

**REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN**

**BYLAW NO. 2816, 2018**

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A bylaw to provide for the regulation and administration of the Naramata Cemetery.

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**WHEREAS** pursuant to the *Local Government Act*, and to Regional District of Okanagan-Similkameen Bylaw No. 1617, 1995, and Amendment Bylaw No. 1964, 1999; the Regional Board has established a local service area for the provision of cemetery operations of the Naramata Cemetery;

**NOW THEREFORE** the Board of the Regional District of Okanagan-Similkameen, in open meeting assembled, ENACTS as follows:

**1 - INTERPRETATION**

1.1 In this Bylaw:

- “Act” means the *Cremation, Interment and Funeral Services Act*;
- “Board” means the Board of Directors of the Regional District of Okanagan-Similkameen;
- “Burial Plot” means a plot measuring 120 centimeters wide x 240 centimeters long, which has been designated for the burial of a casket or coffin containing human remains;
- “Caretaker” means the person or persons duly appointed or employed by the Regional District from time to time as Caretaker or Caretakers of the Cemetery;
- “Cemetery” means land that is set apart or used as a place of burial of human remains or cremated remains and includes any incidental or ancillary buildings on the land;
- “Cemetery Board” means the Regional District Board, in its capacity as the Board of Cemetery Trustees pursuant to the *Act* and to this Bylaw, or its lawful designate;
- “Cremated Remains” means human bone fragments left after human remains are cremated;
- “Cremation Plot” means a Plot measuring 120 centimetres wide x 120 centimetres long, which has been designated for the burial of an urn or other container containing cremated human remains but not a casket or coffin containing human remains;

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| “Cremation Urn Vault”   | means a receptacle made of durable material placed in a ground cremation plot to encase an urn, or urns, holding cremated remains. A cremation vault has a lid and is placed during the interment process.  |
| “Designated Officer”    | means the person appointed by the Board under Part 6, Division 8, S.234 as Chief Administrative Officer for the Regional District of Okanagan-Similkameen, or his designate;  |
| “Director”              | means the individual or administrative authority designated under section 175 of the <i>Business Practices and Consumer Protection Act</i> ;  |
| “Exhumation”            | means the exposure and removal of interred human remains for the purposes of viewing or examination;  |
| “Grave”                 | means a plot or other space in the Naramata Cemetery in which human remains or cremated human remains have been buried or placed, or for which a Permit has been issued in accordance with this Bylaw or a previously applicable bylaw or regulation; |
| “Grave Liner”           | means a receptacle made of durable material placed around the casket to provide reinforcement to the plot and which is placed during the burial process;  |
| “Human Remains”         | means:<br>(a) a dead human body in any stage of decomposition, or<br>(b) a body of a stillborn infant in any stage of decomposition, but does not include cremated remains;   |
| “Interment”             | means disposition by:<br>(a) burial of human remains or cremated remains,<br>(b) entombment of human remains, or<br>(c) inurnment of cremated remains;  |
| “Memorial Marker”       | means a Grave marker that is authorized and installed pursuant to Part 8 of this Bylaw, or any Grave marker duly authorized and installed pursuant to a previously applicable bylaw or regulation;  |
| “Naramata Cemetery”     | means that land described in section 2.5 of this Bylaw;   |
| “Normal Business Hours” | means the regular opening hours of the offices of the Regional District;  |
| “Operator”              | means a person or a board of trustees that owns or operates a place of interment or a crematorium;  |
| “Permit”                | means Right of Interment (Plot Reservation License) permit form   |

for plot reservation and interment into the Naramata Cemetery;

“Plot” means a space designated, through a subdivision of the Naramata Cemetery, for the interment of human remains or cremated human remains, and may be a Cremation Plot or a Burial Plot;

“Plot Holder” means:

- (a) a person for whom a Permit has been issued;
- (b) a person for whom a Plot has been reserved before the date of adoption of this Bylaw, and recorded on the plan of the Naramata Cemetery at the office of the Regional District; or
- (c) after the death of the person described in either (a) or (b), or after the death of a person for whom a Plot had not been reserved, the person with the right to control the disposition of the remains pursuant to the Act;

“Regional Board” means the Board of the Regional District;

“Regional District” means the Regional District of Okanagan-Similkameen;

“Scattering Garden” means a designated area for the placement of non-recoverable, commingled cremated remains placed within an ossuary or scattered within the designated garden area;

“Service Area” means the local service area defined in the Naramata Cemetery Local Service Establishment Bylaw.

1.2 This Bylaw shall be cited as the “**Regional District of Okanagan-Similkameen Naramata Cemetery Regulation Bylaw No. 2816, 2018**”.

## **2 - GENERAL**

2.1 The Regional Board is hereby established as the Cemetery Board for the Naramata Cemetery, pursuant to the *Act*;

2.2 The operation of the Naramata Cemetery shall comply with the provisions of this Bylaw and with the requirements of the *Act*, and in the event of a conflict, the provisions of the *Act* shall apply.

2.3 The maintenance of all records necessary for the operation and management of the Naramata Cemetery, or required by the *Act* or its regulations or any other applicable legislation, is hereby delegated to the Designated Officer, of the Regional District.

2.4 The administration of all matters set out in this Bylaw, including the issuing of any license or permit pursuant to this Bylaw and the determination of, collection of, refund of, or other dealings with any fee required by this Bylaw, is hereby delegated to the Designated Officer of the Regional District.

- 2.5 The following lands have been set aside, operated, used or maintained as a cemetery by the Regional District:

Naramata Cemetery described as:

Lots 6, 7 & 8  
Block 31  
District Lot 210  
SDYD, Plan KAP575

shall be used solely for the purpose of a cemetery, and purposes associated with or incidental to the care and disposal of human remains or cremated human remains.

Pursuant to Section 39 of the *Cremation, Interment and Funeral Services Act* a copy of the bylaw shall be filed with the Director of the Business Practices and Consumer Protection Authority, and copies shall also be kept available for public inspection in the Regional District office and at such other places as may be deemed necessary.

- 2.6 The Cemetery Board may subdivide the land described in section 2.5 of this Bylaw into Plots, in accordance with the *Act*;

- 2.7 The Cemetery Board may, at its sole discretion and without consent of any Plot Holder:

- (1) resurvey, enlarge, diminish, replant, alter in shape or size or otherwise change all or any part of the Naramata Cemetery;
- (2) establish, close, eliminate or otherwise modify or change the location of roads, paths or other areas allowing access to and from any Plot; or
- (3) lay out, plant or remove gardens, flowers, shrubs or trees in the Naramata Cemetery.

- 2.8 The Cemetery Board may, at its sole discretion and without the consent of any Plot Holder, so long as any Plot for which a valid Permit has been granted, or other reservation has been made pursuant to a previously applicable bylaw or regulation, is not disturbed:

- (1) grant rights of way through the Naramata Cemetery for any cemetery or public purpose; or
- (2) erect buildings for any use connected with, incidental to or convenient for the preparation, care, disposition or interment of human remains or cremated human remains, or for other cemetery purposes.

- 2.9 A copy of a plan of the Naramata Cemetery and a copy of this Bylaw and any other bylaw which including the rates and other charges for Plots and other

cemetery services, shall be available for examination during Normal Business Hours at the offices of the Regional District.

- 2.10 There shall be no disposal of human remains anywhere within the Service Area, other than within the Naramata Cemetery in accordance with this Bylaw, unless permitted by, and in accordance with, the *Act* and its regulations.
- 2.11 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 Naramata Cemetery, and all interments shall comply with this Bylaw, and any other applicable legislation.

### **3 - PLOT RESERVATION AND ASSIGNMENT**

- 3.1 A person may apply to the Designated Officer for reservation of a Plot within the Naramata Cemetery, and upon payment of the fee prescribed in accordance with the Regional District Fees and Charges Bylaw, shall be issued a Permit for the use of a Plot, provided that an unallocated subdivided Plot is available. This reservation will be limited to a maximum of three (3).
- 3.2 A Permit issued pursuant to this Part shall be a contract of sale in the form of Schedule "A", attached to this Bylaw, and no Permit may be issued or interment in the Naramata Cemetery occur, prior to the issuance of a Permit or other existing reservation made pursuant to a previously applicable bylaw or regulation.
- 3.3 The issuance of a Permit does not grant the Plot Holder any rights regarding the Plot, beyond the right to be interred in that Plot subject to the requirements of this Bylaw.
- 3.4 The issuance of a Permit does not grant any Plot Holder the right or interest in any roads, paths or common areas of the Cemetery other than as a means of access to his or her Plot, nor any right or interest in the gardens, structures, buildings or other property or improvements of the Cemetery.
- 3.5 A Plot Holder shall not allow or permit any interment in the reserved Plot, and shall not transfer or dispose of the right to use the Plot to another person, group, or organization unless that interment, transfer or disposal is made pursuant to this Bylaw and all other applicable legislation.
- 3.6 Where a particular Plot has been reserved, and the Plot Holder wishes to transfer the reservation to a different Plot in the Naramata Cemetery, the Designated Officer may transfer the reservation upon receipt of the difference, if any, between the fee paid to reserve the original Plot, and the fee due as of the date of transfer to reserve the new Plot through the issuance of a new Permit.
- 3.7 A Plot Holder may request a transfer of the right of interment in a Plot to a spouse or other family member, and shall submit the request in writing to the Designated Officer.

- 3.8 Where a Plot Holder wishes to cancel a reservation for a Plot that has not yet been used for interment, without transfer of rights to another Plot or another person as provided for in section 3.6 or 3.7, he shall notify the Designated Officer in writing requesting such cancellation.
- 3.9 Where a person has requested cancellation of a Plot reservation pursuant to the *Act*; the person shall be entitled to 80% refund of the amount paid, without interest, as evidenced in the Regional District's records, for the reservation.
- 3.10 In the event that an error on the part of the Designated Officer is discovered in a Permit prior to the use of the Plot for interment, and that Plot is no longer available, the Designated Officer shall:
- (1) amend the affected Permit, or other reservation made prior to the enactment of this Bylaw, so as to provide a Plot of equal or greater value and similar location acceptable to the Plot Holder; or
  - (2) cancel the Permit and refund the full amount paid, as evidenced in the Regional District's records, for the reservation plus interest at the rate prescribed by the Act or its regulations.

The Plot Holder shall notify the Designated Officer of the Plot Holder's preference within 30 days of the notification of the error, otherwise the Designated Officer shall be entitled to make the decision.

#### **4 – INTERMENT PERMITS**

- 4.1 No human remains or cremated remains shall be interred in the Cemetery until; A person having authority pursuant to Section 5 of the *Cremation, Interment and Funeral Services Act* to authorize the disposition of the deceased person's human remains or cremated remains has completed, duly signed and witnessed at the Regional District office a Permit and/or any other documents required to facilitate the interment in a form approved by the Regional District of Okanagan-Similkameen.
- 4.2 No human remains or cremated human remains shall be interred in the Naramata Cemetery prior to the issuance of a Permit.
- 4.3 Where no Plot has been previously reserved for the deceased person, or transferred pursuant to this Bylaw for the use of the interment of the remains of the deceased person, a Plot must be reserved through the application for and issuance of a Permit pursuant to section 4.1.
- 4.4 A person with the right to control the disposition of human remains pursuant to the *Act*; may apply to the Designated Officer for permission to have human remains or cremated human remains interred in the Naramata Cemetery, and upon payment of the Interment Opening and Closing Fee in accordance with the Regional District Fees and Charges Bylaw may be issued a Permit in the form of Schedule "A".
- 4.5 An application for a Permit shall include the following information:

- (1) the name and date of birth of the deceased;
  - (2) the date and time of the funeral;
  - (3) the cause of death;
  - (4) any special instructions including any received from the Medical Health Officer relative to that interment; and
  - (5) any other information necessary to comply with this Bylaw and any other applicable legislation, or necessary to allow the Caretaker to prepare the Plot for interment.
- 4.6 All applications for a Permit shall be made at the offices of the Regional District during Normal Business Hours, and shall be made at least twenty-four hours prior to the time scheduled for interment, except in an emergency where public health or safety, or personal moral or religious beliefs, require burial within a shorter time period.
- 4.7 Where public health or safety, or personal moral or religious beliefs, require burial within a time period that does not allow a person to meet the requirements of section 4.6, an application may be received and a Permit may be issued by Designated Officer, or other authorized designate, of the Regional District at a time other than that noted in section 4.6.
- 4.8 Fees for the issuance of any Permit, other than during Normal Business Hours or less than 24 hours prior to the scheduled interment, pursuant to section 4.7 shall be in accordance with Regional District Fees and Charges Bylaw and shall be charged in addition to the ordinary fees for the issuance of such permit.
- 4.9 Upon the issuance of any Permit or upon receiving a valid request or order pursuant to Part 6 of this Bylaw for exhumation or disinterment, the Designated Officer, or their delegate of the Regional District shall notify the Caretaker of:
- (1) the date and time scheduled for interment, exhumation or disinterment;
  - (2) the name of the deceased;
  - (3) the number and location of the Plot to be used; and
  - (4) any special instructions including any received from the Medical Health Officer relative to that interment, exhumation or disinterment
- with sufficient time for the Caretaker to prepare the Grave for the interment, exhumation or disinterment.

## **5 – BURIAL/INTERMENT**

- 5.1 Each Burial Plot may be used for the interment of up to:

- (1) one adult-sized casket or coffin containing human remains and two cremation urns; or
  - (2) four cremation urns.
- 5.2 Each Cremation Plot may be used for the interment of up to two cremation urns.
- 5.3 Where one or two cremation urns are to be buried in a Plot with a casket or coffin as described in section 5.1(1) of this Bylaw, the urn(s) shall be buried directly above the casket or coffin, and the requirements of both section 5.5 and 5.6 shall still apply.
- 5.4 Notwithstanding Sections 5.1 to 5.3 inclusive, exceptions may be made for adjustments to the Plot for interment, by making an application to the Cemetery Board.
- 5.5 Every interment of human remains, other than cremated human remains, shall be made with an enclosed casket or coffin, and covered by a fibreglass grave liner, the fee for which shall be that set out in accordance with Regional District Fees and Charges Bylaw.
- 5.6 Interred human remains, other than cremated human remains, shall be covered by at least one metre of earth between the general surface level of the ground and the top of the required grave liner covering the coffin or casket in which the remains rest.
- 5.7 Interred cremated human remains shall be covered by at least 0.3 meters of earth between the general surface level of the ground and the top of the urn.
- 5.8 No Grave shall be dug or opened or closed by any person other than the Caretaker or other person duly authorized by the Designated Officer.
- 5.9 No interment shall be made except during Normal Business Hours, unless prior permission has been granted by the Designated Officer, or its lawful designate.
- 5.10 If the scheduled date and time of an interment, or exhumation or disinterment is such that the Grave must be dug, opened, or closed other than during normal business hours, the opening and closing other than during Normal Business Hours fee as set out in accordance with Regional District Fees and Charges Bylaw shall be charged in addition to the usual fee for such service.
- 5.11 No vaults or other methods of interment above ground shall be permitted in the Naramata Cemetery.

## **6 – EXHUMATION AND DISINTERMENT**

- 6.1 No human remains or cremated human remains shall be exhumed or disinterred without authority in accordance with Section 16 of the *Cremation, Interment and Funeral Services Act*.



A written request from the person who, under Section 5 of the *Act*, has the right to control the disposition of the remains for exhumation or disinterment, as the case may be, is issued to the Cemetery Board by the Designated Officer, unless the remains are to be:

- (a) disinterred from one Plot and interred in another Plot in the Naramata Cemetery; or
  - (b) exhumed or disinterred by order of the court or under the Coroners Act, R.S.B.C. 1996, c. 72 or the Health Act, R.S.B.C. 1996, c. 179.
- 6.2 No person other than the Caretaker or other person duly authorized by the Cemetery Board shall open or close a Grave for the purpose of exhumation or disinterment.
- 6.3 The exhumation or disinterment opening and closing fees shall be those set out in accordance with Regional District Fees and Charges Bylaw, and shall be payable prior to the exhumation or disinterment.
- 6.4 Notwithstanding section 6.3, in the event of an error on the part of the Cemetery Board whereby human remains or cremated human remains are interred in the wrong Plot, then the *Act* applies, there shall be no fee payable for the disinterment, or the subsequent interment in the correct Plot or a replacement Plot.

## **7 – CARETAKER**

- 7.1 The Caretaker shall be responsible for:
- (1) the onsite maintenance and operation of the Naramata Cemetery and related tools, equipment, buildings and other improvements or property in accordance with this Bylaw and any other applicable bylaw or other legislation;
  - (2) the preparation, digging, opening and closing of Plots or Graves as directed by the Designated Officer of the Regional District;
  - (3) the direction of all funerals, funeral processions, or other interment ceremonies to the correct Plot in the Naramata Cemetery;
  - (4) the installation of any Memorial Markers, including the construction of a marker's foundation or base where applicable; and
  - (5) any other duties or powers lawfully delegated to him or her.

## **8 – MEMORIAL MARKERS**

- 8.1 A Memorial Marker made of stone, concrete or bronze may be installed on a Grave, and shall be no larger than:

- (1) 30 centimeters x 60 centimeters for a Burial Plot; or
  - (2) 30 centimeters x 60 centimeters for a Cremation Plot.
- 8.2 No person, other than the Caretaker or other duly authorized representative of the Regional District, may install any Memorial Marker and the fee for such installation shall be that set out in accordance with Regional District Fees and Charges Bylaw.
  - 8.3 A Memorial Marker shall be installed flush with the surface level of the surrounding ground, so as to permit a lawn mower to pass over the Plot without contacting the Memorial Marker.
  - 8.4 Bronze Memorial Markers shall be attached to a stone or concrete base not less than 5 centimeters thick, and the sides of the base shall be perpendicular to the top surface of the base.
  - 8.5 Stone or Concrete Memorial Markers shall be not less than 5 centimeters thick, and the sides shall be perpendicular to the top surface of the base.
  - 8.6 A temporary marker noting the name of person buried in the Grave, and the date of interment, shall be permitted on a Grave for up to six months after the date of interment, and shall be removed by the Caretaker if still remaining after that time.
  - 8.7 No Plot or Grave shall be defined by a fence, railing, curb, hedge or other marker or structure other than a Memorial Marker or temporary marker as outlined in this Part.

## **9 – NARAMATA CEMETERY GROUNDS**

- 9.1 Boxes, toys, shells, screens, arbors, trellises, tripods or any other objects or structures are prohibited on any Grave or Plot.
- 9.2 As an exception to section 9.1, flowers or wreaths may be placed on a Grave, but may be removed by the Caretaker when their condition is deemed to be detrimental to the general appearance of the Cemetery. Any container used to place a memorial offering permitted by this section is subject to the approval of the Caretaker.
- 9.3 No person, other than the Caretaker or other duly authorized person in the performance of his or her duties, shall plant, install, remove, cut down, or destroy any tree, shrub, flower, bulb, rock or other landscape feature in the Naramata Cemetery.
- 9.4 No person shall damage or deface any Grave, Memorial Marker, monument, structure or other improvement in the Naramata Cemetery.
- 9.5 No person shall solicit orders for markers, tablets, memorials, or other similar items within the grounds of the Naramata Cemetery.

- 9.6 All persons and funeral or other interment processions in the Naramata Cemetery shall obey the instructions of the Caretaker, and shall behave with proper decorum and respect, and shall not disturb the quiet and good order of the Naramata Cemetery. The Caretaker may remove any person not complying with this section from the grounds of the Naramata Cemetery.
- 9.7 No person shall disturb or interfere with any funeral or interment service or procession in or near the Cemetery while the service or procession is occurring.
- 9.8 No person shall:
- (1) play any game or sport unless authorized by the Designated Officer;
  - (2) discharge any firearm other than at a military funeral;
  - (3) drive a motorized device of any kind over lawns, gardens, or flower beds unless authorized by the Designated Officer; or
  - (4) deposit any rubbish or offensive matter or thing
- within the grounds of the Naramata Cemetery.
- 9.9 No person shall, unless authorized by the Designated Officer, enter or remain on the Naramata Cemetery land, except between the hours of 8:00 a.m. and 8:00 p.m.
- 9.10 Memorial trees, shrubs, flower beds, other landscape features, structures or improvements may be donated or funded for planting within the grounds of the Naramata Cemetery on the following conditions:
- (1) all such donated or funded items shall be approved by the Designated Officer;
  - (2) all such donated or funded items shall be installed, constructed or planted by the Caretaker in the manner and location determined by the Designated Officer; and
  - (3) all such donated or funded items shall be gifts to, and shall immediately become the property of, the Regional District.

## **10 – OFFENCE AND PENALTY**

- 10.1 Every person who violates any of the provisions of this Bylaw, or permits any act or thing to be done in violation of this Bylaw, or who fails to do any act or thing required by this Bylaw, shall be deemed to have committed an offence and shall be liable, upon summary conviction, to a penalty of up to \$2,000.00 pursuant to the *Offence Act*.
- 10.2 Each day that an offence against this Bylaw continues shall be deemed a separate and distinct offence.

**11 – SEVERABILITY, SCHEDULES AND REPEAL**

- 11.1 If, for any reason, any provision of this Bylaw is found to be unlawful by a court of competent jurisdiction, that provision shall be severed and the remainder of this Bylaw shall continue in full force and effect.
- 11.2 [Schedule “A”](#) – Permit (Right of Interment Plot Reservation License) is attached hereto, and forms part of, this Bylaw.
- 11.3 Naramata Irrigation District Bylaw Nos. 127,1955; 326,1982; and 401,1989; and Regional District of Okanagan-Similkameen Bylaw No. 2023, 2001 and all amendments thereto, are hereby repealed.

**READ A FIRST, SECOND, AND THIRD TIME** this 5<sup>th</sup> day of July, 2018.

**ADOPTED BY AT LEAST 2/3 OF THE VOTES** this 5<sup>th</sup> day of July, 2018.

FILED with the Director this 14<sup>th</sup> day of August, 2018.

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Chair

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Corporate Officer