

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2569

A bylaw to provide for the regulation, operation, and maintenance of the City of Courtenay Municipal Cemetery

The Council of the Corporation of the City of Courtenay in open meeting assembled, enacts as follows:

This bylaw may be cited for all purposes as the “Cemetery Management Bylaw No. 2569, 2009”.

1. In this bylaw, unless the context otherwise requires:

“**Caretaker**” means the person or persons duly appointed or employed by the Corporation from time to time as Caretaker or Caretakers of the cemetery or cemeteries of the Corporation of the City of Courtenay.

“**Cemetery**” means and include any parcel or tract of land set aside, used, maintained or operated as a cemetery by the Corporation of the City of Courtenay.

“**CIFSA**” means the *Cremation, Interment and Funeral Services Act, S.B.C. 2004, C.35* administered by the Administrative Authority, as may be amended or superseded from time to time and all regulations made there under.

“**City**” means the City of Courtenay.

“**Columbarium**” means a structure or building or an area in a structure or building, that contains, as an integral part of the structure or building or as freestanding sections, Niches for the entombment of Cremated Remains.

“**Corporation**” means the Corporation of the City of Courtenay.

“**Council**” means the Council of the Corporation of the City of Courtenay.

“**Cremated Remains**” means the remains resulting from cremation of a deceased human body.

“**Director of Financial Services**” means the person duly appointed as such from time to time by the Council.

“**Manager of Corporate Administration**” means the person duly appointed as such from time to time by the Council.

“**Mayor**” shall include the Acting Mayor.

“**Medical Health Officer**” means the person duly appointed from time to time to act as Medical Health Officer for the Corporation of the City of Courtenay.

“**Niche**” means a space, usually within a Columbarium, designed for the entombment of cremated remains.

“**Non-Resident**” means any person who does not live within the municipal limits of the City of Courtenay, the Town of Comox or within the boundaries of Electoral Area ‘B’, Comox Valley Regional District, except that a person who at the time of death was the owner as defined in the Municipal Act of Real Property within the City of Courtenay, Town of Comox, or the Electoral Area ‘B’ of the Comox Valley Regional District would for the purposes of this bylaw be considered a resident.

The use of words signifying the masculine shall include the feminine.

2. The following lands owned by the Corporation have been set aside and used for cemetery purposes:

Courtenay Civic Cemetery
legally described as being:
Lot 2, Section 18, Comox District, Plan 8920

3. A copy of the plans of the cemetery shall be filed with the Director as defined under the Business Practices & Consumer Protection Act, in accordance with the CIFSA, and copies shall also be kept available for public inspection in the municipal office and at such other places as may be deemed necessary.

Licence to use the Cemetery

4. The Council may grant to any person paying the fees therefore, according to the scale of fees hereinafter provided, a licence for the exclusive use by him, or his executors or administrators, of any one or more grave spaces which may be vacant and unlicensed in the cemetery, and upon payment of said fee therefore, such person or persons shall be entitled to receive a licence in the form of Schedule “A” attached hereto and forming part of this bylaw. A licence does not vest in the holder any title or interest in the land or Lot but instead provides for the right to inter the person named on the licence.
5. The Council reserves to itself the right to refuse to sell the use of more than two grave spaces, ash plots and niches to any one individual.

6. (1) If the holder of a licence to use and occupy grave space in the cemetery shall at any time desire to dispose of or transfer to another person his right to use and occupy grave space in the cemetery he shall first furnish the Manager of Corporate Administration full particulars of the name, address, or other description of the person to whom such disposal or transfer is desired to be made, the consideration to be paid therefore and such other information as the Manager of Corporate Administration may reasonably request. The provision of such information shall not bind the Corporation to accept or permit the proposed transfer.

(2) Upon receipt of the transfer fee prescribed in Schedule “B” to this bylaw and upon compliance with the requirements of this bylaw by the licence holder and the person to whom the licence is to be transferred, the Manager of Corporate Administration shall effect the desired transfer by an endorsement upon the licence to that effect and shall record the same in the books or other records kept by him for that purpose.
7. All licences issued for use of grave space in the cemetery shall be subject to the provisions of this bylaw and all bylaws now or hereafter to be passed by the Council.

Fees and Charges

8. (1) The fees for interment, disinterment, use of grave space, and care of graves, and the charges for goods offered for sale by the Corporation for use in the cemetery, and any other cemetery fees shall be those set out in Schedule “B” attached hereto and forming part of this bylaw.

(2) The fees set out in Schedule “B” to this bylaw shall be paid in advance at the Corporation’s office at the time of application for a licence.

Size of Grave Spaces

9. The size of grave spaces shall be:

Adult	1.219m x 2.743 m (4' x 9')
Infant	.6096m x 2.743m (2' x 4')
Cremated Remains	.6096m x .6096m (2' x 2')

Permission to Inter, Exhume and Cremate

10. All permits for interment of deceased persons in the cemetery shall be in the form of Schedule "A" attached hereto and forming part of this bylaw.
11. All applicants for a permit to inter in the cemetery must be made to the Manager of Corporate Administration at the Corporation's offices between the hours of 8:30 a.m. and 4:30 p.m. on all days of the week except Saturday, Sunday, Statutory Holidays, and in cases of emergency as described in Section 14.
12. Any person who makes application for an interment permit or who requires an interment to be made, shall provide the Manager of Corporate Administration with a statement of the name, age and date of death of the deceased, whether or not death was caused by a communicable disease as listed in Part 4 of the "Regulations for the Control of Communicable Diseases" made under the "Health Act", the time and date of the funeral and any other information which it is reasonable for the Manager of Corporate Administration to request.
13. (1) Where the Health Officer directs, pursuant to the "Regulations for the Control of Communicable Diseases" or otherwise, that a body be buried in the cemetery during any period when the Corporation's offices are closed, permission to inter in the cemetery shall be obtained from the Public Works Manager or Manager of Corporate Administration-Administrator.

(2) Where a burial in the cemetery is performed under the conditions of subsection (1), the person who permitted the burial and the person who performed the burial shall report the matter to the Manager of Corporate Administration with full details of the deceased as required by Section 13 hereof, together with such fees as may be required in accordance with "Schedule C", if such fees have not already been paid.

(3) The information required to be given to the Manager of Corporate Administration under the terms of subsection (2) of this section shall be provided to the Manager of Corporate Administration as soon as after such interment as the Corporation's offices are open.
14. No deceased person, save and except cremated remains, interred in the cemetery shall be exhumed without a written order being first obtained from the proper authority in accordance with the requirements of the CIFSA and the presentation of such order to the Manager of Corporate Administration. All licences for the exhumation of cremated remains shall be in the form of Schedule "C" attached hereto and forming part of this bylaw.
15. It shall be unlawful for any person to cremate or bury a deceased person within the limits of the City, save and except as authorized under the terms and conditions of the CIFSA and the regulation made there under.

Interment in the Cemetery

16. No body, other than a deceased human body, or the cremated remains or other remains of a deceased human body shall be interred in the cemetery and all interments shall be subject to and comply with the provisions of this bylaw.
17. The holder of a licence to use and occupy grave space in the cemetery shall not allow or permit an interment to be made in the grave space to which the licence refers, nor shall he transfer or dispose of the said grave space to another person, group or organization unless such interment, transfer, or disposal shall be made pursuant to and subject to the provisions of this bylaw.
18. (1) Where the body of a person who died while suffering a communicable disease is to be buried in the cemetery, any instruction given by the Health Officer respecting the interment shall be fully and carefully followed by those who perform the interment.

(2) Where the body delivered to the cemetery for interment is subject to direction of the Health Officer under the terms of Part 4 of the “Health Act Communicable Disease Regulations” made under the “Health Act”, the person delivering the body to the cemetery shall inform the caretaker.
19. (1) Each interment in the cemetery other than the interment of cremated remains, shall be made in a grave dug to a depth sufficient to provide for not less than one metre (3') of earth between the upper surface of the casket or grave liner and the level of the ground surrounding the grave.

(2) Two interments shall be allowed in each grave space, except in an infant grave space and grave spaces in the ‘S’ section, where only one interment is allowed. However, four cremated remains interments shall be allowed in each grave space over regular interments. The interment of cremated remains shall conform to subsection 19(4).

(3) Where two interments are permitted in one grave space, and each interment is in respect to a body not in the form of cremated remains, the first body shall be buried in the grave at a lower depth than the second and each of the two burials in the grave shall conform to the requirements of subsection (1).

(4) Each cremation lot may hold up to two (2) cremated remains. Each interment of cremated remains in the cemetery shall be made in a container encased in a grave liner, and shall be buried in the grave not less than 0.6m (2') deep, except where the concrete encased container of cremated remains is used as a foundation base for a tablet memorial installed on the grave according to the requirements of Section 33.

(5) Each Columbarium Niche may hold up to two (2) cremated remains. Cremated remains placed in a Niche must be enclosed in a sealed container or urn constructed of permanent, durable material approved by the Manager of Corporate Administration.

(6) A precast concrete or fibreglass grave liner shall be used for each adult interment, except in the case of cremated remains interred according to the requirements of subsection (4) of this section, and except where a concrete or steel vault is used. Where a concrete liner is required, such liner shall be of reinforced concrete not less than 5.08cm (2") thick and shall consist of two side walls and two end walls and a cover sufficient to bridge the coffin over its entire length.

(7) A cremated remains grave space may be purchased as a memorial plot, upon presentation to the Manager of Corporate Administration of a copy of the Death Certificate, without a requirement for the interment of remains. All other provisions as contained within this Bylaw shall apply.

20. No person shall inter any body in the cemetery except between the hours of nine o'clock in the forenoon and three o'clock in the afternoon, unless written permission of the Manager of Corporate Administration is first obtained. There shall be a minimum of two (2) hours between scheduled burials including casket, in-ground cremations and niche wall interments.
21. No person shall inter any body in the cemetery on Saturday or Sunday, or on any statutory holiday unless written permission of the Manager of Corporate Administration is first obtained, except in the emergency conditions as specified in Section 13 hereof.
22. Families may request permission to witness the interment process at the cemetery subject to the following criteria:
 - a. A request to witness the interment must be communicated to the Manager of Corporate Administration when confirming interment date and time.
 - b. The City will not be held liable for any injury to members of the public that are attending or witnessing an interment process.
 - c. All proceedings at the interment site shall be under the sole direction of the Caretaker.
23. No grave shall be dug, or opened by any person other than the caretaker or other person duly authorized by him, or by the Manager of Corporate Administration.

24. Upon approval of the Manager of Corporate Administration a licence may be reclaimed by the City if:
- a. the Licence Holder would be at least 90 years of age;
 - b. the minimum period of 50 years has elapsed from the date of purchase;
 - c. a minimum 90 days has passed since notice of intent to reclaim has been sent to the Licence Holder;
 - d. the City has made diligent attempts to contact the Licence Holder.

Cemetery Caretaker

25. A cemetery Caretaker may be appointed by the Council, and the duties of a caretaker so appointed shall among other things be:
- (1) To dig and prepare, or cause to be dug and prepared, all graves required to be dug whenever ordered to do so by the Manager of Corporate Administration, or the person acting for him.
 - (2) To install all memorial markers.
 - (3) Carry out, or cause to be carried out, the general work of the cemetery to maintain it in a neat and tidy condition, including the maintenance of paths, gates, fences, and other cemetery improvements.
 - (4) Maintain records as required and submit to the Manager of Corporate Administration whatever reports are required by him.
 - (5) Complete such other work as may be directed by the Manager of Corporate Administration.

Administration and Care Fund

26. The Manager of Corporate Administration shall maintain records as necessary to the administration and management of the cemetery and as required by the CIFSA.
27. The Manager of Corporate Administration is hereby authorized on behalf of the municipality to grant a licence in the form set out in Schedule “A” hereof in respect of any grave space in the cemetery, according to the scale of fees and charges specified in Schedule “B” of this bylaw and subject to the provision of this bylaw.
28. The Manager of Corporate Administration shall issue all permits for interment required by this bylaw, except as otherwise provided.
29. Upon issuing any permits for interment in the cemetery, or upon receiving an order for exhumation from the property authority as required by Section 15 hereof, the Manager of

Corporate Administration shall notify the Caretaker before the time of the intended interment or exhumation giving the name of the deceased, the number and location of the grave space concerned and any instruction of the Health Officer relative to the interment or exhumation.

30. (1) A fund shall be established to be known as “The Cemetery Care Fund” and such fund shall be administered in accordance with the requirements of the regulations made under the CIFSA for the establishment and administration of a Municipal Cemetery Care Fund and in accordance with the procedures hereinafter set out.
- (2) A bank account shall be established to be known as “The Cemetery Care Fund Account” into which the Director of Financial Services shall pay all funds received for Care Fund purposes and all such funds shall be deposited in said account, and there held pending investment as hereinafter provided.
- (3) On all licences for use of grave space sold, the Director of Financial Services shall pay into “The Cemetery Care Fund Account” from the amount received for each licence sold at the fee specified in Schedule “B” hereof.
- (4) On all licences for the use of grave space, and on all contracts or agreements for the sale of such licences, the amount required to be used for Care Fund purposes shall be specified, provided that the amount so specified shall not apply to grave space made available by the Corporation free of charge for indigent burial.
- (5) Any owner of a memorial tablet, desiring to install same in the cemetery shall pay to the Manager of Corporate Administration prior to the installation of such memorial the amount outlined in Schedule “B” of this bylaw, as a contribution to the “Cemetery Care Fund”, and such amounts when received shall be paid to the Director of Financial Services into “The Cemetery Care Fund Account” for investment as hereinafter provided.
- (6) Investment of funds received for Care Fund purposes shall be made as required by the regulation under the CIFSA applicable to Municipal Cemetery Care Funds.
- (7) The income from the “Cemetery Care Fund” including any appreciation thereof, shall be used for the sole purpose of upkeep and maintenance of the property licenced and the cemetery of which it forms part, and the original principal sum of such fund as established from time to time, as hereinbefore provided, shall be maintained at all times.
31. A separate account of all monies received under the provisions of this bylaw and of all monies expended hereunder shall be kept by the Director of Financial Services.

Memorials

32. (1) No person shall place on any grave space in the cemetery a memorial marker, until an amount as outlined in Schedule "B" of this bylaw has been paid to the Manager of Corporate Administration for Care Fund purposes in respect to each memorial, which it is desired to install. All memorials shall only be placed, installed or removed by the Caretaker or other person authorized by the Manager of Corporate Administration.
- (2) Installation of memorials shall occur during regular business hours. Installations will be made as soon as possible after delivery of the memorial to the cemetery and timelines may vary depending on scheduling issues, weather conditions and ground conditions.
- (3) The City shall not be held liable for, or be obliged to repair, any breakage or damage to any memorial in the cemetery, except as shall arise as the result of the negligence of the Caretaker.
33. A memorial may be installed on a grave in the cemetery subject to the requirements of Section 34 hereof and subject to the following:
- (1) Such markers shall be rectangular in shape and shall be set on a base of similar size. The finished top surface of the marker must be flat and set level and flush with the surface of the surrounding ground.
 - (2) Markers must be made of granite, bronze or concrete. Bronze markers shall be attached to a concrete base not less than 10.16cm (4 inches) thick with side surfaces true and perpendicular with the top surface of the attached bronze marker.
 - (3) Each marker other than bronze shall be a minimum thickness of 7.62cm (3 inches) and shall have its side surfaces true and perpendicular with its top surface.
 - (4) Markers shall not exceed the dimensions of 40.64cm (16") in width by 71.12cm (28") in length for single grave; 60.96cm (24") in width by 81.28cm (32") in length for double grave; and 30.48cm (12") in width by 55.88cm (22") in length for a plot in the section reserved for cremated remains.
 - (5) All markers shall have inscribed in small letters in the lower left hand corner of the memorial the location of the grave showing section and plot number.
 - (6) All markers shall be placed so that the inscriptions or writings thereon shall be readable from the pathways.
 - (7) Bronze plaques for Niches shall be supplied and installed by the City to conform to the approved design and specifications of the applicable section of the Cemetery as

established by the City. Only one Niche Plaque will be permitted to be installed on any one niche.

34. (1) No grave, grave space or niche space shall be defined by a fence, railing, coping, curbing, hedge, or by other marking save by a memorial marker, as set out in Section 33, unless an agreement has been signed with the City to allow gravesite modifications, under the following conditions:
- (i) total maintenance of the grave is the responsibility of the person or persons entering into the agreement;
 - (ii) the City shall be indemnified against any liabilities arising from the gravesite modification;
 - (iii) the agreement will include a provision to cover any breach of the agreement, and if the breach continues despite reasonable notice to the agreement holder, then the agreement becomes null and void;
 - (iv) the agreement will specify the amount of beautification (form, character, shape, height) to be allowed, based on the application for modification of a gravesite that was previously approved by Council;
 - (v) a bond in an amount to be determined by staff is required to cover the estimated cost of returning the grave space to bylaw standards in the case of default of the agreement.
- (2) An agreement to modify a grave space does not include grave spaces in the Cremated Remains section or the Columbariums.
35. The Licence Holder, or the deceased's descendants, is required to keep in proper repair, at their expense and to the satisfaction of the City, all memorials upon their lot. Should any memorial in the cemetery fall into a state of disrepair, then the Manager of Corporate Administration will document the condition and have the Memorial removed from the cemetery, in each case at the expense of the lot holder or their successors.
36. The Manager of Corporate Administration may refuse to issue a licence to the applicant if the applicant has failed to comply with the requirements of this bylaw. The Manager of Corporate Administration may reject memorial, despite the prior issuance of a cemetery licence, when the memorial does not comply with the specifications in this bylaw, is not in keeping with the standards of the cemetery, or contains epitaphs deemed inappropriate by the Manager of Corporate Administration, including reference to pets.

General

37.
 - (1) Cut flowers, wreaths and floral offerings may be placed on graves but may be removed by the Caretaker when their condition is considered by him to be detrimental to the appearance or beauty of the cemetery.
 - (2) Plant material and grave adornments associated with events or celebrations will be removed at least 30 days after the event or when deemed unsightly by the Caretaker.
 - (3) Cut flowers must be placed in the containers supplied by the City.
 - (4) Artificial flowers or plastic wreaths will be accepted November 1st of each year so long as they do not interfere with adjacent lots, but will be removed March 31st of the following year.
 - (5) No potted plants are permitted.
 - (6) Items such as personal mementos, photos, decorative vases, candles, landscape rock, plants and plantings, etc. placed on or in the lot are subject to removal and disposal at the discretion of the City and without notice to the lot holder.
38. No person shall plant, remove, cut down or destroy, any trees, shrubs, plants, flowers, bulbs or rocks in the cemetery other than an employee of the Corporation authorized to do so.
39. All persons are prohibited from damaging, or defacing any memorial, monument, fence, gate, or structure in the cemetery, or any improvements in the cemetery.
40. No person shall enter the cemetery in a vehicle after sunset, or drive a vehicle in the cemetery at any time at a speed of more than 16 km (10 miles) an hour, and all vehicles and their drivers while in the cemetery grounds shall be subject to the directions and orders of the Caretaker.
41. No person shall solicit orders for markers, tablets, memorials, curbing, capping, or like works within the limits of the cemetery.
42. All persons and funeral processions in the cemetery shall obey the reasonable instructions of the Caretaker, but any person not behaving with proper decorum within the cemetery, or disturbing the quiet and good order of the cemetery may be evicted therefrom by the Caretaker.
43. The discharging of firearms, other than in regular volleys at burial services, is prohibited in the cemetery.

44. Any person who wilfully destroys, mutilates, defaces, injures, or removes any tomb, monument, grave stone, or other structure placed in the cemetery, or any fence, railing or other work for the protection or ornament of the cemetery, or any tomb, monument, grave stone, or other structure aforesaid or lot within the cemetery, or wilfully destroys, cuts, breaks or injures any shrub or plant, or plays at any game or sport, or discharges firearms (save at a military funeral), or who wilfully or unlawfully disturbs persons assembled for the purpose of burying a body therein, or who commits a nuisance, or at any time behaves in an indecent and unseemly manner, or deposits any rubbish or offensive matter or thing in a cemetery, or in any way violates any grave, tomb, tombstone, vault, or other structure within the same, shall be guilty of an infraction of this bylaw and liable to the penalties hereof.
45. The cemetery shall be deemed open at eight (8) o'clock every morning and closed every evening at eight (8) o'clock. Any person in the cemetery without special permission of the Caretaker, between eight (8) p.m. and eight (8) a.m. the following morning shall be deemed guilty of an infraction of this bylaw and liable to the penalties hereof.
46. Any person who commits an offence against the provisions of this bylaw is punishable in accordance with the "Offence Act".
47. Notwithstanding anything herein contained, the Administration of the cemetery shall be carried out at all times in accordance with the CIFSA and regulations made there under.
48. This bylaw will come into force upon final adoption.
49. "The Cemetery Bylaw No. 1508, 1989" and amendments thereto are hereby repealed.

Read a first time this 9th day of March , 2009

Read a second time this 9th day of March, 2009

Read a third time this 9th day of March, 2009

Finally passed and adopted this 16th day of March, 2009

Mayor

Manager of Corporate Administration

City of Courtenay
830 Cliffe Avenue
Courtenay, BC, V9N 2J7
Tel: 250-334-4441 Fax: 250-334-4241 email: info@courtenay.ca
www.courtenay.ca

**CEMETERY MANAGEMENT BYLAW NO. 2569
SCHEDULE "C"
EXHUMATION LICENCE**

Date: _____

Permission is hereby granted to _____
(name of relative and/or authorized agent)

to have the remains of _____
(name of deceased)

exhumed from grave space # _____ of section _____

which are currently interred in the City of Courtenay Cemetery.

Additional comments: _____

Authorized Signatory
(relative and/or authorized agent)

Manager of Corporate Administration

Exhumation Fee	\$
GST	\$
Total Payable	\$

Fees to be paid prior to date of exhumation