



DISTRICT OF PORT HARDY

BYLAW NO. 11-2009

**A BYLAW RELATING TO THE OPERATION
AND MAINTENANCE OF CEMETERIES**

**CONSOLIDATED
June 2017**

Amending Bylaws:

BL 1021-2014 Definitions & Sec 7,8,9,10

BL 1065-2017 Sec 2 & 11

**DISTRICT OF PORT HARDY
BYLAW NO. 11-2009**

**A BYLAW RELATING TO THE OPERATION
AND MAINTENANCE OF CEMETERIES**

The Municipal Council of the District of Port Hardy in open meeting assembled, ENACTS as follows:

1. TITLE

This bylaw may be cited as "District of Port Hardy Cemetery Bylaw No. 11-2009".

2. DEFINITIONS

In this bylaw, unless the context otherwise requires,

CARETAKER shall mean the person or persons duly appointed from time to time by Council.

CORPORATE OFFICER shall mean the person duly appointed as such from time to time by the Council.

COUNCIL shall mean the Council of the District of Port Hardy.

CREMATED REMAINS shall mean the ashes resulting from the cremation of a deceased human body.

CIFSA shall mean the *Cremation, Interment and Funeral Services Act* administered by the Administrative Authority, as may be amended or superseded from time to time and all regulations made thereunder.

DIRECTOR shall mean that member of the Executive Council charged by Order of the Lieutenant-Governor in Council with administration of the *CIFSA* and includes a person designated in writing by the *Director*.

DISTRICT shall mean the District of Port Hardy.

FINANCIAL OFFICER shall mean the person duly appointed from time to time by the Council.

INTERMENT means the act of burying a dead person

New Definition – Interment
BL1021-2014

MEDICAL HEALTH OFFICER and *HEALTH OFFICER* shall mean the person duly appointed from time to time to act as Medical Health Officer for the District of Port Hardy.

NEXT OF KIN means the nearest relatives of the deceased, and for the purposes of this bylaw, determination of the 'nearest' will be in the same order as is prescribed for the Control of Disposition in the *CIFSA*

New Definition – Next of Kin
BL1065-2017

3. SITE DESCRIPTION

- (a) The following lands have been set aside, operated, used or maintained as a cemetery by the District:
 - Port Hardy Municipal Cemetery
 - Legally described as being:
 - Lot 1, Section 21, TWP 6, Plan 25750, Rupert Land District
- (b) A copy of the plans of the cemetery shall be kept available for public inspection in the Municipal Office and at such other places as may be deemed necessary.

4. ESTABLISHMENT OF CEMETERY BOARD

- (a) In accordance with the provisions of the *CIFSA*, Council hereby establishes itself as the Cemetery Board of Trustees (the Board) to own and operate the cemetery with all such power and authority as is necessary to permit operation of the cemetery.
- (b) All rules and regulations respecting conduct of meetings, voting and quorum, as set out in the *Community Charter* and the District of Port Hardy Procedure Bylaw, shall apply to the Board.

5. PERMIT TO USE THE CEMETERY

- (a) The Council may grant to any person paying the fees prescribed by the District of Port Hardy Rates Bylaw, a permit for the exclusive use by him, or his executors or administrators, of any one or more grave spaces which may be vacant and unreserved in the cemetery and upon payment of said fee, such person or persons shall be entitled to receive a permit in the form prescribed by the District from time to time. A permit does not vest in the holder any title or interest in the land or Lot but instead provides for the right to inter the person named on the permit.
- (b) The Council reserves to itself the right to refuse to sell the use of more than two grave spaces to any one individual.
- (c) Where the holder of a permit to use and occupy grave space in the cemetery wishes to transfer his right of use and occupancy to another person he shall first provide the District with full particulars of the name, address and other description of the person to whom the transfer is to be made, the consideration to be paid therefore and such other information as the District may reasonably request. The provision of such information shall not bind the District to accept or permit the proposed transfer.
- (d) Upon acceptance by the District of the transfer fee prescribed in the District of Port Hardy Rates Bylaw and upon compliance with the requirements of this bylaw by the permit holder and the person to whom the permit is to be transferred, the District shall effect the desired transfer by an endorsement upon the permit to that effect and shall record the transfer in the books or other records kept for that purpose.

- (e) 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 thereafter passed by Council.

6. PERMISSION TO INTER, EXHUME AND CREMATE

- (a) No body shall be interred in the cemetery until a permit to inter the body has been obtained from the District and the fee for interment as prescribed in the District of Port Hardy Rates Bylaw has been paid to the District.
- (b) All permits for interment of deceased persons in the cemetery shall be in the form prescribed by the District from time to time.
- (c) All applications for a permit to inter in the cemetery must be made:
 - (i) At the District office between the hours of 8:30 am to 4:30 pm, on all days of the week except Saturday, Sunday, and Statutory Holidays; or
 - (ii) At the office of a Caretaker who is duly appointed to issue permits, during the hours set by that office.
- (d) No body or ashes 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 *CIFSA*, and the presentation of such order to the Corporate Officer or designate for his examination.
- (e) It shall be unlawful to bury or cremate a deceased person within the Municipal boundary of the District except pursuant to the terms of the *CIFSA*.

7. INTERMENT IN THE CEMETERY

- (a) Where the body of a person who died while suffering from a communicable disease is to be buried in the cemetery, any instructions given by the Medical Health Officer respecting the interment shall be fully and carefully followed by those who perform the interment.
- (b) Where the body delivered to the cemetery for interment is subject to the direction of the Medical Health Officer, under the terms of Division 7 of the "Regulations for the Control of Communicable Diseases" made under the "Health Act", the person delivering the body to the cemetery shall inform the Caretaker or duly authorized assistant acting on his behalf.
- (c) No body other than a deceased human body or the cremated remains or other remains of a deceased human body shall be interred in the cemetery and all interments shall be subject to and comply with the provisions of this bylaw.
- (d) Any person wishing to reserve grave space must pay the prescribed fee for a full plot as set out in the current District of Port Hardy Rates Bylaw at the time the reservation is made.
- (e) Any grave space may be purchased as a memorial plot, without a requirement for the interment of remains, upon presentation of a copy of the Death Certificate to the Corporate Officer or designate. All other provisions contained within this bylaw shall apply.

<i>New Sec.7(a)</i> <i>BL 1021-2014</i>
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- (f) Each interment in the cemetery, other than the interment of cremated remains, shall be made in a grave which, when filled and closed, provides not less than one (1') meter of earth between the general surface level of the ground at the grave site and the upper surface of the fibreglass grave liner enclosing the body resting in the grave.
- (g) One (1) interment of a body, or up to eight (8) interments of cremated remains, or one interment of a body and up to two interments of cremated remains, are permitted in each adult grave space. *New Sec.7(g)
BL 1021-2014*
- (h) In those areas of the cemetery reserved exclusively for the burial of cremated remains, up to three (3) interments of cremated remains shall be permitted in each grave space. *Sec.7(i) and (j)
BL 1021-2014*
- (i) Each interment of cremated remains in the cemetery shall be made in a container made of fibreglass polymer purchased from the District for the fee prescribed by the current District of Port Hardy User Rates and Fees Bylaw
- (j) Each interment of a body shall be made in a in a fibreglass grave liner purchased from the District for the fee prescribed by the current District of Port Hardy User Rates and Fees Bylaw. *Sec.7(k) (deleted)
BL 1021-2014*
- (k) No person shall inter any body in the cemetery on Saturday or Sunday or any Statutory Holiday unless the written permission of the District is first obtained.
- (l) No grave shall be dug or opened by any person other than the Caretaker or a person duly authorized by the District or the Caretaker. *Sec.7(l)(m)(n)
renumbered
BL 1021-2014*
- (m) On and after the effective date of this bylaw, no mausoleum or aboveground vault shall be constructed or erected in the cemetery.

8. CEMETERY CARETAKER

- (a) Council may authorize the appointment of a cemetery caretaker(s) and the duties and responsibilities of a caretaker so appointed shall be, among other things, to carry out, or cause to be carried out by cemetery workmen placed under his supervision:
 - (i) The digging, preparation, opening and closing of graves as ordered by the Corporate Officer.
 - (ii) The direction of all funeral ceremonies to the correct grave space. *New Sec.8(a)(ii)
BL 1021-2014*
 - (iii) The installation of memorial tablets, on graves and construction of their foundations or bases.
 - (iv) The general work of the cemetery, to maintain it in a neat, tidy condition, including maintenance of walls, fences, gates, paths and other cemetery improvements.
 - (v) The provisions for care of the cemetery tools and equipment.

- (b) The Caretaker shall maintain records as directed by the Corporate and Financial Officers and shall submit reports as required by the District, and shall do such other work as the District may require from time to time in relation to the cemetery operation.
- (c) The Caretaker may be designated to issue any permits prescribed under this bylaw and to collect all appropriate fees on behalf of the District.

9. ADMINISTRATION AND CARE FUND

- (a) The District shall maintain records as necessary to the administration and management of the cemetery and as required by the *CIFSA*.
- (b) The Corporate Officer or designate is hereby authorized on behalf of the Municipality and subject to the provisions of this bylaw to grant a permit, in the form prescribed by the District from time to time, in respect of any unoccupied and unlicensed grave space in the cemetery.
- (c) The Corporate Officer or designate shall issue all permits for interment required by this bylaw except as otherwise provided herein.
- (d) Upon issuing any permits for interment in the cemetery, or upon receiving an order for exhumation from the proper authority as required by Section 5(d) hereof, the Caretaker shall be notified of the time of the intended interment or exhumation, including the name of the deceased, the number and location of the grave space concerned and any instructions of the Health Officer relative to the interment or exhumation.
- (e) 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 *CIFSA*.
- (f) A bank account shall be established to be known as the Cemetery Care Fund Account into which the Financial Officer shall 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.
- (g) The Financial Officer shall pay into the Cemetery Care Fund Account from the amount received for each permit sold at the fee specified in the current District of Port Hardy Rates Bylaw, or 25% whichever is greater, except in those cases where a different amount is approved by the Director.
- (h) 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 Cemetery Care Fund purposes shall be specified, provided that the amount so specified shall not apply to grave space made available by the District free of charge for indigent burial.
- (i) Any owner of a memorial marker or tablet desiring to install the same in the cemetery shall pay to the District prior to the installation of such memorial the fee set forth in the current District of Port Hardy User Rates and Fees

New Wording Sec.9 (i) BL 1021-2014
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Bylaw as a contribution to the Cemetery Care Fund and such amounts when received shall be paid by the Financial Officer into the Cemetery Care Fund Account for investment as hereinafter provided.

- (j) Investment of funds received for Cemetery Care Fund purposes shall be made as required by the Regulation under the *CIFSA* applicable to Municipal Cemetery Care Funds.
- (k) 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.
- (l) The principal sum of the Cemetery Care Fund shall not be reduced otherwise than in accordance with an order of the Director made pursuant to the Regulations under the *CIFSA*.
- (m) A separate account of all monies received under the provisions of this bylaw and of all monies expended hereunder shall be kept by the Financial Officer and any surplus remaining of receipts over expenditures shall be paid at the end of each financial year into a fund to be known as the Cemetery Care Fund and the same shall be invested by the District in accordance with the provisions of the *CIFSA* and the interest derived from such investment shall be expended on the upkeep and development of the cemetery.

10. MEMORIALS

- (a) No person shall place on any grave space in the cemetery a memorial marker or tablet until an amount as established in the current District of Port Hardy User Rates and Fees Bylaw has been paid to the District for Cemetery Care Fund purposes in respect to each memorial which it is desired to install.
- (b) The District shall not be held liable for, or be obliged to repair, any breakage or damage to any memorial in the cemetery, except as shall arise as the result of the negligence of the Caretaker.
- (c) No grave or grave space in the cemetery shall be defined by a fence, hedge, or railing, and no memorial other than a tablet type memorial, as specified in section (d) may be installed on a grave.
- (d) A tablet type memorial may be installed on a grave in the cemetery provided the installation fee, as set out in the current District of Port Hardy Rates and Fees Bylaw, is paid and the tablet is made of stone or bronze and conforms to the following:
 - (i) Each memorial tablet shall be installed in a position on the grave according to that established by the District for memorials on graves in the cemetery and shall have its top surface set level and flush with the surface of the surrounding ground.
 - (ii) Each bronze memorial tablet shall be attached to a concrete base not less than four inches (4") thick with side surfaces true and perpendicular with the top surface of the attached tablet.

*New Wording
Sec. 10 (a)
BL1021-2014*

*New Wording
Sec. 10 (d)
BL1021-2014*

- (iii) Each stone memorial tablet shall be not less than four inches (4") thick and shall have its side surfaces true and perpendicular with its top surface.
- (iv) Except as permitted otherwise in subsection (vi) the top surface of memorial tablets and concrete bases shall measure as follows:
 - On adult size graves - 12" x 20"
 - On a child/infant size grave - 12" x 20"
 - On a cremation size grave - 8" x 11"
- (v) A bronze memorial tablet intended for installation on the grave of an adult or child may be smaller than its concrete base provided the concrete base conforms to the size for the grave, as required by section (iv) above, and provided the part of the base extending beyond the tablet as a concrete border is the same width on each side of the tablet, and does not exceed two inches (2") and has a smooth, slightly bevelled surface to shed water at its outer edges.
- (vi) Where two related persons are interred side by side in adjacent graves, one 18" x 30" tablet which provides for the memorialization of both persons may be used instead of two separate tablets provided the single tablet so used is set to embrace evenly the two graves concerned.
- (vii) Where one adult grave space is used for one full interment and one interment of cremated remains, two (2) memorial markers, each not exceeding 12" x 20", may be used provided they are set one immediately below the first.
- (viii) Where cremated remains are interred in one adult grave, a marker not exceeding 8" x 11" may be set for each interment provided they are set immediately over the area occupied by the remains.

11. GENERAL

- (a) Cut flowers, wreaths and floral offerings may be placed on Lots in a Cemetery, but may be removed by the Caretaker when it is considered that their condition is unattractive or detracts from the overall aesthetics of the Cemetery.
- (b) No potted plants are permitted.
- (c) Plant materials or other adornments associated with seasonal events or celebrations shall be removed within 30 days after the event by the Caretaker or sooner if deemed unattractive by the Caretaker.
- (d) Any other articles or items, including but not limited to, personal mementos, photos, decorative or breakable vases, candles, landscape rock, plants and plantings may be removed and disposed by the District without prior notice to the Next of Kin.

*Amended
Sec.11 (a)
BL1065-2017*

*ADDED Sec.11 (b) (c) (d)
(e) and renumbered
BL1065-2017*

- (e) The District will not be held responsible for any lost, stolen or damaged articles left in the Cemetery or for those items removed by the Caretaker pursuant to this Bylaw.
 - (f) No person other than an employee of the District shall plant, remove, cut down or destroy any trees, shrubs, plants, flowers, bulbs or rocks in the cemetery.
 - (g) No person shall drive a vehicle in the cemetery at any time at a speed of more than eight kilometres per hour (8 k/ph), and all vehicles and their drivers while in the cemetery grounds shall be subject to the directions and orders of the District.
 - (h) No person shall solicit orders for markers or tablets or like works within the limits of the cemetery.
 - (i) All persons and funeral processions in the cemetery shall obey the reasonable instructions of the Caretaker but any person not behaving with proper decorum within the cemetery, or disturbing the quiet and good order of the cemetery may be evicted therefrom by the District.
 - (j) The discharging of firearms, other than ceremonial volleys at burial services, is prohibited in the cemetery.
 - (k) Any person who wilfully destroys, mutilates, defaces, injures or removes any monument, memorial or other structure placed in the cemetery or any ornament, fence, railing or other work for the protection of the cemetery, or wilfully destroys, cuts, breaks or injures any shrub or plant or violates any lot or plays at any game or sport or discharges firearms, save at a military funeral, or who wilfully or unlawfully disturbs persons assembled for the purpose of burying a body therein, or who commits a nuisance, or at any time behaves in an indecent and unseemly manner, or deposits any rubbish or offensive matter or thing in the cemetery shall be guilty of an infraction of this bylaw and liable to the penalties hereof.
 - (l) Every person who commits an offence against this bylaw is liable to a minimum fine of One Hundred Dollars (\$100.00) and costs, or in default of payment thereof, or in the alternative, to imprisonment for any period not exceeding two (2) months.
 - (m) Notwithstanding anything herein contained, the administration and operation of the cemetery shall be carried out at all times in accordance with the *CIFSA*.
 - (n) In this bylaw, unless the context otherwise requires, the singular includes the plural and the masculine includes the feminine gender and a corporation.
- 12.** If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

13. REPEAL

Bylaw No. 18-2006 is hereby rescinded in its entirety.

READ A FIRST TIME ON THE 10th DAY OF NOVEMBER, 2009.

READ A SECOND TIME ON THE 10th DAY OF NOVEMBER, 2009.

READ A THIRD TIME ON THE 10th DAY OF NOVEMBER, 2009.

ADOPTED BY THE MUNICIPAL COUNCIL ON THE 24TH DAY OF NOVEMBER, 2009

Original signed by:

DIRECTOR OF
CORPORATE SERVICES

DEPUTY MAYOR

Certified to be a true copy
of Cemetery Bylaw No. 11-2009 (Consolidated)

DIRECTOR OF
CORPORATE SERVICES