lawn Cemetery.

## Part 10 Markers and Monuments

- 10.1 Regulations: The permitted size of memorial markers, monuments and vases are set forth in the Cemeteries Monument Regulations. The Cemeteries Administration reserves the right at all times to approve and prescribe the kind, size, design, symbolism, craftsmanship, quality, number and material of memorials placed or to be placed in any Cemetery. These regulations are available to Plot Purchasers, Burial Arrangers and all Monument Dealers.
- 10.2 Material Specifications: All markers or monuments will be of quarried granite or monument grade bronze casting. Any monument or marker of artificial stone is not permitted unless the Cemeteries is satisfied that the manufacturer and dealers can conform to the specifications and requirements of the Cemeteries. Concrete borders are permitted but must comply with size and height requirements.
- 10.3 Installation: All memorial markers or monuments to be placed within the Cemeteries shall be installed by Town of Creston Cemeteries Staff.
- 10.4 Plot Costs: No memorial will be received by the Town of Creston for installation until the installation fee is paid in full and all costs against the plot are cleared by the owner of the plot or their designated agent.
- 10.5 Section Guidelines: The Cemeteries may designate special sections within the Cemeteries and impose restrictions on the types of memorials and markers that may be installed within. Such sections sites will be sold as plots for flat markers or upright monuments.
- 10.6 Memorialization: Not more than two (2) memorials shall be installed on any grave. Where it is desired to memorialize on one (1) tablet two (2) related persons buried side by side in adjacent graves, one 24" x 30" tablet that provides for such dual memorialization, may be set to embrace evenly the two (2) plots. When additional cremated remains are interred in the existing casket plot, only one (1) flat companion marker for the memorialization of up to four (4) additional names is permitted. The companion marker must comply with the specifications set out in this Bylaw. Only one (1) vase is allowed per plot. Images on monuments are permitted only if they are etched, or installed as unbreakable plastic or acrylic attachments, and set flush with the surface of the memorial.
- 10.7 Liability: Flat markers must be delivered to the Public Works Yard and be inspected and approved by the Caretaker before it can be installed by Cemetery Staff. Cemeteries will not accept liability for any damage to a marker prior to inspection. Markers must be inspected and signed for by Staff.
- 10.8 Installation: All foundations shall be constructed and installed by the Cemeteries Staff. Flat markers without foundations will be installed on a sand or soil foundation by Cemetery Staff only.
- 10.9 Grave Covers, Curbing: No plot will be covered with a slab of cement or other material, nor loose materials such as rock, mulch or brick. Plots or lots are not to have borders, fences, railings, curbs, or any enclosure in or around their perimeter.

- 10.10 Grave Identification: A temporary marker that meets the Cemetery guidelines will be permitted prior to installation of a permanent marker. A temporary marker can be arranged for and placed by the plot owner if desired. Cemeteries does not place temporary markers on plots. The temporary marker may be removed by the Cemetery Caretaker if it impacts maintenance or impedes circulation.
- 10.11 Removal, Alteration, Additions: No owner shall install or remove a memorial or make any alteration to any monument or structure in a Cemetery without the permission of the Cemetery. All installations, removals or alterations are to be done by Cemetery Staff. No fixture of any type, such as pictures or ornaments may be attached or affixed in any manner whatsoever to any part of the memorial without prior approval by the Cemetery.
- 10.12 Repair: No owner will allow any marker or monument to be in a state of disrepair. When, in the opinion of the Caretaker, any monument or other erection upon a plot is in a state of disrepair, or where there is a safety concern, the Cemetery Director will ensure that the owner is notified in writing and will require that repairs be promptly undertaken to avoid removal of the monument.
- 10.13 Removal: Any monument or installation not repaired within sixty (60) days following a letter being sent to the owner or his agent to the latest address provided to the Cemeteries may be removed from the plot. Removed monuments will be retained by the Cemeteries until the person responsible for its maintenance has picked it up for repair. If the memorial or marker is not picked up within 60 (sixty) days of removal, the Cemetery retains the right to dispose of it.
- 10.14 Safety: Any monument that is tilting or leaning is a safety concern. Cemeteries Staff will attempt to re-level the monument at no charge. In the event of a monument that Operations Staff cannot level and which has been deemed unsafe, the owner will be notified to arrange for repair. If the Owner cannot be contacted or do not take timely action, the monument may be removed by the Caretaker due to safety concerns. In Pioneer Cemetery, to improve maintenance and deter vandalism, headstones may be embedded to ground-level, as permission is granted by families of the deceased.
- 10.15 Liability: While the Cemeteries will take reasonable precautions to protect the property of owners, it does not assume any liability nor responsibility for the loss of, or damage to, any monument/marker or part thereof, or any article of any type that may be placed on the plot. The Cemetery accepts no responsibility for the maintenance or repair of monuments due to normal wear and tear or weathering. Due to their susceptibility to deterioration and damage, Cemeteries will not be responsible for any etched or applied images on memorials.
- 10.16 Owner Responsibility: The memorial remains the personal property of the owner and all care, maintenance and repairs are the responsibility of the recorded owner and/or the owner's next of kin. The purchaser, or designate, of the burial plot is liable and responsible for damages resulting from theft, vandalism or damage howsoever caused to memorials of any kind. The term "care" does not mean the maintenance, repair or replacement of any memorial, nor the replacement of flowers on a plot.

## Part 11 Cemetery Operation and Monuments

- 11.1 General Maintenance: Upon payment in full of the price of any plot, the Cemetery will, so far as funds are available for the purpose, do all that is necessary to keep the plot in a neat and tidy condition. The Cemeteries shall not, however, be bound to spend on such plot in any one year an amount greater than the annual interest on the amount paid for Perpetual Care.
- 11.2 Authority: The Cemetery Director, or his/her designate, shall have the sole control of all matters within the Cemeteries concerned with maintaining the grounds in a neat and pleasing condition, and to that end, is authorized to regulate and control the Cemetery grounds in accordance with the Cemetery Bylaw.
- 11.3 Floral Arrangements: The Cemetery will not accept responsibility under any circumstances for lost or damaged floral arrangements, memorabilia or wreaths/crosses.
- 11.4 Floral Timelines: Flowers placed at the time of interment will be left for one week or as weather permits. Seasonal Crosses or wreaths are permitted on a grave between October 1<sup>st</sup> and March 31<sup>st</sup> only.
- 11.5 Landscaping: The Cemetery reserves the right to remove or prune any trees or shrubs previously planted that may affect the appearance of the Cemetery or encroach upon or interfere with other plots, or remove any tree or plant that may have been planted without Cemetery permission.
- 11.6 Personal Responsibilities: No person shall:
- a. Throw refuse upon the roads, walks or anywhere within the Cemetery grounds, except in the receptacles provided for that purpose by the Cemetery;
  - b. Deposit any soil, paper, sticks, or refuse of any kind on any road or plot in the Cemetery;
  - c. Erect, plant or maintain borders, fences, railings, copings, wall curbs, hedges, or any other edging elements in or around any plot;
  - d. Plant any trees or shrubs in any Cemetery unless he/she is a Cemetery employee;
  - e. Plant flowers, care or cultivate any plot without the consent and supervision of the Cemetery Administration;
  - f. Remove, prune, destroy or otherwise interfere with any trees, shrubs, plants or flowers in any Cemetery without the consent of the Cemetery Administration;
  - g. Place or deposit any glass or plastic encased wreath or any stand, holder vase, receptacle, jar or bottle, or pot made of glass or plastic on any plot;
  - h. Place any stand, holder vase or other receptacle for flowers or plants, or any flower pots, jars, bottles, iron and wire works, or any ornament or construction of any kind which the Cemetery Administration deems to be unsightly, unsuitable or unsafe in the Cemetery;
  - i. Place or maintain winter crosses, wreathes or upright decorations on plots between March 31<sup>st</sup> and November 1<sup>st</sup>.
  - j. Make any walk, cut any sod, or move any grave markers or monuments in any Cemetery;
  - k. Destroy, deface, damage or write upon any marker or monument or structure or object in any Cemetery; or,
  - l. Allow any pet in the cemetery unless properly restrained. Owners must remove any pet waste.

- 11.7 Authorization of Work: Cemeteries Administration reserves, and shall have, the right to give authorization to any workmen, other than employees of the Cemetery, before they may do any work in the Cemetery. Cemeteries Administration has the right to request a certificate of insurance, showing coverage for liability and personal injury and damage to the property of others, from any contractor or business performing services and work in the Cemeteries.
- 11.8 Times of Work: No person shall conduct any work in the immediate vicinity of any burial service underway in a Cemetery. Work done in the Cemetery by persons operating as a business must be done during Cemetery hours. Work on Civic and Statutory Holidays or after 4:00 pm on weekdays must have authorization from the Cemetery Administration.
- 11.9 Liability: The Town of Creston, its agents or employees, shall not be responsible for any injury resulting to any person who enters a Cemetery, or for any damage to any plot, memorial or monument or other structure located within any Cemetery, unless such injury or damage is shown to be caused by the negligence of the Cemeteries, its agents or employees.
- 11.10 Access: No person under the age of 16 (sixteen) years shall be admitted to any Cemetery unless in the company of one or more adults.
- 11.11 Vehicles: No person shall operate a vehicle on a road in a Cemetery at a rate of speed above 20 (twenty) kilometres per hour, or on any portion of a Cemetery not set aside as a road. Parking or leaving any vehicle on any road, driveway or parking area such that it causes an obstruction, prevents any other vehicle from passing, or Cemetery vehicles to do their work will result in removal by the Cemetery Administration, at the expense of the vehicle owner.
- 11.12 Activities: No person shall use the Cemetery grounds or roadways for skateboarding, bicycling, roller skating, snowmobiling, all-terrain vehicle use, cross country skiing, horseback riding, or snowshoeing.
- 11.13 Behaviour: No person shall disturb the quiet atmosphere of a Cemetery by causing noise or other improper conduct. Anyone not following proper behaviour will be asked to leave the Cemetery.
- 11.14 Injury: Persons entering the Cemetery do so at their own risk. The Cemeteries shall not be responsible for any injury resulting to any person who enters the Cemeteries.
- 11.15 Fire Arms: Only persons authorized by the Cemetery Administration, including Military Guards of Honour, will be permitted to bring into or carry firearms within the Cemetery. Military guards participating in a military funeral must be under the direction and control of a Military Officer.
- 11.16 Hours: The Cemeteries are open to the public seven (7) days a week from dawn to dusk. Persons found on Cemetery grounds outside posted hours of operation will be subject to prosecution. The building facilities are posted but are subject to change at any time due to unforeseeable circumstances and may be modified as appropriate.
- 11.17 Memorial Services: The Cemeteries may permit services of a memorial character within a Cemetery but permission must be obtained from the Cemeteries prior to any such public memorial services within the Cemetery grounds.



- 11.18 Rule Information: The Cemeteries' Administration may, for the efficient management and control of the Cemeteries, make policies and procedures not fully consistent with these Bylaws. All Bylaws, policies and procedures will be made available at the Town Office during regular working hours.
- 11.19 Enforcement of Rules: Notice given to any person pursuant to these Rules and Regulations shall be deemed sufficient if in writing and mailed post-paid to the last known address of the person listed as the plot owner on Cemetery records.
- 11.20 Charges: Any person who violates any of the provisions of this Bylaw shall be subject to a fine not exceeding \$10,000 (Ten Thousand Dollars) and not less than \$2,500 (Two Thousand Five Hundred Dollars).

## Part 12 Flowers and Decorations

- 12.1 Purpose: Cemeteries Administration reserves the right, for the good of all, to regulate the decoration of plots and cremation niches. Decorations must be done in a fashion that does not infringe upon adjacent plots, create either a hazard or an unattractive situation that may be offensive to others.
- 12.2 Planting: No planting of any kind may be done on graves or in the Cemetery. Decorating with fresh cut flowers and artificial flowers are appropriate and welcome. Decorations must be placed within vases approved by the Cemetery management.
- 12.3 Authorized Vases: Vases shall be non-breakable only, with no glass components, or sharp metal or plastic edges. To allow for on-going Cemetery maintenance, fresh, cut flowers and/or artificial flowers may be removed and may not be returned to the grave.
- 12.4 Seasonal Memorialization, Flowers: Artificial flowers may be left on plots all year round although fresh flowers are encouraged through the summer months. Artificial and fresh flowers will be removed at times to facilitate maintenance in the Cemetery.
- 12.5 Burial Flowers: At the time of burial, floral tributes left on the grave will be allowed to remain on the grave until they are wilted, or in the case of artificial flowers, for about a week. Flowers or arrangements will be removed without notice by the Cemetery field staff to prepare or install sod on a grave. After sodding, all flowers must be in the approved vases and not left on the grass.
- 12.6 Retrieval: Flowers, arrangements or decorations removed from the graves will be placed in a common area of the Cemetery for approximately one (1) month to allow families to claim them.
- 12.7 Liability: The Cemetery cannot assume any liability for decoration(s) placed at burial sites.
- 12.8 Enforcement: The rules and regulations of the Cemetery are uniformly enforced. All consideration will be given to family requests and needs; however, employees working in the cemeteries who happen upon decorations or flowers in violation of the rules, may remove them.

## Part 13 Columbarium

- 13.1 Niche Package: The purchase price of a cremation niche in the Columbarium covers the cost of the right of interment, Perpetual Care, basic inscription, and inurnment.
- 13.2 Interment Number: At the time of purchase, the number of interments is clearly specified. No additional interments or memorialization will be permitted.
- 13.3 Cemetery Care Funds: Cemetery/Perpetual Care Funds provide for routine maintenance of the facility. The Cemetery will, so far as these funds are available, do all that is necessary to keep the said columbarium or mausoleum safe and in a neat and tidy condition.
- 13.4 Granite Inscriptions: Inscriptions shall be approved by the Cemetery Director and shall be ordered only through the Cemetery.
- 13.5 Refunds and Cancellations: The Cemetery Administration will accept the return of an unused niche as long as there is no reason that niche could not be used. The purchaser may cancel purchase of a niche without financial penalty within 30 (thirty) days of the agreement being signed, by submitting a request as outlined in the Terms and Conditions of the Contract. The purchaser will receive the original price paid less the Care Fund Contribution and the Administration fee. Where GST was applicable to the original purchase price, it will be refunded based on the portion of the purchase price refunded. The Cemeteries Administration may exchange a niche for another niche of comparable price within the Columbarium, if this is the wish of the purchaser or legal representative. A transfer of license fee will apply.
- 13.6 Transfer of Ownership: A transfer of ownership that does not include a sale is permitted, providing the transfer of title is handled by Cemetery Administration. A nominal administration fee will apply.
- 13.7 Burial Authorization: Before the opening of a niche prior to entombment, the owner of his/her next of kin must sign an authorization with name and address and pay any amounts outstanding for the plot or niche.
- 13.8 Vandalism: The Cemetery does not accept responsibility for any damage incurred through vandalism or any other acts outside its control.

READ A FIRST TIME by title and SECOND TIME by content the 23<sup>rd</sup> day of June, 2015.

READ A THIRD TIME by title the 23<sup>rd</sup> day of June, 2015.

ADOPTED the 29<sup>th</sup> day of September, 2015.

“Ron Toyota”  
Mayor Ron Toyota

“Bev Caldwell”  
Corporate Officer

INDEX OF AMENDING BYLAWS

Bylaw 1865..... Adopted March 13, 2018

NOTE TO USERS

*"WHEREAS each bylaw consolidation shall be proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it and of the fact of passage of the original and all amending bylaws",* pursuant to 'Authority to Consolidate Municipal Bylaws No. 1533', which was adopted on the 11th day of June, 2001.