

The Corporation of the Town of Atikokan

By-Law No. 22-19

Being a By-Law to establish rules & regulations for burial sites and other related services.

WHEREAS the *Funeral, Burial and Cremation Services Act, 2002* and Ontario Regulation 30/11 provides that a cemetery operator may pass by-laws governing the operation of cemeteries; and

WHEREAS the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, confers on municipal councils the general and specific authority to establish local boards; and

WHEREAS the Council of The Corporation of the Town of Atikokan has by by-law elected a Cemetery Board of Trustees for the Town of Atikokan, in accordance with the provisions of the *Funeral, Burial and Cremation Services Act, 2002* and vested in the said Board the control and management of Cemeteries under the jurisdiction of The Corporation of the Town of Atikokan; and

WHEREAS the Board deems it expedient to establish rules and regulations to govern the operations of Cemeteries under its jurisdiction;

NOW THEREFORE the Board of Trustees of the Atikokan Cemetery Board ENACTS AS FOLLOWS:

PART 1 – DEFINITIONS

- a. “Act” refers to the *Funeral, Burial and Cremation Services Act, 2002*, (FBCSA) and all amendments thereto together with all Regulations prescribed thereunder.
- b. “Board” means the Atikokan Cemetery Board.
- c. “Care & Maintenance Fund” is a requirement under the FBCSA and O. Reg. 30/11 and 184/12 that a prescribed amount or a percentage of the purchase price (excluding tax) of all interment and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. If no scattering rights are sold but scattering is permitted a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.
- d. “Caretaker” means an employee of the Corporation, employed at the cemetery in charge of the maintenance of the cemetery.
- e. “Cemetery” means land that is set aside to be used for the interment of human remains and includes columbaria or other structures intended for the interment of human remains.
- f. “Certificate” means the certificate of interment rights issued by the Treasurer for the purchase of a niche.
- g. “Clerk” means the Clerk of the Town of Atikokan or authorized designates.
- h. “Columbarium” means a structure designed for the purpose of interring cremated human remains in sealed compartments.
- i. “Contract” for the purposes of these by-laws, all purchasers of interment rights must sign a contract with the Town of Atikokan, detailing obligations of both parties, and acknowledging receipt and acceptance of the cemetery by-laws, a copy of the Consumer Information Guide and the Price List.
- j. “Council” means the Council of the Town of Atikokan.
- k. “Deed” means the deed issued by the Treasurer for the purchase of a lot.

- l. **“Disinterment”** means removal of human remains from a closed or sealed lot.
- m. **“Human Remains”** means a dead human body and includes a cremated human body.
- n. **“Inter”** means the burial of human remains and includes the placing of human remains in a lot, or columbarium.
- o. **“Interment rights”** means the right to require or direct the interment of human remains in a lot or niche.
- p. **“Interment Rights Holder”** means the person(s) authorized or entitled to inter human remains in a specified lot. They may be the person named in the Interment Rights Certificate or such other person to whom the rights have been assigned.
- q. **“Lot”** means an area of land in a cemetery containing, or set aside to contain, human remains.
- r. **“Monument”** means any permanent upright memorial projecting above ground level.
- s. **“Marker”** means any permanent flat memorial set flush with the surface of the ground.
- t. **“Niche”** means one compartment within a Columbarium, for the purpose of interring cremated human remains.
- u. **“Niche Marker”** means the permanent flat memorial set flush with the front of the Columbarium niche.
- v. **“Owner”** means the party or parties listed in the register as owning a lot or a columbarium niche in a cemetery.
- w. **“Plan”** means the lot plan of the Cemeteries.
- x. **“Post”** means any land marks used to mark the location of a lot.
- y. **“Town”** means The Corporation of the Town of Atikokan.
- z. **“Treasurer”** means that person so appointed by the Town of Atikokan.

PART 2 – ADMINISTRATION

- 2.1 Subject to the jurisdiction of Council, the Little Falls Cemetery and the Atikokan Cemetery shall be governed and controlled by the Cemetery Board. The Town reserves full control over the cemeteries’ operations and management of land within the cemeteries’ grounds.
- 2.2 The cemeteries shall be governed by this by-law, and all procedures will comply with the FBCSA and O. Reg. 30/11 and 184/12, which may be amended periodically. All by-law amendment must be:
 - a) Published once in a newspaper with general circulation in the locality in which the cemetery is located;
 - b) Conspicuously posted on a sign at the entrance of the cemetery; and
 - c) Delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or by-law amendment pertains to markers or their installation.

All by-laws and by-law amendments are subject to the approval of the Registrar, the FBCSA and BAO.

- 2.3 The Clerk or Designate shall keep such Registers, Records and Books as are necessary for properly recording all matters, acts, deeds and things pertaining to the Cemetery, and as may be prescribed. The Register is available for inspection by the public without charge during regular office hours.

- 2.4 The Treasurer shall keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the cemetery, and as may be prescribed. These are all available for inspection by the public without charge during regular office hours.
- 2.5 All revenue and other monies belonging or pertaining to the Cemetery shall be paid and received by the Treasurer.
- 2.6 The Clerk shall make and render such reports as may be prescribed or as the Council or Committee may require.
- 2.7 All fees and charges shall be in accordance with the price list filed with the Ministry which shall govern all matters pertaining thereto.

PART 3 – SALE OR TRANSFER OF LOTS

- 3.1 Lots and/or niches may be obtained from the Town upon payment of the appropriate fees set out in the General Tariff of Fees and Charges By-Law.
- 3.2 No person shall make a reservation for one or more lot(s) and/or niche(s) without making payment of the appropriate fees as set out in the General Tariff of Fees and Charges By-Law.
- 3.3 Lot owners acquire the right and privilege of burials of dead human remains or the ashes of dead human remains only, as well as the placement of monuments and markers subject to the rules and regulations in force.
- 3.4 Niche owners acquire the right and privilege of interring the ashes of dead human remains only.
- 3.5 The ownership of any lot/niche may be transferred by the registered owner to another party upon approval and are subject to administration fees as set out in the General Tariff of Fees and Charges By-Law. No ownership shall be transferred without the original deed or certificate of interment rights being returned to the Town of Atikokan. The Town of Atikokan shall in turn issue a new deed or certificate of interment rights to the transferee. A copy of the by-law, Consumer Price Guide and Price List must also be given to a new interment rights holder if the rights are transferred.
- 3.6 Lots/Niches can be returned to the Town of Aikokan for a full refund within thirty (30) days of purchase.
- 3.7 Lots/Niches returned after thirty (30) days will be, upon approval, reimbursed the current amount for the lot/niche less the original Care & Maintenance fees paid and an administration fee as set out in the General Tariff of Fees and Charges By-Law.

PART 4 – INTERMENTS AND DISINTERMENTS

- 4.1 No person other than a Town employee shall open or close a lot and/or columbarium niche or make a disinterment in the cemetery.
- 4.2 The Burial Permit issued by the Registrar General or designate shall be supplied to the Town, or in the case of cremation the original cremation certificate from the crematorium, prior to any interment.
- 4.3 Only one non-cremated remains burial shall be allowed in a burial lot.
- 4.4 With respect to cremated human remains:
 - a) A maximum of two cremated remains be allowed in a cremation lot.
 - b) Up to four cremated remains are allowed in a 5'x 10' lot whether existing or occupied (excluding military lots).

- c) A maximum of two cremated remains be allowed in a columbarium niche.
- d) Containers holding cremated remains that are to be placed in a columbarium niche must fit into a compartment with the following size:
 - a. Twelve (12) inches in height by Twelve (12) inches in width by Eleven and five/eighths (11 5/8) inches in depth; with a 10 ½ inch by 10 ½ inch opening (Ten and one half inches by Ten and one half inches).
- 4.5 No body of a person who has attained the age of 16 years shall be buried in a child lot other than cremated remains with existing burial.
- 4.6 All applications for burials shall be received at least 48 hours before the time for interment.
- 4.7 The Town accepts no responsibility for any error or misunderstanding that may arise when interments are ordered by telephone.
- 4.8 No interments shall be performed on Statutory Holidays or Sundays except when ordered by a doctor's certificate that the burial be made within 24 hours. Statutory holidays include all contractual holidays for Town employees.
- 4.9 No lot shall be opened closer than six inches to the boundary line of the lot and must provide a covering of at least three feet over the coffin.
- 4.10 The fee for opening and closing a grave and/or niche shall be in accordance with the General Tariff of Fees and Charges By-Law.
- 4.11 No remains other than human shall be placed in any lot and/or niche in the Cemetery.
- 4.12 Cremated remains shall not be scattered on any property owned by or under control and management of the Town and located within Town limits.
- 4.13 Disinterment or removal of urn will not be allowed unless permission is first obtained for that purpose at the office of the Town and, if given, such permission shall be in writing and signed by the Treasurer. The agent will be responsible for all costs incurred in accordance with the General Tariff of Fees and Charges By-Law.
- 4.14 Human remains may be disinterred from a lot provided that the written consent (authorization) of the Interment Rights Holder has been received by the Town and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received at the Town office before the removal of casketed human remains from the cemetery may take place. A certificate from the local medical officer of health is not required for the disinterment of cremated remains from a lot or the removal of cremated remains from the cemetery.
- 4.15 In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the Interment Rights Holder and/or next of kin(s).
- 4.16 Interments/disinterment performed outside of the normal working hours of the Public Works Department will incur additional costs as set in the General Tariff of Fees and Charges By-Law.
- 4.17 It is a condition of every person that purchases a lot or niche in the cemetery that the person expressly waives any claim arising by reason of any error or mis-description of any burial lot or niche. The Town undertakes that it will attempt, insofar as is reasonably possible, to avoid such errors but its liability shall only extend to a refund, in case of error, of any money paid to the Town for a lot/niche or lots/niches and it undertakes to make an equivalent quality of lot/niche or lots/niches available in lieu of those originally allocated.

- 4.18 Only Veterans who have honourably served in the Canadian Armed Forces, the Commonwealth or its wartime allies, or a regular member of the Royal Canadian Mounted Police, or a Peace Officer who served in a special duty area, or who served on a special duty operation, or who served in the Merchant Navy or Ferry Command during wartime be permitted to be buried in the Military Section.
- 4.19 Only the ashes of a spouse of a Veteran who is not a Veteran or a spouse of any personnel identified in section 4.18 of these regulations, who is not a Veteran will be permitted to be buried in the same plot as the Veteran.

PART 5 – CARE OF LOTS AND CEMETERY

- 5.1 The Town shall have sole control of all matters within the cemetery that are concerned with maintaining the grounds in a neat and pleasing condition, and to that end is hereby authorized to regulate and control the cemetery grounds in accordance with this By-Law.
- 5.2 No person, other than an employee of the town, shall change the grade of any lot, walkway; cut any sod, or move corner posts or grave markers in the cemetery.
- 5.3 Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered normal wear and tear.
- 5.3 No person shall place on any lot; flowers, wreaths, structures, or any article that restricts or hampers regular maintenance activities. Flower beds not exceeding the width of the monument and not exceeding 12” in length shall be permitted around the bases of monuments and where there is no monument, shall only be made by permission of and under the supervision of the Caretaker. Planting of borders around lots is prohibited and will be removed to facilitate grass cutting.
- 5.4 Vases, urns and flower stands not properly cared for may be removed from any lot; and any stand, holder, vase or other receptacle for flowers which are unsightly or unsuitable, may be prohibited or removed by the Caretaker. Glass vases are prohibited.
- 5.5 Borders, fences, railings, walls, cut-stone copings, concrete or stone borders, trees, shrubs and hedges in or upon any lot or grave are prohibited. Existing enclosures, which by reason of neglect, or age, that have become unsightly may be removed.
- 5.6 No concrete, stone, or other type of slab covering the whole or any portion of a lot shall be permitted except where one currently exists; in which case, a replacement cover may be installed provided it is the same size, shape, and design to the one being replaced.
- 5.7 No person shall throw rubbish anywhere on the cemetery grounds except for any container designated for that purpose.
- 5.8 Existing flower beds from the previous year not planted by September 1st of the following year may be grass seeded by the caretaker and shall thereafter remain so seeded.
- 5.9 The Town has the authority to remove from any lot any weeds or grass, funeral designs or floral pieces, both natural and artificial, that have become wilted or unsightly by reason of age or neglect, or any other articles or items, which in the Caretaker’s opinion are unsightly.
- 5.10 The Corporation shall not be responsible for loss of or damage to any articles left upon any lot or grave.
- 5.11 No person shall affix or have affixed any attachments or decorations to the Columbarium wall; place any flower, wreath or ornament against or near any part of the Columbarium; place any glass vase or other breakable item around the Columbarium; or otherwise decorate, adorn, improve, or alter the Columbarium or Niche unit in any way.

PART 6 – MONUMENTS AND MARKERS

- 6.1 No monument, marker, or structure shall be installed, erected, or placed in the cemetery without first submitting an application and receiving approval from the Town.
- 6.2 No monument, marker, or structure shall be placed in the cemetery until such time as the cemetery lot has been marked by the Town and all fees have been paid in full. Foundations must be placed under all monuments and shall be provided by the Town as the fees set out in the General Tariff of Fees and Charges By-Law.
- 6.3 When a monument or marker is to be removed for inscription, repair, or cleaning, the Town shall be informed in writing.
- 6.4 Only flat markers installed flush with the surface of the ground are permitted on cremation lots as well as on military lots and will have no concrete foundation. Sloped markers are considered to be monuments.
- 6.5 All markers shall be constructed of granite, bronze, brass, marble or other materials approved by the Clerk or Designate.
- 6.6 All monument foundations shall extend a minimum of 4 inches on all sides of monument.
- 6.7 No monument shall exceed 48 inches in height with a maximum width of 36 inches on a single lot and 84 inches on a double lot.
- 6.8 Only one monument (or marker larger than 12"x12") is permitted on a cemetery lot. Additional markers may be placed at each lot but shall not exceed 12 inches by 12 inches per marker.
- 6.9 No inscription shall be placed on any monument or marker which is not in keeping with the dignity and decorum of the cemetery.
- 6.10 Columbarium Niche markers shall be removed for engraving purposes upon submission of application and payment made in full. Removal and re-applications of niche markers are to be made by Town employees only.
- 6.11 While the Town will take all reasonable precautions to protect the property of lot/niche owners, it assumes no liability or responsibility for loss of or damage to any monument, marker or part thereof, or any article of any type that may be placed on a lot.
- 6.12 It is the owner's responsibility to ensure that monuments and markers are properly maintained. The Town shall be responsible for the maintenance of the columbarium.

PART 7 – CEMETERY

- 7.1 No person shall write upon, deface, mark, damage, or remove any markers, monuments, or any other structures, buildings, machinery, tools, etc. placed in the cemetery, or any fencing, railing or other work, for the protection, maintenance, or ornamentation of the cemetery.
- 7.2 All persons entering the cemetery grounds shall act in an appropriate manner, shall stay off of cemetery lots, and shall not tamper with or remove any items including flowers, plants, trees, shrubs, or touch any monument, marker, fence, or other structure in the cemetery.
- 7.3 No domestic animals shall be allowed in the cemetery.
- 7.4 No discharging of firearms is allowed in the cemetery other than at a military service.

- 7.5 No person shall drive a vehicle in the cemetery except at a moderate rate and then only upon the road way provided for that purpose.
- 7.6 Notwithstanding 7.5, no snowmobile, motorcycle, all-terrain vehicle, or horse shall be allowed in the cemetery except when it is part of a funeral procession.
- 7.7 The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the cemetery. This includes any worker performing contract work.
- 7.8 No person may picnic within the boundaries of the cemetery.
- 7.9 The Town will take reasonable precautions to protect the property of interment right holders, but it assumes no liability for the loss of, or damage to any monument, marker, or part thereof.

PART 8 – ENFORCEMENT

- 8.1 Any person who violates any provision of this By-Law is guilty of an offence and is liable to a fine and any other penalties imposed pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P.33, as amended.
- 8.2 Each section of this By-Law shall be read and construed as being separate and severable from each section. Furthermore, should any section or part of this By-Law be found to have been improperly enacted for any reason, then such section or part shall be regarded as being severable from the rest of the By-Law and the By-Law remaining after such severance shall be effective and enforceable.

PART 9 – ENACTMENT

- 9.1 By-Law No. 22-19 shall come into force and have effect after third and final reading.
- 9.2 By-Law 21-12 is hereby repealed.

READ a FIRST, SECOND, and THIRD time and FINALLY PASSED this 4th day of June, 2019.

Chair E. Shine

Secretary Sue Bates

READ a FIRST, SECOND, and THIRD time and FINALLY PASSED this 10th day of June, 2019.

Mayor Russ Brown

Clerk Sue Bates

