

# **BY-LAW NO. 422-09-09 Edberg Lakeview Cemetery By-Law**

## **OF THE VILLAGE OF EDBERG**

## **IN THE PROVINCE OF ALBERTA**

**BEING a by-law of the Village of Edberg to provide for the operations and control of the Lakeview Cemetery;**

**WHEREAS, it is deemed expedient to adopt regulations for the operations and control of the Lakeview Cemetery;**

**and WHEREAS, the Municipal Government Act, being Chapter M-26, section 7, RSA 2000, as amended provides a municipality may make By-Laws respecting the operations and control of Public Facilities;**

**This by-law formally ends all functions and authority of the Edberg Cemetery Committee**

**NOW THEREFORE, the Council of the Village of Edberg, in the Province of Alberta, duly assembled enacts as follows:**

### **1. TITLE AND DEFINITIONS**

#### **1.1**

This bylaw may be cited as the "Lakeview Cemetery By-Law".

#### **1.2**

In this bylaw, unless the context otherwise requires, the word, term or expression:

- a) "Administrator" shall mean the Municipal Manager of the Village of Edberg or in his (her) absence an authorized agent of the Village of Edberg
- b) "Cemetery" shall mean the Edberg Lakeview Cemetery.
- c) "Council" means the Council of the Village of Edberg, duly assembled.
- d) "Director" means the Director Of Alberta Registries.
- d) "Immediate Family Member" shall mean the spouse, mother, father, daughter or son of the owner of a plot.
- e) "Owner" means a person, heir, executor or authorized Funeral Director with burial privileges for one or more lots.
- f) "Plot" shall mean a clearly delineated parcel of land, numbered and marked on the Cemetery Plan and duly registered in the Cemetery Files.
- g) "Town, Village, or Municipality" shall mean Village of Edberg, a Municipal Body of the Province of Alberta.
- h) "Board" shall mean the Edberg Cemetery Society. This Society to be made up of 7 members selected by existing Village Council. The society will have 2 members of Council, and at least 3

Village Residents, and 3 County Residents. Council will set membership at it's annual organizational meeting. Any changes to the Society must be approved by Village Council.

## **2. DUTIES OF BOARD AND ADMINISTRATOR**

### **2.1**

The Administrator shall keep and maintain plans of the Cemetery and all records in connection therewith.

### **2.2**

Make all sales of plots in the Cemetery.

### **2.3**

Keep a record of sales of burial rights, of persons buried in the cemetery, date of burial and other records as may be required by the Village and the Province of Alberta.

### **2.4**

Issue to each owner a certificate of purchase, and collect any and all fees.

### **2.5**

Enforce all obligations of the Village pursuant to the Cemeteries Act, being Chapter C-3 of the Revised Statutes of Alberta 1980 and any amendments thereto.

### **2.6**

Manage all cemetery revenue and expense accounts with distinct cemetery account numbers within the Village software.

## **3. REGULATIONS**

### **Sale of Lots**

#### **3.1**

Sale of lots will be non-discriminatory in regards to race, religion, age, sexual orientation, or gender. The Board will vote on all proposed sale of plots for and to persons that did not at one time reside within 30 kilometres of Edberg.

#### **3.2**

Council is hereby empowered and authorized to adopt by resolution the charges to be made for a plot in the Cemetery from time to time as deemed necessary, said charges to apply in all cases and to include perpetual upkeep of lots, whether occupied or otherwise, but not to include the maintenance, placing or removal of tombstones or grave markers.

### 3.3

A Cemetery Lot Deed for any plot so sold shall be signed by the Administrator and delivered to the purchaser(s) under the corporate seal of the Village of Edberg

### Reservations

### 3.4

a) At the time that a lot or lots are reserved, the Administrator may demand payment of all applicable fees and charges.

b) Council reserves the right to limit the number of plots reserved to two (2).

### 3.5

No deed to use a plot or plots may be transferred unless all such transactions are approved by the Board and are made in accordance with this bylaw.

### 3.6

No plot or plots in the cemetery may be transferred for consideration greater than the consideration paid by the licensee to the Village and the transfer instrument must clearly show the amount paid by the licensee to the Village

### 3.7

Deeds may be re-conveyed to the Village and the Village will repay a licensee half the original purchase price for an unused lot or lots less a transfer fee for each lot. No transaction between the Village and licensee intended to convey burial rights shall be valid unless it is recorded by a signed letter or other instrument filed in the office of the Administrator.

### 3.8

Those persons owning lots in the Cemetery shall not resell said lots for a profit, nor shall they allow interments in these lots for remuneration.

### 3.9

It is a condition of every deed in the Cemetery that the licensee expressly waives any claim arising by reason of any error or misdescription of any burial lot. The Village, and Board undertakes that it will attempt insofar as is reasonably possible, to avoid such errors but it's liability shall only extend to a refund, in case of error, or any money paid to the Village for a lot or lots and an undertaking to make an equivalent quality of lot or lots available in lieu of those originally allocated.

### 3.10

When a lot becomes vacant by removal of the body or bodies therein, the land may revert to the Village at the licensee's option and the Village may in such case rebate half the original purchase price.

### Interments

### 3.11

Lists of recent interments, etc., shall not be given to any commercial establishment, employee or agents thereof.

a) No human remains shall be buried within the limits of the Village of Edberg except within the Cemetery defined in this bylaw or future amendments thereto.

### 3.12

No person shall bury any human remains in the Edberg Lakeview cemetery until such person has complied with:

- a) The provisions of the Public Health Act of the Province of Alberta;
- b) The provisions of the Cemetery Act of the Province of Alberta;
- c) The provisions of the Vital Statistics Act of the Province of Alberta.

### 3.13

Applications for interment must be made to the Board.

### 3.14

Applications must be made at least two (2) working days prior to the time established for burial. This notification may be waived when the body to be interred died from a contagious disease or if special circumstances so require.

### 3.15

The Board, or the Administrator must be in receipt of one copy of the Burial Permit before they shall allow an interment to proceed.

### 3.16

Locating of graves shall be the responsibility of the Board.

### 3.17

Burial rights in lots in cemeteries shall be sold upon payment by the Licensee of all required fees and charges.

### 3.18

Burial rights and burials will be subject to and conducted in accordance with the bylaws of the Village

### 3.19

Every Licensee obtaining a plot or plots in a Cemetery shall be held responsible for the cost thereof and for all charges in connection therewith including disinterment or removal of a body when requested by a Licensee. Any person signing an order for interment will be held responsible for all charges in connection with such interment. Such persons shall, in addition, be held responsible for compliance with the regulations governing erection of

monuments applicable to that part of the Cemetery in which the interment is made.

### 3.20

Undertakers must:

a) Make their own arrangements for the placing of mats, wreaths, flowers, and other ornamental objects on or around the grave.

### 3.21

No more than one (1) body shall be buried in a regular sized lot except:

- a) A parent and their infant child when both are in the same casket or coffin;
- b) In a double depth grave which will accommodate two bodies in separate caskets, (at the same time or different time), in such a manner that one casket is placed immediately above the other and purchased specifically for this purpose on the opening for the first casket. There shall be a minimum of three feet (3') of earth placed over the upper casket.
- c) Cremated remains up to a maximum of four (4) containers per adult lot. There must be a minimum of one and one half feet (1.5') of earth placed over each container.
- d) For the interment of stillborn bodies in a communal grave. There must be a minimum of one foot (1') of soil between remains buried, with at least three feet (3') of soil over the uppermost casket.

### 3.22

If an applicant wishes to inter a body in a lot not owned by him, he shall obtain written permission from the owner of the lot in which such interment is to be made, or from the legal representative of the owner of such lot. A copy of the permission must be filed with the Village.

Disinterment

### 3.23

Disinterment, except for re-burial in the same grave at greater depth, will not be allowed unless permission is first obtained for that purpose at the office of the Director, and if given, such permission shall be in writing and signed by the Administrator.

### 3.24

No person shall disinter or remove a body from any lot without first producing a written order from the owner of such lot and a permit for such disinterment or removal as issued as per the Cemeteries Act, R.S.A..

### 3.25

In case of disinterment for re-interment in another plot in the said Cemetery, the excavations shall be made by the regularly authorized grave digger under the direction of the Board and the

charges for such work will be twice the regular interment charge plus an additional administrative fee.

### 3.26

In case of disinterment of a grave in the Cemetery for re-interment in another Cemetery, the excavation shall be made by the regularly authorized grave digger under the direction of the Board and the charge for such work shall be the same as for the interment plus an additional administrative fee to compensate for the work of changing the records.

### 3.27

Whenever a lot becomes vacant by the removal of the body or bodies therein, the land shall revert to the Village, provided that where the owner thereof becomes a purchaser of another lot the original price paid for the lot shall be allowed in part payment.

## Monuments

### 3.28

No licensee may erect upon any lot any monument while any charges in connection therewith are due and owing to the Village

### 3.29

#### Type and Size of Monuments

- a) Maximum height of any monument shall be thirty six inches (36").
- b) Temporary monuments of wood or other approved construction may be placed at the head of a lot by the Licensee with the permission of the Board. Such monuments must be removed after a period of one (1) year from the date of interment or at the discretion of the Board.
- c) The Board may by resolution govern the style and/or type of monuments to be placed in various sections of the Cemetery.

### 3.30

Licensees will be held responsible for removal of all earth or masonry litter accumulated in improving any lot; such materials to be removed as directed by the Board.

### 3.31

All heavy material must be placed at the location of the lot and transported over grass walks on planks.

### 3.32

Should any tombstone, monument or other structure placed or erected in the Cemetery be in a state of disrepair the Board may, after notice in writing to the licensee of the lot on which such structure is located at his last known address, have the said structure removed from the Cemetery if the said owner or his agent does not have the same repaired in

accordance with the said notice.

### 3.33

The Village, and the Board will not be responsible for any damage which may be caused in any way whatsoever to any improvement or memorial designs placed in the Cemetery.

### Maintenance of Lots and Cemetery

### 3.34

The licensee of each lot shall have the right to improve his lot at his convenience subject to the provisions of this bylaw and Board approval.

### 3.35

To ensure neatness, and to preserve the beauty of the Cemetery, the Board shall have supervision of:

- a) wreaths, flowers and other removable mementos and objects placed upon graves and plots and any stand, holder, or receptacle for these items, and;
- b) flowers, shrubs, weeds, grass or trees planted upon graves or growing upon graves, and;
- c) any trees, shrubs, plants, grass or any other article or growing thing situated on any part of the Cemetery;

And should it, in the opinion of the Board, become necessary or desirable to remove same from the Cemetery, the Board shall be empowered to do so. If the article be the property of a licensee and the Board considers the article to have any value, he shall notify the licensee where possible, giving such licensee the right within twenty-eight (28) days to call for and take the same away, and after lapse of thirty (30) days from mailing such notice the Board is empowered to destroy the same.

### 3.36

No shrubs, trees or flowers may be planted in any part of the Cemetery other than those planted by the Board in the areas reserved for such planting.

### 3.37

Any person who:

- a) willfully destroys, mutilates, writes on, defaces, injures or removes any monument, tombstone or marker, or any structure, vehicle, building, machinery, tool, equipment, or any material placed or left in the said Cemetery, or any railing, fence, or other work for the protection, maintenance or ornamentation of the Cemetery, or burial plot, or;
- b) willfully destroys, cuts, picks, breaks or injures any tree, shrub or plant in the said Cemetery, or;
- c) willfully plays any game or sport, or;
- d) willfully discharges or carries a firearm except firearms at a military funeral, or;

e) willfully or unlawfully disturbs persons assembled for the purpose of burying a body in the said Cemetery, or;  
f) willfully commits a nuisance, or;  
g) at any time behaves in a indecent or unseemly manner in the said Cemetery, is guilty of an offense.

3.38

No person shall turn loose, ride or allow to go at large, any animal in the said Cemetery.

3.39

No person shall be permitted to drive a vehicle or conveyance within the said Cemetery at a speed greater than fifteen (15) kilometers per hour, nor elsewhere than upon the roadways provided for vehicular traffic. The Board or the Administrator shall have the authority to prohibit the entrance of vehicles into the Cemetery when roads are unfit for travel. The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the Cemetery.

3.40

The Board or the Village shall have the right to prohibit the entry of any person or persons who do not have related business at the Cemetery.

3.41

No person shall disturb the quiet and good order of a Cemetery by noise or any other improper conduct.

3.42

All persons are prohibited from walking on lots, picking flowers, plants or shrubs.

3.43

Workmen shall cease work when a burial is taking place in the Cemetery.

3.44

No recreational vehicles (i.e. bikes, motorbikes, all terrain vehicles, snowmobiles), will be allowed to enter the Cemetery.

3.45

No animals shall be buried within the Cemetery.

3.46

The Board may reserve from use, any portion of the Cemetery which in their opinion is undesirable for use because of locations or contour.

3.47

The Cemetery shall be delineated into sections as per Schedule "A" of this By-Law

3.48

No person other than the Board authorized Grave Digger may make an excavation in the cemetery

#### **4. PENALTY PROVISIONS**

4.1

A person who contravenes a provision of this By-Law is guilty of an offense and upon summary conviction is liable to a fine not exceeding two thousand five hundred (\$2500.00) dollars exclusive of costs and, in default, distress.

4.2

a) Where a By-Law Enforcement Officer or a Peace Officer believes a person has contravened this By-Law, he may serve upon such person a violation tag in a form designated by the Town allowing payment of a penalty of one hundred (\$100.00) dollars to the Village and such payment shall be accepted in lieu of prosecution for the offense.

b) If the person upon whom a violation tag is served fails to pay the required sum within the time specified in the violation payment tag, the provisions of this section regarding acceptance of payment in lieu of prosecution do not apply.

4.3

Nothing in this section shall:

a) Prevent any person from exercising his right to defend any charge of committing a breach of this By-Law;

b) Prevent any By-Law Enforcement Officer or Peace Officer from laying an information or complaint in lieu of serving a violation tag; or,

c) Prevent any person from exercising any legal rights such person may have to lay an information or complaint against any person (whether such person has made payment under the provisions of this By-Law, or not) for a breach of this By-Law.

4.4

Where any person has made payment pursuant to the provisions of this section and is subsequently prosecuted at the insistence of some person other than the Village for the offense in respect of which such payment has been made, such payment shall be refunded.

#### **5. INTERPRETATIONS AND AMENDMENTS**

5.1

Any matters not dealt with in the bylaw shall be dealt with by the Board in the manner that is deemed most appropriate, having consideration for the appearance of the Cemetery, and the scope and intent of this bylaw.

**7. This bylaw to take effect on the final reading thereof.**

READ And PASSED A FIRST TIME THIS 21st DAY OF DECEMBER 2009. A.D.  
MAYOR Lorne Klevgaard  
MUNICIPAL MANAGER Patrick Risk

READ And PASSED A SECOND TIME THIS 18TH DAY OF JANUARY 2010 A.D.  
MAYOR Lorne Klevgaard  
MUNICIPAL MANAGER Patrick Risk

READ A THIRD AND FINAL TIME AND DECLARED PASSED BY COUNCIL THIS  
18TH DAY OF JANUARY 2010  
MAYOR Lorne Klevgaard  
MUNICIPAL MANAGER Patrick Risk

Schedule "A" To By-Law #

LEGEND

A) Edberg Cemetery Master Grid