

THE CORPORATION OF THE TOWNSHIP OF ASSIGNACK

BY-LAW #15-03

**BEING A BY-LAW to adopt updated Cemetery Policies, Interment Rights Contract,
and the Price List for Hilly Grove Cemetery**

WHEREAS Part V of the Funeral, Burial, Cremation Services Act, 2002 S.O. 2002 Chapter 33, as amended, establishes the operating duties and responsibilities of the cemetery licensee;

AND WHEREAS Hilly Grove Cemetery is located within the Township of Assignack and is owned and operated by the Municipality;

AND WHEREAS it is necessary to update the Policies, Contracts, and Price List for Hilly Grove Cemetery to be compliant with the Funeral, Burial, Cremation Services Act, 2002;

NOW THEREFORE the Council of the Corporation of the Township of Assignack enacts as follows:

1. THAT Council adopts the updated policies and procedures of the Municipal Cemeteries By-law, a copy of which is attached hereto and marked as Schedule "1" to by-law #15-03.
2. THAT Council adopts the updated Interment Rights Contract, a copy of which is attached hereto and marked as Schedule "2" to by-law #15-03.
3. THAT Council adopts the updated Price List for Hilly Grove Cemetery, a copy of which is attached hereto and marked Schedule "3" to by-law #15-03.
4. THAT all other by-laws inconsistent with this by-law are hereby repealed.

Read for a First and Second time this 3rd day of February, 2015.

Read for a Third and Final time this 21st day of July, 2015.

Reeve – P. Moffatt

Clerk – J. Rody

Seal

MUNICIPALITY



OF ASSIGINACK

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**MUNICIPAL
CEMETERIES
BY-LAW**

Revised January 1, 2015 in order to comply with the provisions of the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) and Regulations administered by the Ontario Ministry of Government and Consumer Services for the Province of Ontario.

SCHEDULE 1

TABLE OF CONTENTS

SECTION

- 1 Definitions
- 2 General Information
- 3 Cancellation and Resale of Interment Rights
- 4 Burial of Cremated Remains
- 5 Memorialization/Monuments
- 6 Care and Planting
- 7 Prohibited Items
- 8 Contractor/Monument Sales and Services
- 9 Gifts to the Cemetery
- 10 Rules for Visitors

These by-laws are the rules and regulations that govern any cemetery owned and operated by the Corporation of the Township of Assiginack and have been approved by the Registrar of Cemeteries, FBCSA, Cemeteries Regulations Unit, Ministry of Consumer Services.

1. DEFINITIONS

Burial: The opening and closing of an in ground lot or plot for the disposition of human remains or cremated human remains.

By-laws: The rules and regulations under which the Cemetery(s) operates.

Care and Maintenance Fund: It is a requirement under the FBCSA that a dedicated percentage of the purchase price of all Interment Rights, and set amounts for marker and monument installations is contributed into the Care and Maintenance Fund. Interest earned from this fund is used to provide care and maintenance of plots, lots, markers and monuments at the Cemetery.

Cemetery Specialist: The employee, contractor or worker appointed by the Corporation to ensure all work and documentation is consistent with the FBCSA.

Contract: For purposes of these by-laws, all purchasers of interment rights must sign a contract with the Cemetery and Corporation, detailing the obligations of both parties and acceptance of the cemetery by-laws.

Corporation: The Corporation of the Township of Assiginack.

Grave: means any in ground burial space intended for the interment of a child, adult or cremated remains.

Interment Rights Certificate: The right to require or direct the interment of human remains or cremated human remains in a grave and direct the associated memorialization.

Interment Rights Holder: Any person designated to hold the right to inter human remains in a specified grave.

Marker: Any permanent memorial structure that is set flush and level with the ground and used to mark the location of a burial in a grave.

Monument: Any permanent memorial projecting above the ground and installed within the designated space to mark the location of a burial in a grave.

Plot: For the purposes of these by-laws, a plot is a parcel of land, where interment rights are sold as a single unit and may contain multiple graves.

Vault: The sealed outer container of sufficient strength to permit burial and remain intact. The container must be of a size to permit burial within the size of the grave.

2. GENERAL INFORMATION

2.1 HOURS OF OPERATION

Visitation Hours: 7:30 a.m. until 8:00 p.m.

Office Hours: 8:30 a.m. until 4:00 p.m.

Burial Hours: Monday through Friday 10:00 a.m. until 3:00 p.m. by appointment
Saturday before Noon.

Seasonal Operations: Hilly Grove Cemetery will be open from May 1st until November 30th annually. No interments will be permitted outside of these dates without prior written approval of the Corporation.

2.2 GENERAL CONDUCT

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

No person shall damage, remove, destroy or deface any property within a cemetery.

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

2.3 BY-LAW AMENDMENTS

The cemeteries shall be governed by these by-laws and all procedures will comply with the Funeral, Burial and Cremation Services Act, 2002 and Ontario Regulation 30/11 which may be amended periodically.

All by-law amendments must be:

- a) Published once in a newspaper with general circulation in the municipality 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 in the previous 12 months, if the by-law amendment pertains to markers or their installation.

All by-laws and by-law regulations are subject to the approval of the Registrar, Cemeteries Regulations Unit, Ministry of Government and Consumer Services.

2.4 LIABILITY

The Cemetery operator, the Corporation nor the Cemetery Specialist will not be held liable for any loss or damage, without limitation (including damage by the elements, acts of God or vandals) to any grave, plot, marker or monument or other article that has been placed in relation to an interment, save and except for direct loss or damage by gross negligence of the cemetery.

2.5 PUBLIC REGISTER

Provincial legislation, Section 110 of Ontario Regulation 30/11 requires all cemeteries and crematoriums to maintain a public register that is available to the public during regular office hours.

2.6 PETS OR OTHER ANIMALS

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

2.7 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 the approval of the appropriate authorities.

2.8 NOTICE OF RESALE AND TRANSFER OF INTERMENT RIGHTS

Interment Rights holders may only offer the interment rights to the cemetery. If the cemetery does not wish to re-purchase the interment rights, the rights may be transferred to a third party, as long as the transfer is conducted through the Cemetery Specialist, the transferee meets the requirement as outlined in these by-laws and any transfer fee is equal to or less than the current price on the cemetery price list.

3. CANCELLATION OR RESALE OF INTERMENT RIGHTS

Purchasers of interment rights only acquire the right to direct burial of human remains or cremated human remains, 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 interment or installation of any monument or marker is permitted until the interment rights have been paid in full. An interment Rights Certificate will be issued to the Interment Rights Holder when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or Real Property. An interment rights holder wishing to resell their interment rights may advise the cemetery of their wish to transfer these rights.

3.1 CANCELLATION OF INTERMENT RIGHTS WITHIN 30 DAYS (COOLING

OFF PERIOD)

A purchaser has the right to cancel an interment contract within 30 days of signing the interment rights contract, by providing written notice of the cancellation to the cemetery. The cemetery will refund all monies paid by the purchaser within 30 days from the date of the request for cancellation.

3.2

Upon receiving written notice from the purchaser of interment rights, the cemetery will cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights. The refund will be made within 30 days of receiving the written notice. If the interment rights certificate has been issued to the rights holder, it must be returned to the cemetery along with the written notice of cancellation.

If any portion of the interment rights has been exercised, the purchaser or the interment rights holder are not entitled to cancel the contract or resell the interment rights.

3.3 CARE AND MAINTENANCE FUND CONTRIBUTIONS

As required by sections 166 and 168 of Ontario Regulation 30/11, a percentage of the purchase price of all interment rights and a prescribed amount for monuments and markers is contributed into the Care and Maintenance Fund. Income from this fund is used to provide only general care and maintenance of the cemetery. Contributions to this fund are not refundable except when interment rights are cancelled within the 30 day cooling off period.

3.4 RESALE AFTER 30 DAY COOLING OFF PERIOD

The interment rights holder, intending to sell their rights shall provide the following documents to the cemetery so that the operator can confirm the ownership of the rights and provide the third party purchaser with the required certificate etc.:

- a) An interment Certificate endorsed by the current holder
- b) A statement of the number of graves that have been used in the plot and the number of interments (burial or cremated human remains) remaining
- c) Any other documentation in the possession of the current holder pertaining to the interment rights

3.5

The third party purchaser or Transferee will be provided with the following documents by the Cemetery:

- a) An interment Rights Certificate, complete with a written statement of the number of graves remaining for burials or cremated human remains available
- b) A copy of the cemetery's current by-laws

- c) A copy of the cemetery's current price list
- d) Any other documentation relating to the rights.

3.6

The Cemetery will require:

- a) A statement signed by the current rights holder wishing to sell the interment rights acknowledging the sale of the interment rights to the third party purchaser;
- b) Confirmation that the person selling the interment rights is the person registered with the Cemetery proving that they have the right to resell the interment rights.
- c) Record the date of transfer of the interment rights to the third party purchaser
- d) Record the name and address of the third party purchaser
- e) A statement of any money owing to the Cemetery in respect to the interment rights.

3.7

Once the endorsed certificate and all the required information has been received by the cemetery, it will issue a new certificate of interment rights to the third party purchaser.

The cemetery may charge an administrative fee for the issuance of a new or duplicate certificate in accordance with the price listed on the cemetery's current price list.

4. BURIAL OR INTERMENT OF CREMATED HUMAN REMAINS

4.1.1

Interment rights holders must provide written authorization prior to interment 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 rights holder, such as a personal representative, estate trustee, Executor or designated next of kin.

4.1.2

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 burial taking place. A Certificate of Cremation must be submitted prior to the interment of cremated human remains taking place.

4.1.3

In accordance with the FBCSA, the purchaser of interment must enter into a cemetery contract, providing such information as may be required by the cemetery for the completion of the contract and the public register prior to each burial or interment of cremated human remains.

4.1.4

Payment must be made to the cemetery before a burial can take place.

4.1.5

The cemetery shall be given 24 hours of notice, 8 hours of which must be normal hours of operation.

4.1.6

The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.

4.1.7

Cremated human remains are not permitted to be scattered on a grave.

4.1.8

Human Remains may be disinterred from a grave provided that the written Consent of the interment rights holder has been received by the Cemetery and prior notification of the Medical Officer of Health. A certificate from the medical officer of health must be received by the cemetery before the removal of casketed human remains may take place. A certificate is not required for the removal of cremated remains. In special circumstances, the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder or next of kin.

4.1.9

Not more than one burial or five interments of cremated human remains, or a single burial and up to four cremated human remains may be made in any single grave.

4.1.10

An infant burial in a casket not exceeding 60 by 30 cm is allowed at the foot or head of a single grave, provided that in the opinion of the cemetery specialist, space exists.

4.1.1

All remains to be interred must be enclosed in a container, such as a casket or an urn sealed securely and of sufficient strength to permit burial with the container remaining intact. The container must be of a size to permit interment within the confines of the grave.

4.1.12

The cemetery specialist or other employee of the corporation shall be in attendance at each interment.

5.0 MEMORIALIZATION

5.1

No memorial or other structure shall be erected or permitted on a grave until all charges have been paid in full.

5.2

No monument, footstone, marker or memorial of any description shall be placed, moved, altered or removed without permission from the cemetery specialist.

5.3

Minor scraping of the monument base of an upright monument due to grass and lawn maintenance is considered to be normal wear.

5.4

The cemetery and its specialist will take reasonable precautions to protect the graves and plots 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.

5.5

The cemetery and its specialist reserves the right to determine the maximum size of monuments, their number and location on each grave or plot. They may not be of a size that would interfere with any future interments.

5.6

All monuments must be placed on a foundation suitable for the monument, to the satisfaction of the cemetery specialist.

5.7

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 so as to remove the risk.

5.8

The cemetery 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 corporation.

5.9

A monument or other structure shall be erected only after the specific design plans have been submitted to the cemetery specialist, including dimensions, foundation, material of structure, construction details and proposed location.

5.10

In keeping with the cemetery by-laws, only one monument shall be erected within the designated space on any grave.

5.11

The minimum thickness for flat markers including footstones is 10 cm.

5.12

All monuments and markers shall be constructed of bronze, granite or marble.

5.13

No monument shall be delivered to the cemetery for installation until the monument foundation has been completed and the interment rights holder and/or retailer/contractor have notified the cemetery specialist and received his approval.

5.14

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.

5.15

Single Grave Maximum:

One headstone, one footstone and four cornerstones may be installed on a single grave. The maximum size a monument may be is a height of 60 cm and a width of 76 cm.

5.16

Double Grave Plot Maximum:

One headstone, two footstones and four cornerstones may be installed. The maximum size a monument may be is a height of 1.2 meters and a width of 1.5 metres.

5.17

Created Human Remain Maximum:

Each cremated human remain grave may be marked on the ground with one flat marker, placed flush with the ground. Maximum size shall not exceed 65 cm by 65 cm.

5.18

Monuments must be placed at the center of the head end of the plot except where alignment with existing nearby monuments justifies another location. Approval of the location must be obtained from the cemetery before a monument is set.

6.0 CARE AND PLANTING

6.1

A portion of the price of interment rights is trusted into the Care and Maintenance Fund.

6.2

No person other than cemetery staff shall remove any sod or in any other way change the surface of a grave or plot in the cemetery.

6.3

No person shall plant trees, shrubs or flower beds in the cemetery.

6.4

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 appearance of the cemetery.

7.0 ITEMS THAT ARE PROHIBITED

7.1

The cemetery reserves the right to regulate the articles placed on graves or Plots that may 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.

7.2

The cemetery reserves the right to remove all flowers, plotted plants, wreaths and baskets of flowers when they become withered or unsightly, or for any other reason such removals are in the best interest of the cemetery. No decorations are permitted at the foot marker.

Artificial flowers are permitted, provided that they are properly maintained and not detrimental to the general maintenance of the cemetery.

Cut flowers are allowed on all graves but must be placed in receptacles. The receptacle must be set in the ground with the top even with the surface of the ground and covered when not in use.

Artificial freestanding wreaths are prohibited. Monument saddles may be placed on monuments. Placing of artificial flowers is permitted in the flowerbeds. Flowerbeds may not exceed the length of the monument base, or exceed 30 cm in width. Artificial flowers will be removed by September 30th of each year.

8.0 CONTRACTOR/MONUMENT DEALER BY-LAWS

Any contract work to be performed in the cemetery requires the written approval of the interment rights holder and the cemetery specialist before the work may begin. Work which requires approval includes, but is not limited to landscaping, delivery of monuments and markers, proof of all applicable government approvals and permits, the location of all 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 commencement of work, the contractor must provide proof of WSIB coverage and evidence of liability insurance of not less than 2 million dollars. Proof of Occupational Health and Safety and WHMIS and environmental protection best practices may also be required.

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 unless approval has been granted by the cemetery specialist.

No work will be performed at the cemetery except during the regular hours of the cemetery.

Contractors will temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service.

Contractors, monument dealers and suppliers shall lay wooden planks on graves and paths over which heavy materials are to be moved in order to protect the surface from damage.

9. GIFTS TO THE CEMETERY

The corporation gratefully accepts donations to the cemetery.

10. RULES FOR VISITORS

Any person disturbing the quiet and good order of the cemetery by noise or other improper conduct or who violates these by-laws may be expelled from the grounds.

Children under the age of 12 are welcome in the cemetery when accompanied by an adult who shall be responsible for their good conduct and safety.

Drivers who damage the cemetery shall be held responsible for the cost of any repairs.

No dogs or other pets shall be allowed in the cemetery.

Any person who damages or moves any plant, marker, fence or structure placed in the cemetery with the approval of the corporation shall be liable for damages which will be the amount required to restore the cemetery to the state it was in before the damage.

Complaints are to be made to the cemetery office.