



BYLAW NO. 1565

CEMETERY BYLAW

A Bylaw to provide for and regulate the Town's Cemetery.

WHEREAS the Council may, under the authority of Section 8 of the *Community Charter* and Section 716 of the *Local Government Act*, establish and regulate cemeteries;

AND WHEREAS the Council deems it advisable to update the cemetery bylaw due to recent changes in the provincial legislation related to municipal cemeteries;

NOW THEREFORE the Council of the Town of Smithers, in open meeting assembled, hereby enacts as follows:

1. **CITATION**

This Bylaw may be cited for all purposes as "Bylaw No. 1565 – Cemetery Bylaw" and comes into effect on the date of adoption.

2. **REPEALS**

Bylaw No. 711, 1984, known as Town of Smithers Cemetery Bylaw, and Bylaw Amendments No. 732, 1985, No. 762, 1986, No. 1133, 1994 No. 1163, 1995 No. 1266, 1998 No. 1457, 2004 (at third reading) are hereby repealed in their entirety and substituted with Cemetery Bylaw No. 1565 with Schedules "A" to "C" and Appendices "A" to "C", attached to and forming part of this bylaw. Schedule "A" Burial Fees, which forms part of the bylaw, may be revised annually as approved.

3. **DEFINITIONS**

In this bylaw unless the context otherwise requires:

"BPCPA" means Business Practices & Consumer Protection Act

"CIFSA" means Cremation, Interment & Funeral Services Act

"CIFSR" means Cremation, Interment & Funeral Services Regulations

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“IR” means Interment Right

“IRC” means Interment Right Contract

“IRH” means Interment Right Holder or Purchaser of Contract

“Clerk” shall mean the person duly appointed as such from time-to-time by the Director of Development Services;

“Cemetery” shall mean and include any parcel or tract of land owned, used or maintained by the Town of Smithers as a cemetery either within or outside the Municipality;

“Columbarium” means a vault with niches for urns that contain the ashes of cremated bodies;

“Council” is the Mayor and Council of the Town of Smithers;

“Infectious diseases” within the meaning of this Bylaw are those as set out in the *Medical Health Act*;

“Inurnment” is one form of interment and means the placement of cremated remains in a niche;

“Niche” is one form of cemetery plot or space and means a space in a Columbarium used or intended to be used for the inurnment of cremated remains.

“Non-resident” is a person not having his residence within the boundaries of the Town of Smithers at the time of death.

“Town” shall mean the Town of Smithers

4. DESIGNATED LANDS

4.1 The following lands owned by the Town have been set aside and used for cemetery purposes:

(1) Smithers Cemetery legally described as being Lot A, Section 30, Township 4, Range 5, Coast District, Plan 9687, and Lot 29, Section 30, Township 4, Range 5, Coast District, Plan 9964.

(2) Civic address: 1958 Dominion Street.

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4.2 A copy of the plans of the cemetery shall be filed with the BPCPA, and copies shall also be kept available for public inspection in the Municipal Office and at such other places as may be deemed necessary. The Development Services Department shall maintain current all maps, records of burials and reserved burial plots.

5. ADMINISTRATION

5.1 The Town shall maintain records as necessary to the administration and management of the cemetery and as required by Section 27 CIFS Regulation.

5.2 The Clerk is hereby authorized on behalf of the Town to sign Schedule “B” hereof in respect to the sale of an interment right in the cemetery, according to the scale of fees and charges specified in Schedule “A” of this Bylaw and subject to the provisions of this Bylaw.

5.3 The Town may enter into an IRC with any person paying the proper fees in Schedule “A” and subject to the terms of Section 5.4 hereof, an IRC for the exclusive use by him, or his executors or administrators, of any one or more grave spaces which may be vacant in the cemetery. The applicant shall then be entitled to receive a copy of Schedule “B” attached hereto and forming part of this Bylaw.

5.4 The Town may, by agreement with a society, church, or other organization reserve a section of the cemetery to be used exclusively for the interment of deceased members of the society, church, or other organization concerned, and upon such an agreement being made no person shall enter into an IRC to use grave space in the reserved section, unless their application to the Town to purchase an IRC is accompanied by a certificate from the society, church or organization concerned, stating that they are entitled to burial in the reserved section. All IRC’s and services rendered by the Town under these conditions shall be subject to payment at the regular rates set forth in Schedule “A”.

5.5 (1) If the Interment Right Holder or beneficiary of interment right 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 Clerk full particulars of the name, address, occupation or other description of

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the person to whom such disposal or transfer is desired to be made, and the consideration to be paid therefor.

- (2) If the IRC to be transferred relates to a grave space located in an area reserved under an agreement made between the Town and an organization pursuant to Section 5.4 hereof, the requirements of said Section 5.4 concerning entitlement to burial in a reserved section of the cemetery shall apply to the person to whom the transfer is to be made.
 - (3) Upon receipt of the transfer fee prescribed in Schedule “A” of this Bylaw and upon compliance with the requirements of this Bylaw by the IRC the person to whom the plot is to be transferred, the Clerk shall effect the desired transfer by an endorsement upon the IRC to that effect and shall record the same in the books or other records kept by him for that purpose.
- 5.6 All IRC’s shall be subject to the provisions of this Bylaw and all Bylaws now or hereafter to be adopted by Council.
- 5.7 The IRC’s shall be in the form of Schedule “B” attached hereto and forming part of this Bylaw.
- 5.8 Any person requesting an IRC, or who requires an interment to be made, shall furnish the Town with a “Burial Permit” stating the name, age, date of death of the deceased, certified by the District Registrar of Deaths, and such other information as may be reasonably required.
- 5.9 Only human remains or cremated remains shall be interred in the cemetery and no interment of a body shall be made until an IRC has been obtained from the Town and the fee for interment as specified in Schedule “A” hereof has been paid to the Town.
- 5.10 No exhumation or disinterment of human remains in the cemetery shall be allowed 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 Clerk.
- 5.11 It shall be unlawful for any person to cremate or bury a deceased person within the limits of the Town of Smithers save

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and except as authorized under the terms of the *BPCPA* and the Regulations made thereunder.

- 5.12 The body of any person who dies having an infectious disease must be interred in accordance with the requirements of the Health Authorities Act.
- 5.13 All applications and transactions must be made at the municipal office between the hours of 8:30 am and 4:30 pm Monday to Friday, excluding statutory holidays.
- 5.14 Every application for interment or inurnment must be received not less than 48 hours before the interment or inurnment is to take place, unless otherwise authorized by the Clerk.

6. FEES

- 6.1 The fees for interment, disinterment, use of grave space, and care of graves, and any other cemetery fees shall be those set out in Schedule “A” attached hereto and forming part of this Bylaw.
- 6.2 The fees set out in Schedule “A” of this Bylaw shall be paid in advance at the municipal office. Fees being paid on behalf of a purchaser by a Funeral Home may be invoiced by the municipality to the Funeral Home.

7. INTERMENTS

- 7.1. (1) Each interment in the cemetery shall be made in a grave dug to a depth sufficient to provide for not less than 900 mm of earth between the upper surface of the coffin or grave liner and the level of ground surrounding the grave.
- (2) Not more than two interments shall be permitted in any one grave, and depths of burial shall be those as set out in Town of Smithers Standard Drawing No. D-11-1, attached hereto as Appendix A and forming part of this Bylaw.
- (3) Notwithstanding the requirements of subsections (1), (2) and (4) of this section, up to four (4) cremated remains of deceased persons may, when in an approved container, be interred in a grave to provide not less than 600 mm of earth between the upper surface of the container and the level of the ground surrounding the grave, or up to two (2)

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cremated remains of deceased persons may be interred in the special section of the cemetery designated by “cremated remains” and as set out in Town of Smithers Standard Drawing No. D-11-2, attached hereto as Appendix B and forming part of this Bylaw.

- (4) A fiberglass reinforced polymer concrete grave liner, or such similar product as may be from time-to-time designated, shall be used for each interment, unless a steel coffin is used, except in the case of cremated remains interred according to the requirements of subsection (3) of this section.
 - (5) (a) Inurnment, as defined in Section 3 of this bylaw, shall be permitted in addition to the methods of cremated remains interments permitted in subsection (3) above. Inurnments shall be permitted only in columbarium structures owned and maintained by the Town of Smithers;
 - (b) All inurnments, disinurnments, and removals, including all openings and closing of niches shall be made only by persons duly authorized by the Clerk;
 - (c) External dimensions of an urn to be placed in any niche shall not exceed dimensions noted on Columbarium Niche Detail on Standard Dwg D-11-3; Appendix C.
 - (d) Not more than two urns may be placed in any one niche;
 - (e) Upon payment of the fee prescribed in Schedule “A” to this bylaw, a memorial inscription plate shall be supplied and installed by the Town of Smithers on the door of a niche or other nearby designated area;
 - (f) Wherever such terms as interment, burial, grave space, lot, etc. appear in this bylaw, these terms shall be extended in meaning to include corresponding terms as are applicable to niche spaces.
- 7.2 No grave shall be dug, or opened, nor grave marker installed, by any person other than persons duly authorized by the Clerk.

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- 7.3 No vaults, or other methods of interment above ground level, shall be permitted in the cemetery except inurnments as permitted by Section 7.1 (5) of this bylaw.
- 7.4. It shall be the duty of the Director of Works and Operations to carry out or supervise the following:
- (1) The digging and preparation of all graves required to be dug whenever ordered to do so by the Clerk, or the person acting for him.
 - (2) The installation of all memorial tablets, markers, and monuments, and construction of all foundations for memorials.
 - (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) Upon receiving an order for exhumation from the proper authority as required by Section 5.10 hereof, cause to be carried out the exhumation. The Town's responsibility will end at the point where the soil is sufficiently excavated to permit access to the remains for removal by the attending funeral provider.

8. CAPITAL DEVELOPMENT FUND

8.1. A Capital Reserve fund shall be established as the "Cemetery Capital Development Fund" and such fund shall earn interest as determined from time-to-time by the Financial Administrator. Fees collected and uses of the fund are as follows:

- (1) Amounts Collected - 25% of basic operating cost of:
 - Burial plots
 - Cremation plots
 - Columbarium niches
 - Installation of memorial or monuments
 - Open & close of plots
- (2) Uses of Capital Development Fund – used for purchase of:
 - Columbarium units
 - Construction of new cremation plots

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- Specific cemetery improvements
- Other projects as approved by Council

9. CEMETERY CARE FUND

9.1. A fund shall be established as “The Cemetery Care Fund” and such fund shall be administered in accordance with the requirements of the Regulations made under the Part 7 of the CIFSA for the establishment and administration of a Municipal Cemetery Care Fund and in accordance with the procedures hereinafter set out.

- (1) A Town General Ledger account shall be established to be known as “The Cemetery Care Fund Investment Account” into which the Director of Financial Services or Financial Administrator will pay all funds received from the Cemetery Care Reserve Fund in accordance with Municipal investment procedures and to be classified as a separate investment account in the General Ledger.
- (2) Schedule “A” shall specify an amount NO LESS than 25% of the sale of all plots and niches, to be paid into the Cemetery Care Fund.
- (3) The IRC and Schedule “A” shall specify amounts to be used for Care Fund.
- (4) Any owner of a memorial marker, tablet, or monument desiring to install same in the cemetery after the first day of September, 1984, shall pay to the Town prior to the installation of such memorial, a minimum of Twenty-five percent (25%) or as listed in Schedule “A”, as a contribution to the “Cemetery Care Fund,” and such amounts when received shall be paid by the Town into “The Cemetery Care Fund Account” for investment as hereinafter provided.
- (5) Investment of funds received for Care Fund purposes shall be made as required by the Regulation under the *Part 7 of CIFSA* applicable to Municipal Cemetery Care Funds.
- (6) The income from the “Cemetery Care Fund,” including any appreciation thereof, shall be used for the sole purpose of upkeep and maintenance and development of the property licensed and the cemetery of which it forms part, and the

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original principal sum of such fund as established from time-to-time, as hereinbefore provided, shall be maintained at all times.

10. MEMORIALS

- 10.1 (1) No curbs or upright memorials will be permitted to be placed and no grave, or grave space shall be defined by a fence, railing, coping, hedge, or by other marking save by a memorial marker, tablet or monument.
 - (2) Memorials and markers must be laid flat with the ground level. Memorials and markers for cremated remains shall not exceed 450 x 450 mm in size and memorial markers for regular burial plots shall be between 500 x 300 x 75 mm (20 x 12 x 3 in) and 900 x 400 x 75 mm (36 X 16 X 3 in) or as otherwise designated by the Clerk.
 - (3) Cut flowers, wreath and floral offerings may be placed on graves but may be removed when their condition is considered to be detrimental to the beauty of the cemetery.
 - (4) 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 Town authorized to do so.
 - (5) The final date for installing memorial markers shall be November 15th unless otherwise dictated by weather conditions.
- 10.2 All persons are prohibited from damaging, or defacing any memorial, monument, fence, gate, or structure in the cemetery, or any improvements in the cemetery.

11. ACCESS

- 11.1 The Cemetery will be open to the public (pedestrians only) from dawn to dusk, but arrangements must be made with the Town for vehicular access.
- 11.2 No person shall enter the cemetery in a vehicle after sunset, nor drive a vehicle in the cemetery at any time at a speed of more than 15 kilometers an hour.

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11.3 No person shall drive a vehicle in the Cemetery other than on the designated roadways for vehicles.

12. PENALTIES

12.1 Any person who commits an offense contrary to the provisions of this Bylaw is liable on summary conviction to a penalty of not more than Two Thousand Dollars (\$2,000.00) in addition to the costs of prosecution.

12.2 Each day a violation is caused or allowed to continue constitutes a separate offense.

13. SEVERABILITY

13.1 If any section, subsection, sentence, clause or phrase in this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of the Bylaw.

READ A FIRST TIME THIS 27TH DAY OF NOVEMBER, 2007.

READ A SECOND TIME THIS 27TH DAY OF NOVEMBER, 2007.

READ A THIRD TIME THIS 27TH DAY OF NOVEMBER, 2007.

ADOPTED THIS 11TH DAY OF DECEMBER, 2007.

The Corporate Seal of the Town of Smithers
was hereto affixed in the presence of:

James A. Davidson
Mayor

Deborah Sargent
Corporate Administrator (CAO)

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CERTIFIED A TRUE AND CORRECT
COPY of “Bylaw No. 1565 – Cemetery
Bylaw”

Deborah Sargent
Corporate Administrator (CAO)

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SCHEDULES AND APPENDICES TO BYLAW NO. 1565

Schedule "A"	Burial Fees
Schedule "B"	Interment Right Contract
Schedule "C"	Interment Authorization
Appendix "A"	Standard Drawing No. D-11-1 (Standard Burial)
Appendix "B"	Standard Drawing No. D-11-2 (Cremated Remains)
Appendix "C"	Standard Drawing No. D-11-3 (Columbarium Niche Detail)

GTG/dc

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