

**THE CORPORATION
OF THE
TOWN OF NIAGARA-ON-THE-LAKE
BY-LAW NO. 5156-19**

A BY-LAW OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE FOR THE MANAGEMENT, REGULATION, CONTROL AND MAINTENANCE OF NIAGARA LAKE SHORE CEMETERY AND TO REPEAL BY-LAW 721-76 AND BY-LAW 2580-93.

WHEREAS The Corporation of the Town of Niagara-on-the-Lake has previously appropriated certain lands of Niagara-on-the-Lake for a public cemetery and designated the cemetery as "Niagara Lake Shore Cemetery";

AND WHEREAS pursuant to Section 150 of Ontario Regulation 30/11 of the Funeral, Burial and Cremation Services Act, 2002, cemetery operators may make bylaws for the proper operation and management thereof;

AND WHEREAS it is necessary to update the rules and regulations for the Town of Niagara-on-the-Lake to be compliant with the Act.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE enacts as follows:

1. **DEFINITIONS:**
 - 1.1. **Act** means the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c. 33 and all amendments thereto together with all Regulations prescribed thereunder.
 - 1.2. **Burial/Interment** means the opening and closing of a lot for the disposition of human remains or cremated human remains.
 - 1.3. **Care and Maintenance Fund** means the trust fund in which a percentage of the purchase price of all Interment Rights and set amounts for marker and monument installations is contributed; and wherein the interest earned from such funds is used to provide care and maintenance of lots, plots, markers and structures in the cemetery.
 - 1.4. **Cemetery** means the Niagara Lake Shore Cemetery located on Lot 193, Plan M-11 and Part Lot Military Reserve, south side Lakeshore Road, in the Town of Niagara-on-the-lake, in the Regional Municipality of Niagara.
 - 1.5. **Certificate of Interment Rights** means the certificate issued by the Town of Niagara-on-the-Lake to the purchaser of a cemetery lot or lots.

- 1.6. **Clerk** means the Town Clerk, or designate, of The Corporation of the Town of Niagara-on-the-Lake.
- 1.7. **Contract** shall mean for the purpose of this by-law, all purchasers of interment or scattering rights, or other cemetery supplies and services.
- 1.8. **Corner Posts** means any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.
- 1.9. **Grave** (also known as a **Lot**) means any inground burial space intended for the interment of human remains or cremated human remains.
- 1.10. **Inter** means burial of human created remains and includes the placing of human remains in a lot.
- 1.11. **Interment Rights** means the right to require or direct the interment of human remains or cremated human remains or authorize the installation of a monument or marker.
- 1.12. **Interment Rights Certificate** means the document issue by the Cemetery to the purchaser once the Interment Rights have been paid in full, identifying ownership of Interment Rights.
- 1.13. **Interment Rights Holder** means the person(s) authorized or entitled to order an interment of 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.
- 1.14. **Lot** means for the purposes of this by-law a single grave space.
- 1.15. **Marker** means any permanent memorial structure approved by the Town, and may include a monument, plaque, headstone, cornerstone or other structure or ornament affixed or intended to be affixed to a burial lot, 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.
- 1.16. **Niche** means an individual compartment in a columbarium for the entombment of cremated human remains.
- 1.17. **Resident** means a person residing in the Town of Niagara-on-the-Lake or a person who is a tax payer in the Town of Niagara-on-the-Lake and includes a person who has moved from the Town of Niagara-on-the-Lake directly into an institution established under the Retirement Homes Act.
- 1.18. **Scattering Right** means the Right to direct the spreading cremated remains over a designated area within the cemetery with the knowledge and permission of the cemetery operator.
- 1.19. **Scattering Rights Holder** means a person who holds the right to scatter cremated human remains in a specified lot or other designated area within the cemetery.
- 1.20. **Treasurer** means the Treasurer of The Corporation of the Town of Niagara-on-the-Lake.

2. GENERAL INFORMATION

- 2.1. That the Cemetery owned by The Corporation of the Town of Niagara-on-the-Lake and called "The Niagara Lake Shore Cemetery" consisting of Lot 193, Plan M11 and Part Lot Military Reserve, Township of Niagara Plan, shall be known as The Niagara Lake Shore Cemetery and shall continue to be operated as a cemetery owned by the Town of Niagara-on-the-Lake.
- 2.2. The Council of The Corporation of the Town of Niagara-on-the-Lake shall make rules and regulations for the proper government and maintenance of Niagara Lake Shore Cemetery.
- 2.3. Subject to the jurisdiction of Council, the care maintenance and improvement of the Cemetery is vested in the Director of Operations and he/she shall have full charge and authority over the same.
- 2.4. The Director of Operations may delegate the execution of any work in and about the Cemetery.
- 2.5. The Treasurer shall keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the Cemetery.

3. SALE OF INTERMENT RIGHTS

- 3.1. Interment Rights (lots) and/or Scattering Rights may only be purchased from the Town at the tariff of rates, as approved annually by Council.
- 3.2. All prices for cemetery lots, plots and services shall be set out in the Niagara Lake Shore Cemetery Price List as approved annually through the Town's Corporate User Fee's.
- 3.3. Prices shall include the applicable portion for deposit to the Cemetery's Care and Maintenance Fund. The price list shall conform to the requirements set out in O. Reg. 30/11 of the Funeral, Burial and Cremation Services Act, 2002 (Act).
- 3.4. All funds apportioned for Care and Maintenance shall be deposited as prescribed by the Act and the regulations. The income from the fund shall be used to maintain, secure and preserve the Cemetery, its grounds and buildings and to maintain, stabilize, secure and preserve markers as described in the Act.
- 3.5. Purchasers of Interment Rights acquire only the right to direct the burial of the human remains and the installation of monuments, markers and plaques, subject to the rules and regulations set out in this By-law.

- 3.6. Each purchaser of a lot shall be entitled to an Interment Rights or scattering rights certificate, but only when all indebtedness has been satisfied and all charges have been paid in full.
- 3.7. The certificate of Interment Rights shall specify the size of the lot, the number of the lot, and the amount paid, and shall be subject to the existing regulations or such regulations as may from time to time be determined upon by the Town, as if embodied therein in full.
- 3.8. The sale of Interment Rights on the open market is prohibited.
- 3.9. All purchasers of Interment Rights shall be provided with the following:
 - I. A copy of the contract
 - II. A copy of the Niagara Lake Shore Cemetery By-law
 - III. A Certificate of Interment Rights

4. TRANSFER AND REPURCHASE OF INTERMENT RIGHTS

- 4.1. The holder of Interment Rights may transfer same subject to and in accordance with the provisions of this By-law and the regulations, otherwise no transfer shall be binding upon or recognized by the Corporation.
- 4.2. The transfer of ownership of Interment Rights are not binding upon the Cemetery until a duly executed transfer has been deposited with the Cemetery.
- 4.3. Upon receipt of the proper documents of transfer, the prescribed fee and the original Certificate of Interment Rights and upon the Clerk satisfying that all other provisions of the By-law and the regulations have been complied with, a new Certificate of Interment Rights shall be issued to the transferee.
- 4.4. In case of transmission of ownership of lots, the transmission of any lot shall be recorded on receipt of sufficient evidence as follows:
 - I. In case of devise, by depositing with the Town a sufficiently certified copy of the Will and Probate.
 - II. In case of intestacy, or where the lot has not been listed in the Will, the Town will recognize as owner that person listed as receiving the residue of the estate or that party designated in a signed agreement executed by the immediate heirs.

5. INTERMENTS AND DISINTERMENTS AND SCATTERING

- 5.1. No interment or scattering other than that of the body or cremated remains of a human being shall be permitted in any part of the Cemetery.
- 5.2. The Cemetery Coordinator, designate or someone in the employ of the Town of Niagara-on-the-Lake shall be in attendance at each interment.

- 5.3. A burial permit issued by the Division Registrar, showing that the death has been registered, shall be deposited with the Cemetery Coordinator before an interment can take place.
- 5.4. In each case of an interment or scattering, a written statement giving the name, place of birth, late residence, age, date of death, place of death, name and address of applicant, time of interment, in what lot to be interred, and name of funeral home, so that an accurate register may be kept.
- 5.5. Interment or Scattering Rights holder(s) must provide written authorization prior to an interment or scattering taking place. Should the interment or scattering rights holder be deceased, authorization must be provided in writing by the person authorized to act on behalf of the Interment Rights holder in keeping with the *Succession Law Reform Act* i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- 5.6. When a lot is held jointly by two or more persons, an order will be accepted from either or any of them or their authorized representatives, for interment in such part of the lot as may be requested.
- 5.7. Notice of each interment to be made shall be given to the Cemetery Coordinator, or designate, at least 24 hours previous thereto except under special circumstances. The Town cannot be responsible for having graves prepared for funerals unless such notice is given.
- 5.8. Where orders for interments are given by verbal communications, the Town will not proceed with the work order until written confirmation is received which must be at least 24 hours prior to the interment.
- 5.9. No burial shall be made on a statutory holiday or Sunday except on the written order of the Medical Officer of Health.
- 5.10. No grave or vault shall be opened for disinterment by any person not in the employ of the Town except under special circumstances, and by permission of the Town.
- 5.11. The Cemetery Coordinator shall ensure that interred human remains that are not cremated human remains are buried at least .61 meters (two feet) beneath the natural level of the ground surface.
- 5.12. In digging a grave, no ground shall be placed on the adjoining graves, and after filling in the grave the surplus material shall be removed to such place as may be designated by the Superintendent, and the grave shall be sodded within a reasonable length of time.
- 5.13. The interment fee includes the opening and closing of the grave.
- 5.14. Bodies of any of the lower animals shall not be placed in any vault, grave or niche in the Cemetery.
- 5.15. In the case of scattering of cremated remains, the rights must be purchased and the certificate of cremation provided prior to the scattering of the remains.

- 5.16. Scattering can only take place in the designated scattering grounds area, as identified by the Cemetery Coordinator.
- 5.17. Once scattered; cremated remains cannot be retrieved.
- 5.18. No disinterment shall be made without the written consent of the local Medical Officer of Health and the owner of the Interment Rights except on an order from the Court, or as provided in the Regulations under the Act.
- 5.19. If a Medical Officer of Health determines that remains are those of a person who died of a communicable disease within the meaning of the Health Protection and Promotion Act, the remains shall not be dealt with in any way except as prescribed by the regulations made under the Act.
- 5.20. Funerals shall be allowed in the Cemetery only between the hours of 9 a.m. and 3 p.m., unless by permission of the Town.
- 5.21. Funeral corteges within the Cemetery shall follow the route indicated by the Cemetery Coordinator.
- 5.22. No interment or disinterment shall be permitted in any grave against which charges are due and unpaid.
- 5.23. Cemetery services available from the Town shall not be allowed to be supplied by any other person, and for the purpose of this provision, Cemetery Service shall include the opening and closing of graves, disinterment or removal of remains, provision of grave dressing, lowering devices, preparation of flower beds and the planting of trees, shrubs, flowers and grass, general care of lots and other services normally provided by the Town. Tents may be supplied only if the supplier agrees to defend, indemnify, and hold harmless the Corporation from liability and claim for damages because of bodily injury, death, property damage, sickness, disease or less any expense arising from the use of such outside services.
- 5.24. Where a shell or vault has a width of more than 2 feet-8 inches, or a length of more than 7 feet 6 inches, the Cemetery shall not be obliged to permit the burial unless there is sufficient space to accommodate it.
- 5.25. The Cemetery Coordinator may use or order the use of such equipment, devices and appliances, as he may deem necessary or advisable to be used at or for the purpose of any burial.

6. CARE OF LOTS AND CEMETERY GROUNDS

- 6.1. The Town undertakes to keep all lots and graves properly graded, sodded and mowed to keep all trees, shrubs, or other plants as shall be permitted in areas designated by the Town throughout the Cemetery grounds, cultivated and trimmed.

- 6.2. Trees, shrubs, flowering or other plants shall not be cultivated on the lots or graves.
- 6.3. All landscaping shall be done by the Town or by its approval and trees, shrubs, flowering or other plants shall only be cultivated in such areas and within such boundaries as shall be designated by the Town and only such varieties as are in keeping with the general plan of the grounds and subject to the approval of the Cemetery Coordinator.
- 6.4. Planting of borders around lots or graves is prohibited.
- 6.5. Wreaths not exceeding eighteen inches in width shall be permitted on any lot in winter.
- 6.6. In order to preserve the proper appearance of the grounds, artificial wreaths and other artificial floral arrangements must be removed before April 1st of each year and may not be placed prior to October 31st, otherwise the Cemetery authorities will remove them and dispose of them at their discretion at any time after June 1st. Under no circumstances will glass jars or glass blocks containing or holding floral arrangements, etc. be permitted to be placed on the graves or markers at any time.
- 6.7. No person shall do any work upon a lot or grave without the permission of the Cemetery Coordinator and all work undertaken or agreed to be done by anyone other than the Cemetery authorities shall be done under the supervision and control of the Cemetery Coordinator and only such work as the Cemetery Coordinator permits shall be done.
- 6.8. Rubbish shall not be thrown on the roads, walks or any part of the grounds. Receptacles are provided at convenient points on the grounds for the deposit of weeds, decayed flowers, plants etc.
- 6.9. Implements or materials used in doing any work within the Cemetery shall be removed without delay and, if this is not done the Cemetery Coordinator may remove same.
- 6.10. No Interment Rights owner shall change the grading of his grave or marker, and, in case of any such change, the Town may restore the grave to its original grade at the expense of the owner.
- 6.11. No unauthorized person shall make any walk, cut any sod or move corner posts or lot markers in the Cemetery.
- 6.12. The Town shall not be responsible for loss of or damage to any portable articles left upon any grave.
- 6.13. Flower pots cannot exceed 12 inches in diameter or 12 inches in height and flower boxes cannot exceed 24 inches in length and 8 inches in height and width.

MARKERS & VASES

- 6.14. All markers shall be granite or bronze, set flush with the ground and shall be installed in regular lines and positions as directed by the Town, and as follows:
- I. One individual marker will be allowed on one grave space. The maximum width of a marker including an attached vase shall be 28 inches and the minimum shall be 24 inches. The maximum depth of the marker including an attached vase shall be 18 inches. and the minimum depth shall be 12 inches.
 - II. One companion marker will be allowed on two grave spaces instead of individual markers. The maximum width of the marker including an attached vase shall be 60 inches and minimum width shall be 36 inches. The maximum depth of the marker including an attached vase shall be 20 inches and the minimum depth shall be 13 inches.
 - III. In the Veterans' Section, marker minimum size shall be 20 inches. The maximum shall be subject to clause (i) and (ii).
 - IV. In the Baby Land Section, one individual marker will be allowed on each grave. The maximum width of the marker shall be 24 inches and the minimum width shall be 12 inches. The maximum depth of the marker shall be 12 inches and the minimum depth shall be 6 inches.
 - V. All granite markers shall be at least 4 inches thick. Bronze markers shall be mounted on a base as approved and specified by the Cemetery Coordinator.
 - VI. Separate vases of approved design are permitted instead of the integral vases on individual and companion markers. They must be contained in their own receptacle when not in use and the base must be imbedded in a concrete foundation. Only one such vase is allowed per grave space. Permanent receptacles must be below ground level.
 - VII. As many as four corner markers are permitted on each adult lot.
 - VIII. The bronze alloy of each memorial shall consist of the following:
 - not less than 87% copper
 - not less than 5% tin
 - not less than 2.5% lead
 - not less than 5% zinc
 - all other elements in total not to exceed 1%

Letters, numerals and ornamentation shall not protrude more than 1/2" above the flat surface of the memorial. Each casting shall be true, free from defects and roughness. No painted or pigmented lacquered finishes will be permitted.

- 6.15. The Town cannot be held responsible for memorials when the damage or destruction is caused by the elements, an act of God, thieves, vandals, or any act beyond control of the Town.
- 6.16. In accordance with section 53 of the Act and Regulations, a prescribed amount shall be paid into the Care and Maintenance Fund of the Cemetery prior to the installation of a marker.

7. REGULATIONS

- 7.1. Visitors are welcome at the Cemetery from sunrise to sunset. Visitors must respect the grounds.
- 7.2. All visitors shall conduct themselves in a quiet manner that shall not disturb any service being held.
- 7.3. The Cemetery Coordinator and staff are empowered and are required to preserve order and decorum in the Cemetery.
- 7.4. No parades, other than funeral processions, shall be admitted to, or organized, within the Cemetery without the special permission of the Town.
- 7.5. Children under the age of twelve years are not permitted on the grounds unless an adult is in attendance, who shall be responsible for their good conduct.
- 7.6. Vehicles within the Cemetery shall be driven at a moderate rate of speed and shall not leave the roadways.
- 7.7. Recreational Vehicles are not permitted in the Cemetery.
- 7.8. Proprietors of vehicles and their drivers shall be held responsible for any damage done by them.
- 7.9. Discharging of firearms, other than in regular volleys at burial services, is prohibited in and around the Cemetery.
- 7.10. No dogs shall be allowed in the Cemetery.
- 7.11. No picnics shall be permitted in the Cemetery grounds.
- 7.12. All persons are prohibited from taking flowers, plants or other materials from the Cemetery or from picking any flowers, either wild or cultivated, or breaking any tree, shrub or plant; or writing upon, defacing or injuring any fence or other structure in or belonging to the Cemetery, or from making any paths or short cuts across any part of the Cemetery.

8. LIABILITY

- 8.1. Any person employed by an Interment Rights Holder who does any damage to any lot or marker or any other damage in the Cemetery shall be personally responsible for such damage apart from any liability on the part of his employer or the Interment Rights Holder.

8.2. The Corporation will not be held liable for any loss or damage without limitation (including damage by the elements, Acts of God or vandals) to any lot, niche, monument, marker or other article that has been placed in relation to an interment save or except for direct loss or damage caused by gross negligence of the Town.

9. REPEAL OF PREVIOUS BY-LAW

9.1. That By-law 721-76 and By-law 2580-93 and all amendments to thereto are hereby repealed.

9.2. This by-law shall take effect immediately upon the passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS 13th DAY OF MAY, 2019

LORD MAYOR BETTY DISERO

TOWN CLERK PETER TODD