

THE CORPORATION OF THE TOWNSHIP OF ST. JOSEPH

BY-LAW – Effective July 27, 2022

A By-law for the care, maintenance, management and operation of the St. Joseph Township Cemetery; and to repeal By-law 779.

TABLE OF CONTENTS

Section A:	DEFINITIONS
Section B:	GENERAL INFORMATION
Section C:	SALE AND TRANSFER OF INTERMENT RIGHTS
Section D:	BURIAL OF CREMATED REMAINS
Section E:	MEMORIALIZATION
Section F:	CARE AND PLANTING
Section G:	OUTLING ITEMS THAT ARE PROHIBITED AND PERMITTED
Section H:	CONTRACTOR/MONUMENT DEALER BY-LAWS

These by-laws are the rules and regulations that govern The Township of St. Joseph Cemetery and have been approved by the Registrar, *Funeral, Burial and Cremation Services Act, 2002* (FBCSA), Bereavement Authority of Ontario (BAO).

A.

DEFINITIONS

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

By-laws: The rules and regulations under which the Cemetery and/or Crematorium operates.

Care and Maintenance Fund: It 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 rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.

Caretaker: means the contractor hired by the Board to maintain the cemetery.

Contract: For purposes of these by-laws, all purchasers of interment, or other cemetery supplies and services must 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.

Corner Posts: Shall mean 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.

Grave: (Also known as a Lot) means any inground burial space intended for the interment of a child, adult or cremated human remains.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, or lot 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: For the purposes of these By-Laws a lot is a single grave space.

Marker: Shall mean 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.

Plot: For the purposes of these by-laws, a plot means two or more lots in respect of which the rights to inter have been sold as a unit.

Non Resident: means a person who does not permanently reside or does not own property within The Township of St. Joseph.

Resident: means a person who owns property, or the spouse of a person who owns property, or an individual who has maintained permanent residency in The Township of St. Joseph for a minimum of one year prior to the date of application for a burial lot.

Township: means The Corporation of The Township of St. Joseph.

B. **GENERAL INFORMATION**

General Conduct:

The cemetery reserves full control over the cemetery operations and management of land within the cemetery grounds.

No person may damage, destroy, remove or deface any property within the Cemetery.

All visitors should conduct themselves in a quiet manner that shall not disturb any service being held.

By Law Amendments:

The cemetery shall be governed by these by-laws, and all procedures will comply with the FBCSA and O.Reg. 30/11 and 184/12, which may be amended periodically.

Lot Pricing: The selling price of the lot including care and maintenance shall be set by Council in the Fees and Charges Bylaw and are subject to sales tax (HST).

All by-law amendments 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, FBCSA, BAO.

Hours:

For lot purchase or cemetery information the Office is open Monday-Friday from 8:30am to 4pm, closed on holidays. Interments may be arranged any day of the week with the cemetery caretaker.

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Liability:

The cemetery operator 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, plot, 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.

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.

Pets or Other Animals:

Pets or other lower animals, including cremated animal remains, are not allowed to be buried on cemetery grounds.

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.

Notice of Resale and Transfer of Interment Rights:

The cemetery operator prohibits the resale of interment to a third party and will repurchase these rights from the interment rights holder or such other person to whom the interment rights have been assigned, at the price listed on the current price list less any care and maintenance contribution amount previously made. Transfers of interment rights cannot be prohibited so long as the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws.

The cemetery operator prohibits the resale of interment rights to a third party and is not required to repurchase unused interment rights in a plot (more than one lot) if one of the interment rights in the plot has been exercised.

C. BY-LAWS FOR THE CANCELLATION OR RESALE OF INTERMENT RIGHTS

Purchasers of interment rights acquire only the right to direct the burial of human remains, and the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws. In accordance with cemetery by-laws, no burial, or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. An interment rights certificate will be issued to the Interment Rights Holder(s) when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or real property.

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

- A purchaser has the right to cancel an interment 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 will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

Resale of Interment Rights after 30 Day Cooling-Off Period:

- The cemetery operator prohibits the resale of interment to a third party and will repurchase these rights from the interment rights holder or such other person to whom the interment rights have been assigned, at the price listed on the current price list less any care and maintenance contribution amount previously made. Transfers of interment rights cannot be prohibited so long as the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws and the FBCSA and O. Reg 30/11 and 184/12.
- The cemetery operator prohibits the resale of interment rights to a third party and is not required to repurchase unused interment rights in a plot (more than one lot) if one of the interment rights in the plot has been exercised.
- If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to sell back the interment rights.

NOTE: ALL REALES OF INTERMENT RIGHTS MUST BE CARRIED OUT THROUGH THE CEMETERY OPERATOR.

Requirements where resale is prohibited within cemetery by-laws:

- If an interment rights holder wishes to re-sell the interment rights and the cemetery operator's by-laws prohibit the third-party resale of interment rights, the rights holder must make the request to the cemetery operator in writing. The cemetery operator will repurchase the interment right at the price listed on the cemetery operator's current price list less the Care and Maintenance Fund contribution made at the time of purchase. The re-purchase and payment to the rights holder requesting the sale must be completed within 30 days of the request.
- The interment rights holder requesting the resale of the rights must return the interment rights certificate to the cemetery operator and the rights holder(s) must endorse the interment rights certificate, transferring all rights, title and interest back to the cemetery operator. The appropriate paperwork must be completed before the cemetery operator reimburses the rights holder(s).

Care and Maintenance Fund Contributions:

- It 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 rights sold; and prescribed amounts for monuments and markers is contributed into the care and maintenance fund. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery. Contributions to the care and maintenance fund are not refundable except when interment rights are cancelled within the 30-day cooling off period.

D. BY-LAWS PERTAINING TO BURIAL OF REMAINS

- Interment rights holder(s) must provide written authorization prior to a burial taking place. Should the interment 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.
- A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province must be provided to the cemetery office prior to a burial, taking place. A Certificate of Cremation must be submitted to the cemetery office prior to the burial of cremated remains taking place.
- In accordance with the FBCSA and O. Reg 30/11 and 184/12 the purchaser of interment rights must enter into a cemetery contract, providing such information as may be required by the cemetery operator for the completion of the contract and the public register prior to each burial or entombment of human remains, or cremated human remains.
- Payment must be made to the cemetery operator before a burial can place.
- The cemetery shall be given 72 business hours of notice for each burial of human remains.
- The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- Cremated remains may not be scattered within the cemetery.
- Cremated remains are not permitted to be scattered on a grave containing human remains in keeping with these by-laws.
- Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the cemetery operator and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received at the cemetery 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.
- 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).
- Each lot may contain up to one full casket burial and up to six cremated remains.

E.

BY-LAWS PERTAINING TO MEMORIALIZATION

- No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full and/or a permit is obtained from the cemetery operator.
- No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the cemetery operator.
- Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered normal wear and tear.
- The cemetery operator will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- Memorials – monuments, markers, plaques etc. are owned by the interment rights holder and the cemetery operator is not responsible for their loss or deterioration. These memorials should be protected by the interment rights holder's own insurance coverage.
- The cemetery operator reserves the right to determine the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments. For a multi burial in one plot, raised monuments beside the main plot monument are not permitted, flat stones only. Raised monuments must be a minimum of 5" wide at it's narrowest point and shall not exceed 44" in height.
- All foundations for monuments and markers shall be built by, or contracted to be built for, the cemetery operator at the expense of the interment rights holder.
- Should any monument or marker present a risk to public safety because it has become unstable, the cemetery operator shall do whatever it deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy to remove the risk.
- The cemetery operator reserves the right to remove at its sole discretion any marker, monument, or inscription which is not in keeping with the dignity and decorum of the cemetery as determined by the trustees.
- A monument, private mausoleum, or other structure shall be erected only after the specific design plans have been approved by the cemetery operator including: dimensions, material of structure, construction details, and proposed location.
- In keeping with the cemetery by-laws only one monument shall be erected within the designated space on any lot.
- The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
- All monuments and markers shall be constructed of bronze or natural stone (i.e. granite).
- Markers made of wood are permitted for temporary use (up to 2 years) until a permanent marker is place

- No monument shall be delivered to the cemetery for installation until the monument foundation has been completed, and the interment rights holder(s) and/or marker retailer have been notified by the cemetery operator.
- Markers and footstones of bronze or granite are permitted with size and quantity restrictions according to cemetery by-laws and the placement of such memorials shall not interfere with future interments.
- Single lot maximum: Raised monuments must be a minimum of 5” wide at its narrowest point and shall not exceed 44” in height.

F. BY-LAWS PERTAINING TO CARE AND PLANTING

A portion of the price of interment rights is trusted into the Care and Maintenance Fund. The income generated from this fund is used to maintain, secure and preserve the cemetery grounds and markers. Services that can be provided through this fund include:

- Re-levelling and sodding or seeding of Lots
- Maintenance of cemetery roads, sewers and water systems
- Maintenance of perimeter walls and fences
- Maintenance of cemetery landscaping
- Maintenance of mausoleum and columbarium
- Repairs and general upkeep of cemetery maintenance buildings and equipment
- No person other than cemetery staff shall remove any sod or in any other way change the surface of the burial lot in the cemetery.
- No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the cemetery.
- Flowers placed on a grave for a funeral shall be removed by the cemetery staff after a reasonable time to protect the sod and maintain the tidy appearance of the cemetery.

G. BY-LAWS OUTLINING ITEMS THAT ARE PROHIBITED AND PERMITTED

The cemetery reserves the right to regulate the articles placed on lots or plots that pose a threat to the safety of all interment rights holders, visitors to the cemetery and cemetery employees, prevents the cemetery from performing general cemetery operations, or are not in keeping with the respect and dignity of the cemetery.

Prohibited articles will be removed and disposed of without notification. Prohibited articles include: articles made of hazardous materials such as non-heat resistant glass (excludes glass attached to monuments), ceramics, or corrosive metals; loose stones or sharp objects; trellises or arches; chairs or benches.

- The cemetery reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.
- Deteriorated Wreaths may be removed and disposed of by the Cemetery without notification. Items removed will be held in storage for a maximum of 6 months for pickup by owner, if not claimed within 6 months of removal they will be disposed of without notification.

H.

CONTRACTOR/MONUMENT DEALER BY-LAWS

Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the cemetery operator before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plans and detailed specifications relating to the work, proof of all applicable government approvals and permits, the location of the work to be performed. It is the responsibility of all contractors to report to the cemetery office and provide the necessary approvals before commencing work at any location on the cemetery property.

Prior to the start of any said work, contractors must provide proof of:

- WSIB coverage
- Occupational Health and Safety compliance standards
- Environmental Protection
- WHMIS
- Evidence of liability insurance of not less than \$2 million

- All cemetery by-laws apply to all contractors and all work carried out by contractors within the cemetery grounds.
- Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the cemetery operator.
- No work will be performed at the cemetery except during the regular business hours of the cemetery.
- Contractors shall temporarily cease all operations if they are working within 100 meters of a funeral until the conclusion of the service. The cemetery reserves the right to temporarily cease contractor operations at their sole discretion if the noise of the work being performed by the contractor is deemed to be a disturbance to any funeral or public gathering within the cemetery.
- Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved to protect the surface from damage.

<p>APPROVED</p> <p>By the Registrar, <i>Funeral, Burial and Cremation Services Act, 2002, Bereavement Authority of Ontario</i></p> <p>Date: _____</p>	<p>APPROUVÉ</p> <p>Par le Registraire, <i>Loi de 2002 sur les services funéraires et les services d'enterrement et de crémation, l'Autorité des services funéraires et cimetières de l'Ontario</i></p> <p>July 27, 2022</p>
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