

TOWN OF SMITHERS CEMETERY
BYLAW NO. 711, 1984”
‘1’

Consolidated for convenience only - February 24, 1998

**“TOWN OF SMITHERS
CEMETERY BYLAW NO. 711, 1984”
AND CONSOLIDATED AMENDMENTS**

LIST OF AMENDMENTS TO BYLAW NO. 711,
1984

<u>AMENDING BYLAWS</u>	<u>DATE ADOPTED</u>
BYLAW NO. 732, 1985	Jan 28, 1986
BYLAW NO. 762, 1986	Jul 8, 1986
BYLAW NO. 969, 1990	Repealed
BYLAW NO. 1133, 1994	Jan 10, 1995
BYLAW NO. 1163, 1995	Dec 12, 1995
BYLAW NO. 1266, 1998	Feb 17, 1998

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

1. In this bylaw unless the context otherwise requires:

“Town” shall mean the Town of Smithers;

“Clerk” shall mean the person duly appointed as such from time-to-time by the Council;

“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 without the Municipality;

1266 “Columbarium” means a vault with niches for urns that contain the ashes of cremated bodies;

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

1266 “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.

2. The following lands owned by the Town have been set aside and used for cemetery purposes:
 - (a) Smithers Cemetery legally described as being Lot A, Plan 9687, and Lot 29, Plan 9964, Town of Smithers.
3. A copy of the plans of the cemetery shall be filed with the Ministry of Consumer and Corporate Affairs, Cemetery Division, 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 Engineering Department shall maintain current all maps, records of burials and reserved burial plots.
4. The Town may grant to any person paying the fees therefor, according to the scale of fees hereinafter provided and subject to the terms of Section 5 hereof, a permit 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, and upon payment of said fee therefor, such person or persons shall be entitled to receive a permit in the form of Schedule “A” attached hereto and forming part of this Bylaw.
5. 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 be issued with a permit to use grave space in the reserved section, unless his application to the Town to purchase a permit is accompanied by a certificate from the society, church or organization concerned, stating that he, or the person on whose behalf he may be acting, is entitled to burial in the reserved section. All permits issued and services rendered by the Town under these conditions shall be subject to payment at the regular rates set forth in the schedule of rates attached hereto as Schedule “A”.
6.
 - (1) If the holder of a permit to use and occupy grave space in the cemetery shall at any time desire to dispose of or transfer to another person his right to use and occupy grave space in the cemetery, he shall first furnish the Clerk full particulars of the name, address, occupation or other description of the person to whom such disposal or transfer is desired to be made, and the consideration to be paid therefor.
 - (2) If the permit 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 hereof, the requirements of said Section 5 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” to this Bylaw and upon compliance with the requirements of this Bylaw by the permits holder and the person to whom the permit is to be transferred, the Clerk shall effect the desired transfer by an endorsement upon the permit to that effect and shall record the same in the books or other records kept by him for that purpose.
7. All permits issued for use of grave space in the cemetery shall be subject to the provisions of this Bylaw and all Bylaws now or hereafter to be passed by Council.
8.
 - (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.
 - (2) The fees set out in Schedule “A” to this Bylaw shall be paid in advance at the Town’s offices.
9. No body other than a deceased human body shall be interred in the cemetery and no interment of a body shall be made until a permit to inter the body has been obtained from the Town and the fee for interment as specified in Schedule “A” hereof has been paid to the Town.
10. All permits for interment of deceased persons in the cemetery shall be in the form of Schedule “A” attached hereto and forming part of this Bylaw.
11. Any person who makes application for an interment permit, 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 to by the District Registrar of Deaths, and such other information as may be reasonably required.
12. No deceased person interred in the cemetery shall be exhumed without a written order being first obtained from the proper authority in accordance with the requirements of the *Cemetery Act* and the presentation of such order to the Clerk.
13. It shall be unlawful for any person to cremate or bury a deceased person within the limits of the Town of Smithers save and except as authorized under the terms of the *Cremation Act* and the *Cemetery Act* and the Regulations made thereunder.
14. The body of any person who dies having an infectious disease must be interred in accordance with the requirements of the *Medical Health Act*.
15.
 - (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 Schedule “D” and forming part of this Bylaw.
 - (3) Notwithstanding the requirements of subsections (1), (2) and (4) of this

section, ~~cremated remains of a deceased person~~ up to four (4) cremated remains of deceased persons may, when in a container sheathed and sealed in not less than 30 mm of concrete, be interred in a grave to provide not less than 600 mm of earth between the upper surface of the concrete-encased container and the level of the ground surrounding the ~~grave, or~~ grave, or up to two (2) 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 Schedule “C” and forming part of this Bylaw.

- (4) On and after the first day of September, 1984, 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.

1266 (5) (a) Inurnment, as defined in Section 1 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;

1266 (b) All inurnments, disinurnments, and removals, including all openings and closing of niches shall be made only by persons duly authorized by the Clerk;

1266 (c) External dimensions of an urn to be placed in any niche shall not exceed 25 cm. X 25 cm.;

1266 (d) Not more than two urns may be placed in any one niche;

1266 (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;

1266 (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.

16. No grave shall be dug, or opened, nor grave marker installed, by any person other than persons duly authorized by the Clerk.

1266 17. No vaults, or other methods of interment above ground level, shall be permitted in the cemetery except inurnments as permitted by Section 15(5) of this bylaw.

18. It shall be the duty of the Works Superintendent 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 12 hereof, cause to be carried out the exhumation.

ADMINISTRATION AND CARE FUND

19. The Town shall maintain records as necessary to the administration and management of the cemetery and as required by Division 11 of the Regulation under the *Cemetery Act*.
20. The Clerk is hereby authorized on behalf of the Town to grant a permit in the form set out in Schedule "A" hereof in respect of any grave space in the cemetery, according to the scale of fees and charges specified in Schedule "A" of this Bylaw and subject to the provisions of this Bylaw.
21.
 - (1) A fund shall be established to be known as "The Cemetery Care Fund" and such fund shall be administered in accordance with the requirements of the Regulations made under the *Cemetery Act* for the establishment and administration of a Municipal Cemetery care Fund and in accordance with the procedures hereinafter set out.
 - (2) A bank account shall be established to be known as "The Cemetery Care fund Account" into which the Clerk will pay all funds received for Care fund purposes and all such funds shall be deposited in said account, and there held pending investment as hereinafter provided.
 - (3) On all permits for use of grave space sold on and after the first day of September, 1984, the Clerk shall pay into "The Cemetery care Fund Account" from the amount received for each Permit sold at the fee specified in Schedule "A" hereof twenty-five per cent (25%) of the sale of a grave plot or Fifteen Dollars (\$15.00), whichever is the greater.
 - (4) On all permits for the use of grave space, and on all contracts or agreements for the sale of such permits, the amount required to be used for Care Fund purposes shall be specified.
 - (5) 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, Twenty-five Dollars (\$25.00) 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.

- (6) Investment of funds received for Care Fund purposes shall be made as required by the Regulation under the *Cemetery Act* applicable to Municipal Cemetery Care Funds.
- (7) The income from the “Cemetery Care Fund,” including any appreciation thereof, shall be used for the sole purpose of upkeep and maintenance of the property licensed and the cemetery of which it forms part, and the original principal sum of such fund as established from time-to-time, as hereinbefore provided, shall be maintained at all times.

1266 21.1 A fund shall be established to be known as the “Columbarium Fund” and such fund shall earn interest as determined from time-to-time by the Municipal Treasurer. The monies in the Columbarium Fund shall be used only for the purchase and installation of columbarium units and associated furniture and landscaping. From the proceeds of the sale of niches, the Treasurer shall pay into the “Columbarium Fund” the sum of two hundred and fifty-five dollars (\$255.00) for each niche sold.

22. A separate account of all monies received under the provisions of this Bylaw and of all monies expended hereunder shall be kept by the Clerk and any surplus remaining of receipts over expenditure shall be paid at the end of each financial year into a fund to be known as “The Cemetery Fund” and same shall be invested by the Town in accordance with the provisions of the *Municipal Act* and the interest derived from such investment shall be expended on the upkeep and development of the cemetery.

MEMORIALS

23. (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.

1133 (2) Memorials and markers must be laid flat with the ground level. Memorials and markers for cremated remains shall not exceed 450 mm x 450 mm in size.

(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.

24. All persons are prohibited from damaging, or defacing any memorial, monument, fence, gate, or structure in the cemetery, or any improvements in the cemetery.

25. No person shall enter the cemetery in a vehicle after sunset, or drive a vehicle in the cemetery at any time at a speed of more than 15 kilometers an hour.

PENALTIES

26. (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.
- (2) Each day a violation is caused or allowed to continue constitutes a separate offense.

SEVERABILITY

27. 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.
28. Bylaw No. 273, 1964, known as Town of Smithers Cemetery Bylaw, and Bylaw Amendments No. 456, 1975, Bylaw No. 561, 1979 (at third reading) are hereby repealed.
29. This bylaw may be cited for all purposes as “Cemetery Bylaw No. 711, 1984”.

READ A FIRST TIME THIS 14th DAY OF AUGUST, 1984.

READ A SECOND TIME THIS 14th DAY OF AUGUST, 1984.

READ A THIRD TIME THIS 14th DAY OF AUGUST, 1984.

RECONSIDER, ADOPTED AND SEALED THIS 11TH DAY OF SEPTEMBER, 1984.

Carmen Graf
Mayor

Shannon Miller
Deputy-Clerk

ADE:bj0 84.06.19