

Planning Your Own Funeral

in Alberta



Planning your own funeral saves your loved ones from having to make difficult decisions at a stressful and emotional time. It also allows you to say what you would like to happen. This booklet provides information about your options and rights in pre-planning your funeral. It gives general information only, not legal advice. If you need more detailed help or advice, see the end of this booklet for more resources.



You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019

DISCLAIMER

The contents of this booklet are provided as general information only. It is not legal advice. If you have a legal problem, you should consult a lawyer.

The information contained in this booklet was correct at the time it was produced. Be aware that there may have been subsequent changes which make the information outdated at the time you are reading it. The Legal Resource Centre of Alberta Ltd. will not be responsible for any loss arising from reliance on or action taken (or not taken) as a result of this information.

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Getting Started

The Government of Alberta has created a publication called "Saying farewell: a guide to help you with preplanning and with the death and dying process." This booklet is available online at <http://bit.ly/2KF19eJ>

What laws apply to funerals?

In Alberta, there are several laws about funerals:

- the *Funeral Services Act* sets out laws about funeral services contracts and licenses for funeral homes;
- the *Cemeteries Act* sets out laws about cemeteries and crematories;
- the *Cemetery Companies Act* regulates cemetery companies; and
- the *Bodies of Deceased Persons Regulation*, under the *Public Health Act*, sets out laws about handling and disposing of bodies.

These laws apply if you are pre-planning your own funeral or if someone else is planning it for you after you die.

What things should I think about before planning my own funeral?

If you want to pre-plan your funeral, you might want to think about the following things first:

- What do you want done with your body before the funeral service or celebration of life event? What do you not want done with your body? Do you want to donate your organs? Do you want to be buried? If so, do you want to be embalmed and have make-up put on you? Do you want to be cremated? Do you want your body to be donated for research?
- What kind of funeral service or celebration of life event do you want to have? This includes the casket, the venue and the program.
- What is to be done with your remains? If you want to be buried, where should your body be buried? Do you have a plot already paid for? If you want to be cremated, what do you want done with your ashes?

How do I get started planning my own funeral? Do I have to use a funeral home?

You make all the important decisions and pay for the funeral before you die. The arrangements you make are put into a contract called a **pre-need funeral contract**.

There are a few places you can visit to get started:

1. Funeral homes

A funeral home is one place to go for help planning your funeral. Funeral homes in Alberta must have a “funeral services business license”. The **Alberta Funeral Services Regulatory Board** issues this license. Funeral homes must also follow the Alberta Funeral Services Code of Conduct.

If you decide to contact funeral homes, consider getting more than one quote. Make sure you know what is included in the basic price and what costs are extra. Consider whether the extras offered are necessary to your funeral plans and if they fit your budget.

Funeral homes may be willing to keep a record of your preferences without you having to pay money in advance.

2. Your church or religious organization

If you are a member of a church or religious organization, you may wish to discuss your preferences with the religious leaders. Make sure you understand what the role of the church or religious organization is versus what the role of a funeral home is. For example, a funeral home will likely have to be involved to deal with your body but your church can help with the funeral or celebration of life event. Churches or religious organizations may also keep information about funeral wishes on file.

3. Memorial societies

Memorial societies help their members plan their funerals and often offer reduced rates for funeral services purchased from certain providers.

For more information about the Alberta Funeral Services Regulatory Board (AFSRB), visit their website:
<http://afsrab.ab.ca/>

For more information on memorial societies see the Resources section on page 23.

Pre-Need Funeral Contracts

What is a pre-need funeral contract?

It is a contract where all or part of the cost of the services is paid before the death of the person that the funeral is for.

Can all funeral homes offer pre-need funeral services?

No. All funeral homes offering pre-planned funeral services must have a “pre-need salesperson license” (as well as a funeral services business license). The Alberta Funeral Services Regulatory Board (AFSRB) issues both these licenses. You can ask at the funeral home to see their licences.

How do I know if the funeral home has a good reputation?

You can contact the following organizations to see if the funeral home is in good standing or to ask if there have been complaints about the funeral home:

- the Alberta Funeral Services Regulatory Board; or
- the Better Business Bureau.

Alberta Funeral Services Regulatory Board

<http://afsrb.ab.ca/>

Better Business Bureau

www.bbb.org

How do I pay for my pre-planned funeral?

There are two ways to pay for a pre-planned funeral:

1. You can pay the funeral home directly. Your money will be held in a trust account. The contract will say where the trust account is located. The funeral home will transfer the money from the trust account to the funeral home when you die and the funeral takes place. This is a **trust-funded plan**.
2. You can buy a pre-need insurance contract. When you die, the insurance policy will pay the funeral home. This is an **insurance-funded plan**.

Make sure you ask about and understand the differences between these options before you make your decision. Each plan has different laws and terms that apply. Many of the provisions of the *Funeral Services Act* do not apply to pre-need insurance contracts. For example, a trust-funded plan may have better cancellation rights than an insurance-funded plan. However, an insurance-funded plan is easier to transfer to another province than a trust-funded plan. Other areas of difference can include: administration charges, late fees, fees for “extras” and the treatment of inflation.

How can a funeral home advertise its services? Can they sell pre-need funeral services door-to-door or by telephone?

It is illegal for a funeral home to sell you pre-need funeral services over the telephone or door-to-door. There is an exception where you invite the funeral home to your home or ask them to call you. The same rules apply to a seller of pre-need funeral insurance contracts.

Funeral homes cannot display or give out information about pre-need funeral contracts in any senior homes or residences or in any hospital (or its grounds). There is an exception where the funeral home first gets permission in writing from the management of the home, residence or hospital.

Funeral homes and insurance companies can advertise their business by mailing you information or through media or Internet communication.

If you think a funeral home has broken these laws, you can report it to the Alberta Funeral Services Regulatory Board. If the funeral home is found guilty, it can be fined and the person involved may face time in prison.

What are a funeral home's legal obligations when selling a trust-funded plan?

All details of the arrangements and the costs must be in a written contract. The funeral home must give you a copy of that contract.

If you are purchasing a trust-funded plan, the funeral home must deposit into a trust account any money you pay for a pre-planned funeral. This account may be a completely separate account, or it may be an account containing the funds received from the sale of more than one pre-need funeral (in other words, your money may be combined with other people's money). Either way, the money, and the interest earned on that money, must stay in the account until either the services are provided or the contract is cancelled.

Funeral homes may invest that money but only in certain kinds of investments (the safer kinds). The funeral home must keep accurate records and report every year to the Alberta government. If the funeral home goes bankrupt, the money kept in trust will be paid out by the courts to everyone who deposited money into trust.

What must a pre-need funeral contract say?

In Alberta, the law requires that certain details be in the written contract. A verbal contract is not allowed.

Every pre-need funeral contract must state:

- the professional service charge;
- the facility charges;
- the transportation costs;
- the cost of the casket;
- the cost of the outer receptacle;
- the cost of cremation;
- the cost of the cremation container;
- the cost of the urn;
- the amount or amounts, if any, set aside for the payment of taxes;

- the itemized cost of any other disbursements;
- the total cost of all items;
- a list of the current locations where embalming and cremation services are to be performed as well as a statement that the final location may be changed and if so changed, then a list of the current locations will be provided when the services are required;
- a statement that cremated remains not claimed within 5 years of the date of cremation will be disposed of by the funeral home (you must initial by this statement);
- the terms of cancellation (in not less than 12-point type);
- the signature of both a funeral home representative and the purchaser (you).

If the contract does not contain this information required by law, you may be able to ask a court to cancel the contract.

Can I cancel a pre-need funeral contract?

Yes, but you may have to pay money to cancel the contract. The amount you will have to pay depends on the terms of your specific contract.

- If you signed a trust-funded plan, the law says that you have 30 days to cancel it without charge or penalty. After the 30-day period, you can still cancel the contract, but the funeral home may charge you an administration fee up to a maximum amount. In June 2019, the limit was 15% of the amount held in trust as of the cancellation date (including any interest earned on that amount).
- If you signed an insurance-funded plan, your right to cancel the contract will depend on what the contract says.

Can I change my mind later about what I want?

Generally, most pre-need funeral contracts say what will happen if you change your mind about what you want to happen when you die. Before you sign the contract, read it carefully and ask about the process and costs for making changes.

What if I make plans and then die in another province or outside Canada?

Many pre-need funeral contracts include options for “repatriation”. For example, there may be an added fee to cover all related costs (such as cremation and transportation) incurred if you die in another province or outside Canada.

If you travel regularly, you may wish to consider this option. However, make sure you understand the exact costs because not all contracts are the same. Some contracts have a one-time fee while others have multiple fees or fees that change depending on the situation.

Can I move my trust-funded plan to another province?

You can ask the funeral home you purchased the pre-need funeral from to “assign” the contract to a funeral home in your new area. Your request to the funeral home must be in writing. The funeral home is then required to assign the contract.

It might also cost you money to assign your trust-funded plan:

- You may be charged an administration fee to assign your contract to another funeral home. The administration fee is set by law. In June 2019, it was 15% of the amount held in trust as of the assignment date (including any interest earned on that amount).
- The new funeral home might ask you for more money if the money you have already paid is not enough to cover the funeral you want. Do your research to make sure you are getting similar services for the same amount of money at a new funeral home.

How much does a pre-planned funeral cost?

The price depends on many things. One way to be sure you are getting a fair price is to get several quotes. When you are reviewing the quotes, make sure you are comparing apples to apples. For example, what might be standard for one plan might be an extra in another.

If I'm unhappy with a funeral home, where can I file a complaint?

First, you should try to bring your complaint to the funeral home itself.

If the matter does not get resolved or you are not happy with the resolution, you can file a complaint with the Alberta Funeral Services Regulatory Board (AFSRB). The AFSRB reviews and investigates complaints about the behaviour of any person or company licensed to provide funeral services. Your complaint must be in writing using the AFSRB Complaint Form.

Complaint Forms are available on the AFSRB's website or by calling
1.800.563.4652.

For more information on how AFSRB handles complaints, visit the
"Complaints" section of the AFSRB website at
<http://afsrb.ab.ca/site/consumer/complaints>

Burial

What is embalming?

Embalming is a process that replaces blood with a substitute chemical fluid. Embalming has three purposes:

1. to reduce the presence and growth of micro-organisms;
2. to slow down decomposition of the body; and
3. to temporarily preserve the physical appearance of the deceased (especially if the casket will be open before or during the funeral service).

Is embalming required?

The law does not require embalming in all circumstances.

A body must be embalmed if the deceased:

- died while infected with a communicable disease (other than anthrax, plague or viral hemorrhagic fever); and
- is to be transported by a common carrier. A common carrier means a railcar, boat, aircraft, motor vehicle or other method of transportation that you do not pay a fee for. It does not include a vehicle owned or operated by a funeral director.

A body cannot be embalmed if the deceased died from anthrax, plague or viral hemorrhagic fever. Instead, the body is placed in a sealed container.

A funeral home can embalm if you ask it to. If you are concerned about how the embalming will be done, you can also ask the funeral home to see its code of practice for embalming. All funeral homes are required by law to have one.

Do I have to buy a casket? Are there other options?

The price of a casket can range from a few hundred dollars to several thousand dollars, depending on the kind that you choose. For example, a hardwood or metal casket will be much more expensive than a simple plywood or cardboard casket. Features like fancy trims can also add to the price. You may find that less expensive options are not on display at the funeral home but you can ask about them.

There are a few alternatives to buying a traditional casket:

1. You can sometimes rent a casket for the funeral service.
2. You can make your own casket. However, your casket must comply with all legal requirements. As well, some funeral homes may not let you use your own casket.
3. In the past few years, “green” caskets have become available. Green caskets are sturdy enough to contain and bury the deceased but they biodegrade.

Make sure you discuss these options with the funeral home before you sign a pre-need funeral contract.

Are there laws about how and where I can be buried?

Yes. **Burials must be made in registered cemeteries.** Registered cemeteries are owned and managed by churches, local governments or private businesses.

A person cannot be buried anywhere outside of a registered cemetery. There are steps that must be taken to make sure the burial is done properly and legally. An improper burial can lead to health crises such as contamination of a water source or the spread of disease.

There are two ways to be buried:

1. Traditional earth burial: the deceased is placed in a casket and lowered into the ground.
2. Mausoleum or tomb: the deceased and the casket are placed permanently in a mausoleum or tomb above or just below the ground.

Cemeteries need burial permits before a body can be buried. You can get a permit from the funeral home or the hospital registrar. Crematoriums also need a permit.

All deaths in Alberta must be registered with the Alberta government.

The Canada Revenue Agency must also be informed. It is really not possible for a death to go unnoticed. Eventually, an illegal burial will come to light and the deceased person’s family or friends could be in trouble with the law.

For more information about green burials, contact your local municipality.

Or contact the Green Burial Society of Canada

<http://www.greenburialcanada.ca/>

Can I be buried next to my spouse?

At some cemeteries, you can buy side-by-side plots. Some cemeteries also allow for “double occupancy”, which is two burials in one plot (one deep and one shallow). When making your decision, be sure to look into the different fees and costs for these options.

What is a “green burial”?

“Green burial” is a term that refers to the practice of caring for the dead with minimal environmental impact. A green burial is meant to further ecological aims such as the conservation of natural resources, reduction of carbon emissions, protection of worker health, and the restoration or preservation of habitat.

The deceased is placed either in cloth shrouds or in a simple casket made from sustainable materials (such as pine or wicker). Grave markers, if used at all, are typically made from native fieldstones and set flat to the ground. Shrubs and trees are also sometimes used. Bodies are laid into vault-free graves in a natural setting legally protected as a cemetery.

Green burials have become common in the United Kingdom, and the United States now has over 30 green burial and hybrid cemeteries. In Canada, there are green burial sites in British Columbia, Ontario, New Brunswick, PEI and Alberta.

What are some of the different costs involved in burial?

Each cemetery and funeral home charges its own fees for burial goods and services. Some of the common types of charges are:

▶ Plot price

The price of the piece of land itself. The price can depend on the cemetery's fees, the location of the cemetery (small town vs. big city) and the location of the plot within the cemetery.

▶ Grave opening fee

Some cemeteries do not include the cost of digging up the plot in the plot price. Therefore, there may be extra charges to prepare the plot for burial, such as the cost of the backhoe and salaries for workers. The price may also be different depending on whether the cemetery is opening a new grave or opening an existing grave (a double occupancy grave).

▶ Grave markers

The price of the head stone or plaque. Sometimes this price is included in a standard fee, sometimes it is not. Some cemeteries also have rules about:

- the size of markers that can be used;
- the types of markers that can be used (standing up or lying flat);
- where the markers can be placed;
- what words can be used on the marker;
- what companies the marker can be bought from (some cemeteries only allow you to buy from certain suppliers).

▶ Grave closing fee

The cost of closing up the grave. Sometimes this is included in the plot price, sometimes it is not.

▶ Surcharges

There may be fees for other things. For example, some cemeteries add an extra amount if the deceased lived outside the municipality.

▶ Permanent care costs

The fees to care for and maintain the gravesite, such as lawn maintenance. The cost varies by cemetery. The cost may also depend on other factors, such as the type of grave marker (some require more maintenance than others).

What are some other things I should think about before signing a contract for burial?

Besides cost, some other things to think about are:

- Some cemeteries or funeral homes will only let you use caskets, grave markers, etc. that are purchased from certain companies.
- Some cemeteries require that caskets have to be placed in a vault or box in the ground. This may cost extra.
- Cemeteries are required by law to give reduced rates to veterans. However, the cemetery may not provide space nearby for other family members. Ask the cemetery for more information.

Remember, what may be standard at one cemetery or funeral home might be an extra fee at another one. Shop around and ask questions so that you understand what you are purchasing.

Cremation

What is cremation?

Cremation is the process of burning the remains of the deceased.

Cremation is an irreversible process that eliminates all DNA as well as any ability to later investigate the exact cause of death. Before a body can be cremated in Alberta, the Medical Examiner's investigators must review the Medical Certificate of Death (which is signed by a doctor). The Medical Examiner then issues a "Form 4", which gives approval for the cremation.

The cremation process generally takes about three hours. Throughout the entire process, a labeling system ensures correct identification of the ashes. Afterwards, all that usually remains of the body is 2 to 3 kilograms of pulverized bone and ash. These materials are pure and represent no health risk.

The cremated remains may be disposed of by the crematorium or returned to family in a container (usually called an "urn").

Where does cremation take place?

Cremation occurs at a "crematory". These are generally located in funeral homes or cemeteries.

Do I need a casket if I am going to be cremated?

A casket or other proper cremation container is still required. A cremation container needs to be enclosed, combustible, of rigid construction and equipped with handles. In some cases, you can supply your own home-made container if it meets the requirements of the crematorium. You can ask the funeral home or crematorium about your options.

Can cremated remains be buried?

Yes. Cemeteries offer different options for burying cremated remains:

- purchasing a plot in an urn garden where you can bury an urn;
- purchasing a spot in a columbarium, which is an above-ground structure with spots for urns;
- burying the cremated remains in a family plot; or
- scattering ashes in a common scattering garden.

The above options may not be available at every cemetery. Check with the cemetery of your choice about their policy on burying cremated remains.

Can ashes be scattered anywhere?

No. The following rules apply to scattering ashes in Alberta:

- You can have your ashes scattered on your own land.
- If you want your ashes scattered on land owned by someone else, you (or your Personal Representative) will first need written permission from the owner. This includes municipal, provincial and national parks. Contact the park for more information, including any restrictions on time and location for scattering ashes.
- Check the guidelines in Alberta for scattering cremated ashes on unoccupied land or water owned by the provincial government.

Since the act of scattering ashes is irreversible, you may want to think through all the pros and cons and discuss it with loved ones in advance.

If you want your ashes to be scattered somewhere outside Alberta, check the laws of that place.

The Farewell Ceremony

Can my body be transported in a vehicle other than a hearse or other official funeral home vehicle?

A body can be transported within Alberta in any type of vehicle. No special permit is needed. That being said, transporting a body does present challenges and it may be difficult to fulfil your wish. Be sure to talk about your wishes with the funeral home and your family.

I served in the Canadian military. How do I arrange military honours at my funeral? What other supports are available for veterans?

Military honours are available to any veteran or serving member of the Canadian Armed Forces. For more information, contact **Veterans Affairs Canada** or the **Royal Canadian Legion**.

A veteran may also be eligible for financial aid from the federal government. The Veterans Affairs Canada Funeral and Burial Program, administered by the **Last Post Fund**, provides financial help towards the dignified funeral, burial, cremation and grave marking for eligible veterans. To qualify for the program, veterans must meet certain financial and service-related criteria. Every case is unique and coverage is not automatic. Contact the Last Post Fund for more information.

Veterans Affairs Canada

1.866.522.2122

www.veterans.gc.ca

Royal Canadian Legion

1.877.534.4666

www.legion.ca

Last Post Fund

1.800.465.7113

<http://lastpostfund.ca/>

A **Will** is a legal statement of how a person wants their property to be dealt with after their death.

A **Personal Representative** is the person named in a Will who is responsible for managing the testator's estate and for carrying out the instructions in the Will.

If I have planned my own funeral, who should I tell or where should I leave the information? In my Will?

You certainly can include your pre-planned funeral arrangements in your **Will**. However, you may wish to consider doing more than just that. In many cases, the Will is not found until after the funeral.

You can also do one or more of the following:

- tell your family and the people who would likely organize your funeral about the arrangements you have made;
- leave a record of your wishes with your church or religious organization;
- leave a copy of the pre-need funeral contract in a place where it will be found and read immediately after your death;
- give a copy of the pre-need funeral contract to the person you have named as your **Personal Representative** in your Will and to your next of kin.

What happens if my family doesn't like what I want for my funeral service or celebration of life event? Do they have to follow my wishes?

If you sign a pre-need funeral contract with a funeral home, then the funeral home is required by law to deliver the arrangements stated in the contract and that you paid for. For the funeral home, this is a matter of business. It will not be swayed by emotion or sentimentality and will not bend to the pressure of family members.

If you pre-plan your funeral by putting your wishes in your Will, your Personal Representative is, technically speaking, required to act according to those wishes. However, sometimes survivors find it difficult to put aside their own wishes. The result might be different from what you wanted. Although legal action can be taken against the Personal Representative, it is often too late to change things. For example, if you did not want to be cremated but you were, that cannot be undone. Suing someone is never pleasant. Remember too that sometimes the Will is not found or read until after the funeral has taken place.

If you pre-plan your funeral by putting your wishes in some other document or by telling your family and friends about them, there is no legal obligation for your family and friends to follow your wishes. You can only hope that your family and friends will follow your wishes out of respect for you.

Do I still need to plan a funeral service or celebration of life event if I plan to donate my body to science?

Even if you donate your body to science, you can still plan a farewell ceremony.

A few things to think about:

- Some institutions that take donated bodies hold memorial services for friends and family members. Call the specific institution to find out if or when such a ceremony is held.
- A farewell ceremony is often more important for the people who are left behind and are grieving. It may be helpful to talk to your family and see what they might want.
- Although medical science greatly benefits from the donation of bodies, not all bodies can be accepted. You may want to prepare a back-up plan in case your donation wish is not possible. You don't necessarily need to pre-arrange everything for your back-up plan! But at least make your alternate wishes clear to friends and family.

For more information about donating your body to science, contact your choice of medical school.

University of Alberta
– Anatomical Gifts
Program

780.492.2203

<http://bit.ly/2XYadmy>

University of Calgary –
Body Donation Program

403.220.6895

<http://bit.ly/2YLSVGF>

For more information, you can also see CPLEA's FAQs on Organ Donation at <https://www.law-faqs.org/OD>

If I do not pre-plan my funeral, then who will make the arrangements when I die?

If you do not pre-plan your funeral and make all the necessary arrangements, then the following people have authority to make arrangements (in order of priority):

- the Personal Representative named in your Will (if you made one);
- your **spouse** or your **adult interdependent partner** if you were living with them at the time of death (living together includes if you were still in a relationship but physically separated before death because one person was living in a facility);
- an adult child of yours (priority from oldest to youngest);
- a parent of yours (priority from oldest to youngest);
- your legal guardian;
- an adult grandchild of yours (priority from oldest to youngest);
- an adult sibling of yours (priority from oldest to youngest);
- an adult nephew or niece of yours (priority from oldest to youngest);
- an adult next of kin, determined by the laws about who inherits your estate if you die without a Will (intestate);
- the Public Trustee;
- an adult having some relationship with you not based on blood ties or affinity; or
- the Alberta government.

If a person who has the right to control disposing of your remains is not available or is unwilling to give instructions, the right passes to the next available qualified person.

If you wish to donate your body or organs, you must arrange this ahead of time. Your family should be informed. Often, specific consent forms are required.

A **spouse** is a person to whom one is legally married.

An **adult interdependent partner** is person with whom you are in an adult interdependent relationship.

An **adult interdependent relationship** is a term unique to Alberta for relationships outside of marriage and governed by Alberta's *Adult Interdependent Relationships Act*.

Resources

Legislation

Alberta Queen's Printer

For free electronic and print copies of Acts or Regulations.

www.qp.alberta.ca

Government & Court Resources

Alberta Funeral Service Regulatory Board (AFSRB)

www.afsrb.ab.ca

1.800.563.4652

Government of Alberta

Services and information about death

<https://www.alberta.ca/death.aspx>

Saying farewell: a guide to assist you with preplanning and with the death and dying process

<http://bit.ly/2KF19eJ>

Memorial Societies

Memorial Society of Alberta (serving Calgary and area)

memorialsocietyofalberta.com

403.269.8886

Memorial Society of Edmonton & District

msedmonton.com

780.944.0196

Calgary Co-operative Memorial Society

calgarymemorial.com

1.800.566.9959

Memorial Society of Red Deer & District

memorialsocietyrd.ca

403.340.3898

Planning Your Own Funeral

in Alberta

This booklet is one of many publications produced by the Centre for Public Legal Education Alberta. All publications can be viewed and downloaded for free by visiting www.cplea.ca/publications or **you may order pre-printed publications to be sent to you by visiting www.cplea.ca/store**

Other publications related to this topic that may interest you include:

- Making a Will
- Making a Personal Directive
- Making an Enduring Power of Attorney
- Being a Personal Representative
- Being an Attorney Under an Enduring Power of Attorney
- Being an Agent
- General Powers of Attorney
- *Adult Guardianship and Trusteeship Act*

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You should **NOT** rely on this booklet for legal advice.
It provides general information on **Alberta law only**. 2019