

THE CORPORATION OF THE TOWN OF SMOOTH ROCK FALLS

BY-LAW #2024-51

A BY-LAW RESPECTING THE TOWN OF SMOOTH ROCK FALLS' CEMETERIES AND
REPEALING BY-LAW 93-11

WHEREAS the Town of Smooth Rock Falls is the owner/operator of a cemeteries for the benefit of its residents;

AND WHEREAS the Funeral, Burial and Cremation Services Act, 2002 and its regulations imparts responsibility to the owners of cemeteries for their management, operation and care;

AND WHEREAS section 150(1) of Ontario Regulation 30/11 under the Funeral, Burial and Cremation Services Act, 2002 provides that the owners of cemeteries may make by-laws affecting the operation of the cemeteries;

AND WHEREAS Section 8, 9 and 10 of the Municipal Act provides for the power of a municipality and the authority for municipalities to pass by-laws for certain things that necessary for the management of a cemetery;

AND WHEREAS section 425 of the Municipal Act, 2001, authorizes municipalities to pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

NOW THEREFORE the Council of the Town of Smooth Rock Falls enacts as follows:

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1. PREFACE

- (1) These by-laws are the rules and regulations that govern all cemeteries owned and/or operated by the Town of Smooth Rock Falls and have been approved by the Registrar, *Funeral, Burial and Cremation Services Act, 2002* (FBCSA), Bereavement Authority of Ontario (BAO).
- (2) The Council of the Corporation of the Town of Smooth Rock Falls in the discharge of their responsibilities, has adopted the following set of rules for the managing, improvement and upkeep of the Smooth Rock Falls Public Cemetery, and the other cemeteries the Town operates to maintain them as becoming and respectful place for the burial of the deceased.

2. ADMINISTRATION

- (1) The Corporation of the Town of Smooth Rock Falls reserves full and complete control and management of the land, buildings, plantings, roads, utilities, books and records of the cemetery and complete authority to administer these by-laws.
- (2) The Cemetery shall be Managed and Administered through the Clerk's Department.
- (3) The Caretaker shall have custody of the Cemetery under the direction of the Cemetery Operator and through the direction of the Cemetery Manager. No interment or removal of bodies shall take place without notice to the Caretaker, and the Caretaker shall see that a proper Burial Permit or other certificate required by law is furnished in each instance.
- (4) The Cemetery Operator shall take reasonable precautions to protect the property of interment rights holders but assumes no liability or responsibility for the loss of, damage to, or any injury resulting from any article of any type that is placed on any lot.
- (5) In case of a medically significant event, the Town shall follow the direction set-out by the local Medical Officer of Health.
- (6) The Director may correct any error made in the sale, purchase, transfer, repurchase or resale of Interment Rights and in correcting such error he or she may substitute a lot of equal or greater value and similar location or cancel the transaction and refund all payments. The Director shall give notice to the Interment Rights Holder of both the error and the correction to the error, provided that no notice shall be required to be given in regard to a typographical error, error of calculation or similar error.
- (7) Rights Abandoned: The Town of Smooth Rock Falls may apply for a declaration that Interment Rights are abandoned and then resell the Interment Rights in accordance with the *Funeral, Burial and Cremation Services Act, 2002*.

3. DEFINITIONS

Burial/Interment: The opening of a lot and then the placing of human remains or cremated human in that lot, followed by closing the lot. The lot may be a grave in the ground, a crypt in a mausoleum or a niche in a columbarium.

Business Day: A day on which the Administrative Office is open for business.

By-laws: The rules and regulations under which the Cemetery and all of its components, facilities and functions operates.

Care and Maintenance Fund: Percentage of the purchase price of Interment Rights, and set amounts for marker and monument installations that is put into trust, the interest earned on which is used to provide care and maintenance. The amount collected as per requirements under the FBCSA and O. Reg. 30/11 and 184/12.

Caretaker: The Public Works Coordinator or alternate of the Town of Smooth Rock Falls Public Cemetery.

Cemetery: The Smooth Rock Falls Public Cemetery is the only active cemetery owned by the Town of Smooth Rock Falls and is located on Part Lot 23 Parcels 8206 and 1299 NEC, Concession 9, Township of Kendrey, District of Cochrane.

Cemetery Manager: The Smooth Rock Falls Public Cemetery is managed through the Clerk's department where the Clerk or their alternate shall serve as manager.

Cemetery Operator: The Corporation of the Town of Smooth Rock Falls and those designated for the purpose of overseeing the cemetery on behalf of the municipality.

Certificate of Interment Rights: Certificate issued by the municipality to the purchaser of interment rights to a lot, once payment has been made in full.

Columbarium: A structure designed for the purpose of interring cremated human remains in niches or compartments.

Contract: Agreement that purchasers of interment rights must sign with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-laws.

Corner Posts: Any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot.

Council: The elected municipal Council of the corporation of the Town of Smooth Rock Falls.

Cremation Lot: Any burial space intended to receive not more than 6 (six) cremated remains and having a minimum size of 1.22 meters (4 feet) by 3.05 meters (10 feet)

Crypt: An individual compartment in a mausoleum for the interment of human remains.

FBCSA: Funeral, Burial & Cremation Services Act, 2002

Grave: Any inground burial space intended for the interment of a child, adult or cremated human remains.

Human Remains: A dead human body or the remains of a cremated human body.

Inter: means the burial of human remains and includes the placing of human remains in a grave.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and to authorize the installation of a monument or marker.

Interment Rights Certificate: The document issued by the cemetery operator to the purchaser once the interment rights to a specific lot have been paid in full, identifying ownership and authority over those specific interment rights.

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- (3) The Caretaker shall have custody of the Cemetery under the direction of the Cemetery Operator and through the direction of the Cemetery Manager. No interment or removal of bodies shall take place without notice to the Caretaker, and the Caretaker shall see that a proper Burial Permit or other certificate required by law is furnished in each instance.
- (4) The Cemetery Operator shall take reasonable precautions to protect the property of interment rights holders but assumes no liability or responsibility for the loss of, damage to, or any injury resulting from any article of any type that is placed on any lot.
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Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and to authorize the installation of a monument or marker.

Interment Rights Certificate: The document issued by the cemetery operator to the purchaser once the interment rights to a specific lot have been paid in full, identifying ownership and authority over those specific interment rights.

Interment Rights Holder: 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.

Lot: An area of land in a cemetery intended for a single grave.

Marker: Any permanent memorial structure – monument, plaque, headstone, cornerstone or other structure or ornament affixed or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains and may be used to indicate the location of a burial.

Mausoleum: A structure or building, other than a columbarium, used as place for the interment of human remains in sealed crypts or compartments.

Monument: A permanent tombstone, plaque, headstone, cornerstone or ornament that projects from the surface of the ground and is used to mark the location of a lot or plot.

Niche: An individual compartment in a columbarium for the interment of cremated human remains.

Opening and Closing Fee: The fee charged by the cemetery operator to excavate a grave for an interment and then refill the grave, or to open and re-seal a niche or crypt for the entombment of a casket or urn with cremated remains.

Outer Shell: A steel vault or rough box in which a casket or urn is buried

Plot: parcel of land, sold as a single unit, containing either one or multiple lots.

Resident: person who owns land or lives within the Town of Smooth Rock Falls

4. GENERAL PROVISIONS

(1) Hours of Operation:

Office Hours: Monday – Friday: 9:30am – 4:00pm
Interment Hours: Monday – Friday: 7:30am – 3:00pm during the period of May 15th to November 15th. (Dates may vary due to climatic and ground conditions)

Holidays, Saturday & Sundays: 8:00am – 2:00pm (special requests only, additional costs)

Cemetery Hours: The cemetery is open to the public at all times. Notice will be given to the public, in the event that the Cemetery needs to be closed for a certain period of time.

****Every effort will be made to complete a burial on the assigned day and time. If due to inclement weather conditions, health and safety concerns, or conditions beyond the cemetery operator's control, if an interment cannot be made at the scheduled time, the cemetery operator reserves the right to reschedule. The burial shall be completed as soon as possible.**

(2) General Conduct:

- a. The cemetery reserves full control over the cemetery operations and management of land within the cemetery grounds.
- b. No person may damage, destroy, remove or deface any property within the Cemetery.

- c. All visitors should conduct themselves in a quiet manner that shall not disturb any patrons.

(3) By Law Amendments:

The cemetery shall be governed by these by-laws, and all procedures shall comply with the FBCSA and O. Reg. 30/11 and 184/12, which may be amended periodically. All by-laws and by-law amendments are subject to the approval of the Registrar, FBCSA, BAO.

(4) Liability:

- a. The cemetery operator shall not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to, any lot, plot, columbarium niche, mausoleum crypt, monument, marker, or other article that has been placed in relation to an interment, save and except for direct loss or damage caused by gross negligence of the cemetery.
- b. Any person who, in the Cemetery, damages or moves any tree, plant, marker, fence, structure or other thing usually erected, planted or placed in a cemetery is liable to the Cemetery Operator and any Interment Rights Holder who, as a result, incurs damage. The amount of damages shall be the amount required to restore the Cemetery to the state that it was in before anything was damaged or moved by the person liable.

(5) Public Register:

Provincial legislation – Section 110 of O. Reg. 30/11 requires all cemeteries and crematoriums to maintain a public register that is available to the public during regular office hours. The register is available through the Clerk's Office.

(6) Right to Re-Survey:

The Cemetery has the right at any time to re-survey, enlarge, diminish, re-plot, change or remove plantings, grade, close pathways or roads, alter in shape or size, or otherwise change all or any part of the cemetery, subject to approval of the appropriate authorities.

(7) Pet Interments :

Full body or cremated pet remains are not allowed to be interred or scattered anywhere on cemetery grounds.

(8) Rules for Visitors

- a. Visitors are always welcomed at the Cemetery but are asked to remember the respect due to the deceased.
- b. The Caretaker and his assistants are empowered and are required to preserve order and decorum in the cemetery.
- c. No parades other than funeral processions shall be admitted to or be organized within the Cemetery.
- d. Children under the age of 12 years are welcomed in the Cemetery grounds when accompanied by an adult, who shall be responsible for their good conduct and shall see that they do not run over the lots or climb upon the

monuments or show disrespect.

- e. Only Funeral procession Vehicles are allowed within the cemetery and shall be driven at a minimal rate of speed and shall not leave the avenues or park on the grass unless directed to do so by the Caretaker.
- f. Proprietors of vehicles and their drivers shall be held responsible for any damage done by them.
- g. NO pleasure ATVs (all-terrain vehicles) or snowmobiles are allowed in the Cemetery.
- h. Discharging of firearms, other than in regular volleys at burial services is prohibited in and around the Cemetery.
- i. NO picnic party shall be permitted in the cemetery grounds.
- j. Any complaints by Interment Rights Holder or visitors should be made to the Caretaker, or at the office of the Cemetery Operator and not to workmen on the grounds and controversies with workmen or others on the grounds are to be avoided.
- k. Rubbish shall not be thrown on roadways, lots or walkways or any part of the grounds. Receptacles are provided at convenient points on the grounds for the deposit of weeds, decayed flowers, plants, etc...
- l. Any person disturbing the quiet and good order of the Cemetery by noise or other improper conduct or who violates these by-laws, shall be expelled from the grounds.
- m. Any articles which is detrimental to efficient maintenance or constitutes a hazard to machinery, employees or visitors, or is unsightly or does not conform with the natural beauty or design of the Cemetery, may be removed by the Cemetery Operator. An article removed shall be held at the Cemetery for collection. If not collected, it shall be disposed of after 60 days.
- n. NO tips or gratuities are to be given to cemetery workers by visitors or Rights Holders, nor shall any be accepted by any cemetery workers.

5. SALE AND TRANSFER OF INTERMENT RIGHTS

Purchasers of interment rights holders acquire only the right to direct the burial of human remains, and the installation of monuments, markers and inscriptions, subject to the Cemetery By-law which has been approved by the Bereavement Authority of Ontario

(1) Purchase:

Interment Rights in lots may be purchased from the Cemetery Operator at the rates listed on the current price list and according to the plans approved by the Ministry of Government and Consumer Services that are on file in the office of the Cemetery Operator. The prices for lots shall include the

application portion for deposit to the Cemetery's Care and Maintenance Fund.

(2) Care and Maintenance Fund:

As required by Sections 166 and 168, of Regulation 30/11, a percentage of the purchase price of all interment rights and a prescribed amount for monuments and markers is to be contributed into the "Care and Maintenance Fund". Interest income from this fund is to be used only to provide general care and maintenance of the cemetery. Contributions to the care and maintenance fund are not refundable except when the interment rights are cancelled within the thirty (30) day cooling off period. Work that may be completed through the use on interest of the Care and Maintenance Fund include:

- a) Re-leveling and sodding or seeding of lots
- b) Maintenance of cemetery roads and water systems
- c) Maintenance of perimeter walls and fences
- d) Maintenance of cemetery landscaping
- e) Repair and general upkeep of cemetery maintenance buildings and equipment.

(3) Contract:

For purposes of these by-laws, all purchasers of interment rights, or other cemetery supplies and services, shall receive a copy of the contract they and the cemetery operator have signed detailing the 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.

(4) Change of Address:

An Interment Rights Holder shall inform the Municipal Cemeteries forthwith of any changes to the information contained in their Interment Rights Contract, including changes to their address or telephone number.

(5) Interment Rights Certificate – Payment in Full:

In accordance with cemetery by-laws, no burial, interment, or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full.

(6) No Real Property:

The purchase of interment rights is not a purchase of Real Estate or real property.

(7) Cancellation of Interment Rights within 30 Day Cooling-Off Period:

A purchaser has the right to cancel an interment rights contract within thirty (30) days of signing the interment rights contract, by providing written notice of the cancellation to the cemetery operator. The cemetery operator shall refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation. If the interment rights certificate has been issued to the interment rights holder, the certificate must be returned to the cemetery operator along with the written notice of cancellation.