

# THE RURAL MUNICIPALITY OF BROKENHEAD

## BY-LAW NO. 2072-08

BEING a By-Law of The Rural Municipality of Brokenhead providing for the operation of cemeteries within The Rural Municipality of Brokenhead.

WHEREAS Section 256, of *The Municipal Act*, S.M. 1996, C.58, provides in part that:

“A municipality that operates a cemetery must keep the money received from the sale of plots in a separate account and use the money only for the maintenance of the cemetery.”

WHEREAS cemeteries have been established on lands owned by The Rural Municipality of Brokenhead in The Rural Municipality of Brokenhead;

AND WHEREAS it is deemed expedient that regulations pertaining to these cemeteries be established and that the care and maintenance of the cemeteries be ensured;

NOW THEREFORE BE IT AND IT IS HEREBY ENACTED as a By-Law of The Rural Municipality of Brokenhead, in Council duly assembled, as follows:

- 1) THAT for the purpose of this By-Law the term "R.M." shall mean The Rural Municipality of Brokenhead.
- 2) THAT all cemeteries owned and operated by the R.M. shall be considered public cemeteries.
- 3) THAT the cemetery shall be laid out in the form of plots and/or lots or blocks, consisting of traditional plots and ash plots. The term “lot” or “block” shall apply to a numbered division, which consist of more than one plot.
- 4) THAT the fee for traditional cemetery plots and for ash burial plots shall as set out in Schedule “A” attached hereto and shall be deemed to be part of this By-law. Schedule “A” may be amended, as required, by Resolution of Council.
- 5) THAT a fee for administration and maintenance shall be collected at the time of each burial to recover the cost of administration, maintenance and repair to the cemetery grounds as set out in Schedule “A” attached hereto and shall be deemed to be part of this By-law. Schedule “A” may be amended, as required, by Resolution of Council.
- 6) THAT a fee for disinterment shall be collected at the time of disinterment to recover the cost of administration and repair to the cemetery grounds as set out in Schedule “A” hereto.
- 7) THAT payment of a plot, perpetual care and disinterment fees shall be made payable to The Rural Municipality of Brokenhead.
- 8) THAT the R.M. shall issue a cemetery deed to the purchaser of a plot and no transfers of plots shall be made without presentation of the said deed or signed documentation stating that the deed has been lost or destroyed, thus authorizing the transfer to be made with the R.M. not being held liable for a transfer being made without the deed being returned. No owner of a plot in said Cemetery shall transfer said plot without the written permission of the R.M. and no plot will be sold for more than the amount at which it was purchased. Every person who applies for an interment shall furnish to the Cemetery a copy of the burial permit or cremation permit.

- 9) THAT all maps and other original documentation shall be held in safekeeping in the office of the R.M.
- 10) THAT as of the date of the passing of this By-Law, all buildings, equipment and materials, which have been accumulated, for each cemetery shall be determined to belong to the cemetery for which they were obtained.
- 11) THAT the Rules and Regulations attached hereto as Schedule "B" of this By-Law shall be deemed to be a part of this By-Law and may be amended by Resolution of Council.
- 12) THAT the R.M. shall retain, in a separate account, the monies received for the payment of perpetual care, placed in a separate perpetual care account.
- 13) THAT monies received, as stated in Section 256 of *The Municipal Act*, from the sale of any plots shall be retained in the account of the cemetery for which it was received. These monies shall be designated for maintenance and care of the entire cemetery for which they were received.
- 14) THAT the R.M. reserves, and shall have, the right to correct any errors that may be made either in making interments, or removal or in the description, transfer or conveyance of any interment property, either by cancelling such conveyance and substituting and conveying in lieu thereof other interment property of equal value and similar location as far as possible or as may be selected by the management, or, in the sole discretion of the R.M., by refunding the amount of money paid on account of said purchases. In the event such error shall involve the interment of the remains of any person in such property, the R.M. reserves, and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.
- 15) THAT this by-law repeals By-law #2065-08.
- 16) THAT this by-law shall come into force and take effect as of the 29<sup>th</sup> day of October 2008 A.D.

DONE and PASSED in Council, duly assembled, this 28<sup>th</sup> day of October 2008.

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**Glen Dudeck**  
Reeve

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**Christine Hutlet**  
Chief Administrative Officer

Read a First Time this 14<sup>th</sup> day of October 2008, A.D.  
Read a Second Time this 28<sup>th</sup> day of October 2008, A.D.  
Read a Third Time this 28<sup>th</sup> day of October 2008, A.D.

**SCHEDULE "A"**

The cost for plots in the R.M. cemeteries shall be set as follows:

- 1) Traditional plot - \$500.00 (Five hundred dollars).
- 2) Ash Plot (1 Cremation Interment Only) - \$250.00 (two hundred fifty dollars)

Cost of Administration, Maintenance and Repair is as follows:

- 1) Tradition plot - \$180.00 per interment
- 2) Ash Plot - \$90.00 per interment

Cost of Disinterment

- 1) Traditional plot - \$360.00
- 2) Ash Plot - \$180.00

**SCHEDULE "B"****CEMETERY RULES AND REGULATIONS**

1. All fees or charges for services are payable at the office of The Rural Municipality of Brokenhead. Fees must be remitted prior to any interment or disinterment. The person ordering the grave shall be responsible for charges incurred.
2. Persons within the cemetery shall use only the avenues, roads, walks and alleys, and no one is permitted to walk upon or across lots or lawns unless it is necessary to do so to gain access to one's own lot. The R.M. expressly disclaims liability for any injuries sustained by anyone violating this rule.
3. Persons visiting the cemetery or attending funerals are strictly prohibited from picking flowers, wild or cultivated, breaking or injuring any tree, shrub, or plant, or from writing upon, defacing or injuring any memorials, fence, or other structure within the cemetery grounds.
4. No plot shall be used for any other purpose than for the burial of the human remains.
5. The right to enlarge, reduce, re-plot or change the boundaries or grading of the cemetery, or sections, from time to time, including the right to modify thereof is hereby reserved. The right to lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling systems, drainage, et cetera, is also expressly reserved, as well as is the right to use cemetery property not sold to individual plot owners for cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto. The cemetery reserves to itself and to those lawfully entitled thereto a perpetual right to ingress and egress over plots for the purpose of passing to and from other plots.
6. The R.M. will take all reasonable precautions to protect the property rights of plot owners, within the cemetery from loss or damage; but the cemetery distinctly disclaims all responsibility for loss or damage from causes beyond its reasonable control, and, especially, from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order or any military or civil authority, whether the damage be direct or collateral, other than as herein provided.
7. It is the duty of the plot owner to notify the R.M. of any change in address.
8. The instrument of conveyance of these Rules and Regulations and any amendments thereto constitute the sole agreement between the cemetery and the plot owner. The statement of any employee or agent, unless confirmed in writing by the R.M. shall in no way bind the cemetery.

**SCHEDULE "B"****CEMETERY RULES AND REGULATIONS CONT'D**

9. (a) The traditional plots shall be of sufficient size to accommodate a maximum of one adult interment and two (2) ash burials or four (4) ash burials, and shall be a minimum of four (4) feet by eight (8) feet, except where existing situations so prohibit.
  - (b) The ash plot shall be sufficient size to accommodate a maximum of one cremation interment, and shall be a minimum of two (2) feet by 2 feet, except where existing situation so prohibit.
  - (c) The R.M. may under special circumstances and at its discretion waive the conditions set out in Section 9(a)(b).
10. Interment of one body only shall be made in one casket or urn except in the case of mother and child or two infants buried in one casket.
  11. Where an individual or family has purchased more than one plot, the location of an interment shall be designated by the owner of the plots. Should the plot owner fail or neglect to make such a designation, the R.M. reserves the right to make the interment in the lot designated.
  12. The right is reserved by the R.M. to insist upon at least twenty-four hours notice prior to any interment and at least one weeks notice prior to any disinterment or removal. (Also see No. 20)
  13. The R.M. will not be responsible for any order given by telephone or for any mistake occurring from the want of precise and proper instructions as to the particular location in a plot, where interment is desired.
  14. The R.M. will not be liable for the interment permit nor for the identity of the person sought to be interred.
  15. The R.M. will undertake to maintain, as may be practicable, the planting of trees and shrubs, to preserve and maintain landscape features, but does not undertake to maintain urns of plants. Planting of flowers, shrubs or trees on individual plots is not permitted.
  16. The R.M. shall have authority to remove all floral pieces, baskets, or frames in which, or to which, such floral pieces are attached beyond the acceptance of such floral pieces for cemetery services held in the cemetery.
  17. The R.M. shall not be liable for floral pieces, baskets, or frames in which, or to which, such floral pieces are attached beyond the acceptance of such floral pieces for cemetery services held in the cemetery.

**SCHEDULE "B"****CEMETERY RULES AND REGULATIONS CONT'D**

18. The R.M. shall not be responsible for frozen plants or herbage of any kind or for plantings damaged by the elements, thieves, vandals, or by other causes beyond its control.
19. The R.M. reserves the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind unless the management gives consent.
20. In the best interest of uniformity and to facilitate cemetery maintenance:
  - (a) On traditional lots/plots only monuments or markers of stone or cement shall be placed at the head of the lot or plot. All markers or monuments shall be set on the cement base. All persons employed in the erection of monuments, tombstones, landmarks or any other work shall be subject to the control and direction of the Cemetery Caretaker and all work shall be completed to the satisfaction of the Cemetery Caretaker.
  - (b) Cement covers are only allowed in specific areas with the permission of the R.M., other than those permitted areas allowing the cement cover over the entire plot that will be levelled flush with the cement base and finished with sod or topsoil and seed, to the satisfaction of the Cemetery Caretaker.
  - (c) On Ash burial lots/plots markers will be allowed provided that they are flat markers, which are level with the surrounding ground.
21. Graves shall be dug and interments made only by persons under the direction of the Cemetery Caretaker, in the event that the R.M. is required to excavate the gravesite, a fee will be charged for labour and equipment as required by the R.M. Plot owners or persons responsible thereof are required to ensure that all earth, stone and rubbish accumulated during the interment of any plot must be removed and/or deposited under the direction of the Cemetery Caretaker. Plots that are dug must be left in the manner to that is clean of stone and rubble with a layer of clean topsoil or sod; otherwise a fee will be charged to recover the cost for the R.M. to restore the plot to acceptable conditions.
22. Besides being subject to these Rules and Regulations, all interments, disinterment, and removals are made subject to the orders and laws of the property constituted public authorities.
23. Information recorded by the R.M. including but not limited to the name, date of birth, date of death and date of burial of the deceased may be shared with individuals requesting information for specific reasons, i.e. genealogical.
24. No Disinterment shall be made until the applicant has obtained and filed with the Cemetery Caretaker the consent of the Chief Administrative Officer, with a receipt showing that the necessary fees have been paid, and such documents and consents as may be required by the Province of Manitoba from time to time. In the event that R.M. staff are required to aide in

**SCHEDULE "B"**  
**CEMETERY RULES AND REGULATIONS CONT'D**

the excavation, they will only expose the liner of the liner or casket, a fee will be charged for labour and equipment as required by the Municipality. All handling of interred remains are the responsibility of the Funeral Director.

25. No disinterment for the purpose of lowering remains to accommodate another interment shall be made without permission of the Owner of the Lot or Plot, except for the burial of the Owner thereof whose name appears on record at the office of the R.M.
26. No disinterment shall be made of the first interment from any Grave in which a second interment has been made unless the second interment is disinterred at the same time for burial in another Grave.
27. No person shall remove cremated remains from a Grave or niche without first producing a written order from the Municipality, accompanied by a receipt from the R.M. showing that the necessary fees have been paid.
28. No disinterment will be allowed until the requirement of "The Vital Statistics Act" as to disinterment have been fully complied with, a permit issued by the Provincial Authorities and in the case of cremated remains, authorization from the Chief Administrative Officer.