

BYLAW NO. 3121

CONSOLIDATION OF A BYLAW OF THE CITY OF MEDICINE HAT to provide for and make provision for the improvement, maintenance, management, control and operation of Public Cemeteries.

THE MUNICIPAL CORPORATION OF THE CITY OF MEDICINE HAT, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the "Cemeteries Bylaw".

2. **APPLICATION**

This Bylaw applies to any land defined as a "Public Cemetery" as set out in subsection 3(bb).

3. **DEFINITIONS**

For the purposes of this Bylaw:

- (a) "Adult" means any person ten (10) years of age or older.
- (b) "**Act**" means the **Cemeteries Act**, RSA 2000, c. C-3 as amended from time to time and any regulations enacted thereunder.
- (c) "Basic grave liner" means a structural enclosure intended to cover a burial casket on top, ends and sides which is manufacture of a strengthened, light weight material and does not require mechanical equipment for installation, and which has been approved by the Manager".
- (d) "Bylaw Enforcement Officer" means a person appointed as a bylaw enforcement officer pursuant to the City of Medicine Hat Bylaw No. 2463, and also includes any peace officer, police officer or special constable employed by the City's Police Service.
- (e) "Child" means any person older than five (5) years of age and under ten (10) years of age.
- (f) "City" means the Municipal Corporation of the City of Medicine Hat.
- (g) "Columbarium" means a structure erected in a cemetery for the purpose of interring cremated human remains.
- (h) "Crypt" means a single compartment of a mausoleum intended for the interment of human remains.
- (i) "Disinterment" means the removal of human remains or cremated human remains from a grave site, columbarium or mausoleum.

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- (j) "Grave liner" means a structural enclosure used for encasing a casket for the interment of human remains.
- (k) "Grave site" means a lot in a Public Cemetery prepared or used for the interment of human remains or cremated human remains.
- (l) "Hebrew Section" means land within the Hillside Cemetery designated for the interment of the human remains or cremated human remains of deceased persons of the Jewish faith, who have been approved for interment by the Sons of Abraham Congregation.
- (m) "Hillside Cemetery" means land used by the City as a cemetery legally described as Subdivision Plan 7710675, Block 1, Lot 1, located in Section 26, Township 12, Range 6, West of the Fourth Meridian.
- (n) "Indigent person" means any unclaimed body, or body of a destitute or indigent person as set out in the Act.
- (o) "Infant" means any person five (5) years of age and under.
- (p) "Interment" means the burial or placement of human remains or cremated human remains in a grave site, columbarium or mausoleum.
- (q) "Interment Rights" means leave and license granted by the City to a person to allow the interment of human remains or cremated human remains in a designated grave site, columbarium or mausoleum in accordance with this Bylaw.
- (r) "Legal Representative" means an executor, an administrator or a judicial trustee of the estate of a deceased person.
- (s) "Licensee" means a person who has been granted the Interment Rights for one or more lots within a Public Cemetery by the City.
- (t) "License Fees" means fees paid for Interment Rights in accordance with this Bylaw.
- (u) "Lot" means land in a Public Cemetery shown on a plan on record with the City which has been designated for interment of human remains or cremated human remains and is to be used as a single grave site.
- (v) "Manager" means the City's General Manager of Parks and Outdoor Recreation or designate.
- (w) "Mausoleum" means a structure or building constructed or placed within a Public Cemetery for the interment of human remains or cremated human remains above the ground constructed of granite, marble or such other similar material as approved by the Manager.

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- (x) "Monument" means a memorial structure of granite, marble, bronze or such other material as approved by the Manager inscribed with such lettering and/or artwork as may be desired by the Licensee of the Interment Rights of the lot.
- (y) "Niche" means a single compartment of a columbarium used for the interment of cremated human remains.
- (z) "Parks and Recreational Areas Bylaw" means the City's Parks and Recreational Bylaw, Bylaw No. 2527, as amended from time to time.
- (aa) "Perpetual Care" means the ongoing maintenance of grave sites, columbaria and mausoleums as set out in section 13 of this Bylaw.
- (bb) "Public Cemetery" means Hillside Cemetery or any other Cemetery within the boundaries of the City of Medicine Hat operated by and under the control of the City.
- (cc) "Scattering Gardens" means an area of a Public Cemetery designated by the City for the dispersment of cremated human remains over the ground.
- (dd) "Urn" means a container used for storing cremated human remains.
- (ee) "Vault" means a lined and sealed interment receptacle which performs all the functions of a concrete grave liner, and in addition is designed and constructed using one or more lining and sealing materials to increase the overall tensile strength of the finished unit and to reduce the risk of the intrusion of exterior elements.
- (ff) "Veteran" means a former member of Her Majesty's armed forces as determined by the Department of Veteran Affairs Canada.

4. **SUBDIVISION OF LOTS**

- (1) The lands within Public Cemeteries may be subdivided into lots for interment purposes as required from time to time under the supervision of the Manager.
- (2) The City may designate areas of the Public Cemeteries for exclusive use by specific religious, cultural and ethnic affiliations for interments of deceased persons.

5. **POWERS AND AUTHORITY OF THE MANAGER**

- (1) The Manager:
 - (a) is responsible for general supervision, control, management and operation of the Public Cemeteries;
 - (b) is responsible for ensuring that a register is established and maintained in accordance with the requirements of the **Act**;
 - (c) has charge of the Public Cemeteries and of all works of whatsoever nature carried out therein;

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- (d) has charge of all persons employed by the City in relation to the Public Cemeteries;
- (e) is delegated the authority to approve and execute agreements in relation to the sale and transfer of Interment Rights and the provision of cemetery services by the City;
- (f) may establish standards, guidelines and procedures in relation to monuments, other memorial structures, mausoleums, columbaria and other similar interment structures in Public Cemeteries; and
- (g) has other powers, functions and duties as set out in this Bylaw.

- (2) The Manager may further delegate any of the Manager's powers, functions and duties set out in this Bylaw to an employee or employees of the City.

6. **INTERMENT RIGHTS**

- (1) Human remains or cremated human remains of a deceased person may be interred in a lot, columbarium niche or mausoleum crypt or scattered on any scattering grounds if:
 - (a) the deceased person is registered as the Licensee of the Interment Rights; or
 - (b) a written request from the Licensee of the Interment Rights or Legal Representative of the Licensee if the Licensee is deceased in a form satisfactory to the Manager has been registered with the Manager designating that the human remains or cremated human remains of that deceased person may be interred in that particular lot, columbarium niche or mausoleum crypt, or the cremated human remains may be dispersed over a scattering garden.
- (2) Up to 2 persons may be registered as the Licensees for any one lot. In the event that 2 persons are registered as the Licensees, they will hold the Interment Rights as joint tenants.
- (3) Only human remains or cremated human remains may be interred in a Public Cemetery.
- (4) Prior to any interment, a Contract for Cemetery Services must be completed and the person executing the Contract shall be responsible for all costs and expenses for the cemetery services set out therein.
- (5) The fees and charges for Interment Rights and cemetery services shall be as approved by the City's Municipal Council from time to time.
- (6) If, from the 1st day of November to the 31st day of March, inclusive, a grave site is required to be prepared, a minimum of 2 full working days prior notice must be given to the Manager prior to the time set for the interment, and notice must be provided by 12:00 noon on Thursday for a Monday interment. For the period from the 1st day of April to the 31st day of October, inclusive, notice of one full working day shall be required. For the purposes of this bylaw,

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Saturdays, Sundays and Statutory or Declared Holidays are not considered working days.

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- (7) Interments may be permitted in the Public Cemeteries on a Saturday, Sunday and statutory holidays, subject to the payment of the applicable fees as approved by the City's Municipal Council from time to time.
- (8) The Manager may refuse to allow any interment which does not comply with the requirements set out in this Bylaw.

7. **INTERMENT OF CREMATED HUMAN REMAINS**

- (1) Cremated human remains may only be interred in a grave site, columbarium, mausoleum or a designated scattering garden.
- (2) The interment or scattering of cremated human remains in accordance with subsection (1) will not be permitted unless a valid burial permit and all applicable fees as approved by the City's Municipal Council from time to time have been received by the Manager.
- (3) Cremated human remains intended for interment in the cremated remains section of the public cemetery may not be interred in the ground between November 1 and March 31 unless the excavation has been prepared prior to freeze up of the ground, or approval has been obtained from the Manager. The City may provide storage for cremated human remains until such time as they can be interred in the ground.

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8. **MULTIPLE INTERMENTS**

- (1) Subject to subsections 8(3) and (4), the human remains of up to 2 deceased persons and the cremated human remains of up to 2 deceased persons may be interred in a standard single grave site in the Public Cemeteries provided that:
 - (a) only the human remains of one deceased person shall be in any one casket, except that the human remains of a deceased parent and his or her deceased infant may be interred in the same casket;
 - (b) the human remains of 2 deceased persons may only be permitted in a grave site that has been set aside for double depth interments, as set out in subsection (2); and
 - (c) the cremated human remains of 2 deceased persons may be interred in a grave site which is no smaller than 3 feet by 3 feet.
- (2) Double depth interments may be permitted in those grave sites constructed to a depth which will accommodate the human remains of 2 deceased persons in separate caskets at the same time or at different times in such a manner that one casket is placed above the other and the lot has been purchased specifically for this purpose on the opening for the first casket. All double depth interments shall require a separate grave liner for each interment.

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Amended by: (3) Notwithstanding subsection 8(1), the cremated human remains of up to 4
Bylaw 3568 deceased persons may be interred in a single grave site in a Public Cemetery
Oct. 5, 2004 provided that the grave site was not occupied prior to January 1, 2005 and
further provided that the human remains of no more than 2 deceased persons
are interred in the grave site.

Amended by: (4) No human remains or cremated human remains of an adult may be
Bylaw 3568 interred in any area of a Public Cemetery which has been designated
Oct. 5, 2004 by the Manager as for children or infants only.

9. **DISINTERMENTS**

Amended by: The City will only be responsible for opening grave sites for disinterments to the top of
Bylaw 3568 the casket or urn and the funeral director shall be responsible for the removal of the
Oct. 5, 2004 human remains or cremated human remains. All disinterments are subject to the
provisions of the **Act**, any other applicable legislation and the payment of the
applicable fees as approved by the City's Municipal Council from time to time.

10. **TRANSFER, RETURN AND EXCHANGE OF INTERMENT RIGHTS**

Amended by: (1) Subject to subsections 10(2), (3), (4), (5) and (6), upon the written request
Bylaw 3568 of the Licensee or the Legal Representative of the Licensee (if the Licensee is
Oct. 5, 2004 deceased) in a form satisfactory to the Manager, the City may:

(a) register the transfer of Interment Rights from the Licensee to another
person or Legal Representative of a deceased person, provided that
the transfer of the Interment Rights is not for remuneration;

Amended by: (b) accept the return of unused Interment Rights for a lot, cancel the
Bylaw 3568 Interment Rights of the Licensee and refund an amount equal to 85% of
Oct. 5, 2004 the current market value for the Interment Rights for the lot without
interest; or

(c) accept an exchange of the Interment Rights for a lot, cancel the
existing Interment Rights of the Licensee and register new Interment
Rights for another lot.

(2) The City will not permit the return or exchange of Interment Rights for any lot
where there has been an interment and the human remains or cremated
human remains are contained in the grave site.

Amended by: (3) Subject to subsection 6(2) and any order of a Court, a Licensee may bequeath
Bylaw 3568 his or her Interment Rights to a person through a valid will. Upon a person or
Oct. 5, 2004 the Legal Representative of the deceased person who held the Interment
Rights providing proof satisfactory to the Manager that the Licensee is
deceased and has bequeathed the Licensee's Interment Rights to a person, the
City may register a transfer of the Interment Rights to that person.

Amended by: (4) When a Licensee dies without designated beneficiaries for Interment Rights,
Bylaw 3568 those Interment Rights may be transferred by the City to another person
Oct. 5, 2004 in the order of priority set out in Section 11 of Regulation No. AR 249/98 of the

Act (as amended or replaced from time to time) for the disposition of remains, subject to any order of a Court.

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- (5) All transfers, returns or exchanges of Interment Rights are subject to payment of the applicable administrative fees as approved by the City's Municipal Council from time to time.

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- (6) Interment Rights may only be transferred, exchanged or return in accordance with this section. The Manager may refuse to allow any interment where the transfer, exchange or return of the Interment Rights does not comply with the requirements set out in this section.

11. **BURIAL PERMITS**

- (1) An interment will not be permitted in a Public Cemetery unless copies of the following documents have been received by the Manager prior to the interment:
- (a) A Burial Permit, issued by a district registrar appointed under the Vital Statistics Act, R.S.A. 1980, c. V-4 or such other written authority as may be required from time to time under the laws of the Province of Alberta.
 - (b) A completed and executed Contract for Cemetery Services and confirmation of the payment of fees and charges or approval of credit by the City for any cemetery services to be provided by the City.
 - (c) Any other approvals, forms and receipts as may be required by the City or the Government of the Province of Alberta for opening of grave sites or interments.
- (2) Grave sites may only be opened for interments by persons authorized by the Manager.

12. **RECOVERY OF UNUSED LOTS**

The City may recover unused lots in accordance with the provisions of the **Act**.

13. **PERPETUAL CARE**

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- (1) Perpetual Care to be provided by the City for the Public Cemeteries includes maintenance of roads, buildings, other infrastructure, turf, trees and gardens which have been planted by the City, keeping lots and grave sites in a neat condition and of good appearance, and maintenance of columbaria and mausoleums to the standards and specifications established by the Manager.
- (2) Notwithstanding subsection (1), Perpetual Care does not include the care, maintenance, upkeep, repair or replacement of any monument or any other memorial structure or object or any personal property or chattel which has been constructed or placed in a Public Cemetery, or the maintenance of any flower beds or vegetation planted by any person, or the repair or replacement

of any damage to any thing caused by vandalism, regardless of whether any such construction, placing or planting has been approved by the Manager.

- (3) The following sums shall be placed in a trust fund for use by the City for the perpetual care of the Public Cemeteries:

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- (a) the amount paid for perpetual care in accordance with the fees as approved by the City's Municipal Council from time to time;
- (b) all the sums which have been received for the upkeep of lots and grave sites under the provisions of any other Bylaw; and
- (c) any monies donated or bequeathed for the purpose of perpetual care.

14. **GRAVE LINERS AND VAULTS**

- (1) All interments of human remains must include at least a basic grave liner.

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- (2) Basic grave liners must be purchased from the City for a fee as approved by the City's Municipal Council from time to time. Upgraded grave liners exceeding the minimum standards set out in subsection 3(c) or vaults may be purchased from the City or third parties.

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- (3) The installation of all grave liners and vaults shall be performed by the City and subject to the payment of the purchase price and fees as approved by the City's Municipal Council from time to time, unless otherwise approved by the Manager.

15. **INTERMENTS FOR INDIGENT PERSONS**

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- (1) Interments for indigent persons are subject to the approval of the applicable department of the Province of Alberta and the requirements of the **Act**. Fees for Interment Rights for indigent persons will be charged in accordance with rates as approved by the City's Municipal Council from time to time.
- (2) No monuments or other memorial structures may be constructed or placed on any grave site used for the interment of the human remains of an indigent person unless all fees for the Interments Rights and cemetery services have been paid in full to the City.

16. **FIELD OF HONOUR**

- (1) The City shall set aside lots in the Public Cemeteries as a Field of Honour in accordance with the Act for the interment of veterans.
- (2) Proof that a deceased person is eligible for interment in the Field of Honour will be as required from time to time by the Manager but in all cases a Certificate from the Department of Veterans Affairs or the Department of National Defence, shall be prima facie evidence of such eligibility.

- (3) Lots may not be reserved in the Field of Honour.
- (4) Only one interment will be permitted in each lot in the Field of Honour, excepting that the interment of the cremated human remains of the spouse of a veteran may be allowed after the interment of the veteran.

17. **HEBREW SECTION**

- (1) The Sons of Abraham Congregation of the City of Medicine Hat are acknowledged to have exclusive use of the Hebrew Section of the Hillside Cemetery.
- (2) The City shall not grant Interment Rights for any lot or inter the human remains or cremated human remains of any deceased person in the Hebrew Section unless the written consent has been provided by an authorized representative of the Sons of Abraham Congregation and a copy of the consent has been received by the Manager. The Sons of Abraham Congregation shall notify the City of the name, telephone number and address of its authorized representative as required by the Manager from time to time.
- (3) The City will, as far as reasonably practicable, maintain the Hebrew Section in accordance with the customs and rituals of the Jewish faith, provided, however, that should any requirements of the rituals or customs necessitate an expenditure of money in excess of that required in the ordinary maintenance of other portions of the Cemetery, then the Sons of Abraham Congregation shall pay to the City in advance such excess expenditure, as determined by the Manager.
- (4) The City will not permit any work of any kind to be performed by its employees in the Hebrew Section between the hours of sundown on Friday and sundown on Saturday.
- (5) Interments may be permitted in the Hebrew Section on a Sunday provided that any additional fees for Sunday interments as approved by the City's Municipal Council from time to time are paid to the City by the Sons of Abraham Congregation.
- (6) This section of this Bylaw shall not be amended without first consulting with the Sons of Abraham Congregation or their successors in the City of Medicine Hat, or with the geographically closest Jewish congregation to the City of Medicine Hat if the Sons of Abraham Congregation is not in existence in City of Medicine Hat.

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18. **PLACEMENT AND CONSTRUCTION OF MAUSOLEUMS AND COLUMBARIA**

- (1) Subject to subsection 18(2), the design, placement and construction of any mausoleum, columbarium or other similar interment structure in a Public Cemetery for the interment of human remains or cremated human remains is subject to the prior approval and satisfaction of the Manager. Upon approval of the design, placement and construction by the Manager, any mausoleum,

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columbarium or other similar interment structure in a Public Cemetery becomes the property of the City.

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- (2) The design placement or construction of any mausoleum, columbarium or other similar interment structure is subject to provisions of the **Act** and any other applicable legislation, regulations, bylaws and orders, including the acquisition of the required approvals, permits and licenses and any standards, guidelines and procedures established by the Manager from time to time.

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19. **PLACEMENT OF MONUMENTS AND OTHER MEMORIAL STRUCTURES**

All monuments and other memorial structures intended to be located in the Public Cemeteries are subject to any standards, guidelines and procedures established by the Manager from time to time.

20. **PLACEMENT AND REMOVAL OF VEGETATION, MEMORIALS AND OTHER OBJECTS**

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- (1) No person shall place a monument, gravestone or other structure on a grave site or elsewhere in a Public Cemetery unless he or she has first:
 - (a) obtained the prior written approval of the Manager; and
 - (b) paid the fee as approved by the City's Municipal Council from time to time, if applicable.

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- (2) No person shall plant, seed, grow or maintain flowers or other vegetation on a grave site or elsewhere in a Public Cemetery unless he or she has first:
 - (a) obtained the prior written approval of the Manager; and
 - (b) paid the fee as approved by the City's Municipal Council from time to time, if applicable.

- (3) The Manager shall not approve the following structures on a grave site or elsewhere in a Public Cemetery:
 - (a) a full or partial grave cover or curbing;
 - (b) a fence or railing;
 - (c) any other structure that in the opinion of the Manager is likely to interfere with maintenance of the Public Cemetery; or
 - (d) any other structure that in the opinion of the Manager is hazardous, unsightly, or otherwise unsuitable for placement on a grave site or elsewhere in a Public Cemetery.

- (4) Subject to the **Act**, the Manager may restrict the placement of or remove and dispose of any structure, object or thing placed on a grave site or elsewhere in a Public Cemetery:

- (a) that is placed on a grave site or elsewhere in a Public Cemetery in contravention of this section; or

- (b) that in the opinion of the Manager, and regardless of whether approval has been obtained under subsection (1) or (2), is or becomes hazardous, unsightly or otherwise unsuitable for placement on a grave site or elsewhere in a Public Cemetery or that interferes with maintenance of the Public Cemetery.
- (5) All earth, debris, litter and rubbish arising or resulting from work performed on any lot or grave site must be carefully cleaned up and removed from the Public Cemetery at the expense of the person requesting such work, to the satisfaction of the Manager.
- (6) Temporary grave markers will be removed after 12 months from the date of the interment.
- (7) No person shall move or remove any monument, gravestone, fence, railing or other work for the protection or ornamentation of a Public Cemetery or grave site except in accordance with this Bylaw or the Act.

21. **MOTOR VEHICLES IN PUBLIC CEMETERIES**

- (1) The Manager may specify times and conditions under which motor vehicles may be in the Cemetery, and such times and conditions will be posted at the entrance to the Public Cemetery (2). No person shall operate a motor vehicle in a Public Cemetery:
 - (a) at a time other than a time during which motor vehicles are permitted in a Public Cemetery, as provided for in subsection (1);
 - (b) in contravention of conditions posted at the entrance to a Public Cemetery in accordance with subsection (1); or
 - (c) at a speed in excess of fifteen (15) kilometres per hour.

22. **LIMIT OF LIABILITY**

- (1) The City, its officers, employees, servants, contractors, agents and elected officials shall not be liable for any personal injury to any persons, including death, or any loss or damage whatsoever to any monument, other memorial structure, building, fence or other structure, or any vegetation, or any chattel, personal property or other objects or things in or about the Public Cemeteries from any cause whatsoever, excepting any loss or damage directly caused by the sole negligence of the City, its officers, employees, servants, contractors, agents or elected officials.
- (2) Without limiting the generality of subsection (1), the liability of the City, its officers, employees, servants, contractors, agents and elected officials for any claims, actions, causes of actions, damages, costs (including solicitor and client costs), or expenses arising whatsoever from or in relation to any error or misdescription of any lots, grave sites, columbarium niches, mausoleum crypts, other interment structures or Interment Rights shall be limited to the license fees paid to the City.

23. **OFFENCES AND PENALTIES**

- (1) The Parks and Recreational Areas Bylaw shall apply to the Public Cemeteries, including but not limited to any offences and penalties set out in the Parks and Recreational Areas Bylaw, except that where there is a conflict between the provisions of the Parks and Recreational Areas Bylaw and this Bylaw, this Bylaw shall prevail.
- (2) Notwithstanding subsection (1), a firearm may be discharged in a Public Cemetery with the consent of the Manager, provided that the firearm is discharged only for the purposes of a military funeral.
- (3) Any person who:
 - (a) without legal authorization, wilfully destroys, mutilates, defaces, damages or removes any property, including but not limited to any structure, object or thing set out in section 20 of this Bylaw, which has been constructed or placed on or about any lot, grave site or anywhere within a Public Cemetery;
 - (b) wilfully disturbs persons assembled for the purpose of the interment of a deceased person in a Public Cemetery; or
 - (c) otherwise contravenes a provision of this Bylaw;

is guilty of an offence and is liable upon conviction for a fine not exceeding Ten Thousand Dollars (\$10,000.00) and in default of payment to imprisonment for a period not exceeding 1 year, or both.

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- (4) Where a Bylaw Enforcement Officer of the City believes that a person has contravened subsection (3), he or she may commence proceedings by issuing a summons in accordance with Part 2 of the Provincial Offences Procedures Act, RSA 2000, c. P-34.
- (5) Officers, employees, servants, agents and contractors of the City are exempt from the provisions of subsection (3) while acting in the ordinary course of their employment.
- (6) Nothing in this Bylaw shall be construed to curtail or abridge the right of the City to pursue any other rights or remedies the City may have at law or equity resulting from the contravention of any of the provisions of this Bylaw.

24. **AMENDMENT TO THE PARKS AND RECREATIONAL AREAS BYLAW**

Subsection 2(12) of the Parks and Recreational Areas Bylaw, Bylaw No. 2527, is hereby amended by inserting the following:

- “(f) Any lands defined as a “Public Cemetery” in accordance with subsection 3(bb) of the Cemeteries Bylaw, Bylaw No. 3121.”

25. **REPEAL**

Bylaw No. 2386 and all amendments thereto are hereby repealed.

26. **COMING INTO FORCE**

This Bylaw comes into force at the beginning of the day that it is passed.

READ A FIRST TIME in Open Council this 16th day of March A.D. 1998.

READ A SECOND AND THIRD TIME in Open Council this 6th day of April A.D. 1998.

SIGNED AND PASSED on the 7th day of April A.D. 1998.

SCHEDULES "A", "B", "C" and "D" repealed by Bylaw 3568, October 5, 2004.

I HEREBY CERTIFY THAT this is a true and correct copy of Bylaw No. 3121 consolidated pursuant to section 69 of the *Municipal Government Act* to incorporate all subsequent amendments thereto, printed under the authority vested in me by the said section 69 and by City of Medicine Hat Bylaw No. 1957.

CERTIFIED THIS _____ DAY OF _____, 20____.

ANGELA CRUICKSHANK
MUNICIPAL SECRETARY AND CITY CLERK
CITY OF MEDICINE HAT