



**BY-LAW NUMBER 88-2012
OF
THE CORPORATION OF THE CITY OF STRATFORD**

BEING a By-law to govern the operation of municipal cemeteries under the jurisdiction of The Corporation of the City of Stratford and in particular, governing rights, entitlements and restrictions with respect to interment rights in accordance with the *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002* and to repeal By-law 51-93 and all amendments thereto.

WHEREAS The Corporation of the City of Stratford owns and operates a municipal cemetery as described in this By-law;

AND WHEREAS the *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c. 33* (the Act) regulates the operation of cemeteries in Ontario;

AND WHEREAS with the provisions of the Act relating to the operation of municipal cemeteries coming into effect on July 1, 2012, the Council of The Corporation of the City of Stratford deems it necessary to enact a new By-law to regulate the operation of its municipal Cemetery;

NOW THEREFORE the Council of The Corporation of the City of Stratford enacts as follows:

The provisions of this By-law shall be applicable to Avondale Cemetery and any other cemeteries owned and/or operated by The Corporation of the City of Stratford.

1.0 DEFINITIONS

For the purposes of this By-law:

"**Act**" means the *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002* and regulations made thereunder;

"**Burial**" means the opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains;

"**By-laws**" means the rules and regulations under which the Cemetery operates;

"**Care and Maintenance Fund**" is the requirement under the *Funeral, Burial and Cremation Services Act (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 and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the Care and Maintenance fund. If no scattering rights are sold, but scattering is permitted a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this

fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery;

"Cemetery" means land that has been established as a Cemetery under the Act or a predecessor of the Act that relates to Cemeteries or land that was recognized by the Registrar as Cemetery under a predecessor of the Act that related to Cemeteries and includes

- a) land that, in the prescribed circumstances has been otherwise set aside for the interment of human remains and
- b) a mausoleum or Columbarium intended for the interment of human remains;

"Cemetery Services" shall include the opening and closing of lots, lot dressing and lowering devices for committal purposes, cutting the grass, general care of lots and any other services normally provided by the City;

"City" means The Corporation of the City of Stratford;

"Columbarium" means a structure designed for the purposes of interring cremated human remains in sealed compartments or "niches";

"Committee" means the Committee of City Council that deals with matters relating to the Cemetery;

"Contract" means for the purposes of this By-law, all purchasers or interment rights holders must sign a contract with the City, detailing obligations of both parties and acceptance of the By-law;

"Crypt" means an individual compartment in a mausoleum for the entombment of human remains;

"Inter" means the burial or interment in the Cemetery of human remains and includes the placing of human remains in a Lot;

"Interment Right" means the right to require or direct the interment of human remains or cremated human remains in a lot, plot, niche or crypt and direct the associated memorialization;

"Interment Rights Certificate" means the document issued by the City to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.

"Interment Rights Holder" means any person designated to hold the right to inter human remains in a specified lot;

"Lot" means for the purposes of this By-law, an area of land in a cemetery containing or set aside to contain, human remains and includes a tomb, crypt, or compartment in a mausoleum and a niche or compartment in a columbarium and further that a lot is a single grave space;

"Manager" means the Cemetery Manager for The Corporation of the City of Stratford, or his/her designate;

"Marker" means any permanent memorial structure that is set flush and level with the ground and used to mark the location of a lot;

"Monument" means any permanent memorial projecting above the ground installed within the designated space to mark the location of burial or lot;

"**Niche**" means a sealed individual compartment in a columbarium for the entombment of cremated human remains;

"**Plot**" means for the purposes of this By-law, a parcel of land, sold as a single unit, containing multiple Lots;

"**Vehicle**" means a "vehicle" as described in the *Highway Traffic Act*.

2.0 ADMINISTRATION

- 2.1 Cemeteries owned by the City shall be governed by a Committee of City Council duly appointed from time to time.
- 2.2 The City reserves full control over the Cemetery operations and management of land within the Cemetery grounds.
- 2.3 The City 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, columbarium, niche, mausoleum crypt, monument, marker or other article that has been placed in relation to an interment right save and except for direct loss or damage caused by gross negligence of the City.

3.0 FINANCES

- 3.1 All fees and charges shall be payable in accordance with the Cemetery Fees listed in Fees and Charges By-law 190-2018 or any amendments thereto.
- 3.2 All monies contributed to the Care and Maintenance Fund shall be non-refundable except as provided for in section 5.2 of this By-law.
- 3.3 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. Services that can be provided through this fund include:
 - a) re-levelling and sodding or seeding of lots
 - b) maintenance of cemetery roads, sewers and water systems
 - c) maintenance of perimeter walls and fences
 - d) maintenance of cemetery landscaping
 - e) maintenance of mausoleum and columbarium
 - f) repairs and general upkeep of cemetery maintenance buildings and equipment.
- 3.4 All monies received for the purchase of Interment Rights shall be deposited into a holding trust account for a period of thirty (30) days as prescribed in the Act and the City shall, after the thirtieth (30th) day but before the sixtieth (60th) day transfer the monies received for Interment Rights into such accounts as prescribed in the Act and the regulations made thereunder.

4.0 RESTRICTIONS (RULES AND REGULATIONS)

The following rules and regulations are hereby adapted for the care and control of Avondale Cemetery and cemeteries owned by the City:

- 4.1 Cemeteries are sacred and devoted to the burial of the dead and the provisions and penalties of the law will be strictly enforced in all cases of disturbance, wanton injury to property and disregard for the rules, or conduct unbecoming to a cemetery.
- 4.2 Visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any service being held, by noise or other disturbance.
- 4.3 Visitors shall travel through the cemetery by roads and shall not drive over burial lots, pathways, or service paths.
- 4.4 Children under twelve (12) years of age must be accompanied by an adult, who shall maintain close contact with them and be responsible for their actions.
- 4.5 The carrying of firearms or the discharging of the same while within the Cemetery, except where used for the firing of volleys at a burial, is prohibited.
- 4.6 No picnic, party, or other large assembly will be permitted in the Cemetery other than a funeral or memorial service.
- 4.7 When a society or association desires to hold a memorial service, they should make application to the Manager at least fifteen (15) days prior to the desired date. The association or society securing this permission shall assume responsibility for any damages done to the property in the cemeteries during this time.
- 4.8 City staff are the only parties who will remove any sod or in any other way change the surface of any lot in the Cemetery without the permission of the Manager to do so.
- 4.9 Flowers placed on a grave at a funeral shall be removed by City staff after a reasonable time, to protect the sod and maintain a neat appearance.
- 4.10 Flower beds will be confined to a space of eighteen (18) inches in front of all lots where permitted on any lot.
- 4.11 No perennial plant material shall be allowed at the flower beds or individual lots in the Cemetery.
- 4.12 Private shrubs or evergreens are only permitted on lots having an upright monument and only one shall be planted on either side of the upright monument. All plantings must be approved by the Manager and made only where space permits.
- 4.13 No interment rights holder shall place tripods, stands, trellises, wood or metal stands that interfere with the working of mowers, etc., on his or her lot, except from November 1 until the following April 15. Metal stands or holders may be used for winter wreaths but must be placed in the area normally used for flower beds, but all objects not removed by the later date will be removed by the City staff.
- 4.14 No flower beds shall be permitted on marker memorial lots.

- 4.15 Due care shall be used by all to avoid causing any damage to roads and lawns within the cemetery. Planks, plywood runners, etc., must be used when driving on turf areas.
- 4.16 No work shall be carried out in the vicinity of a funeral or burial service at any time while it is in progress. All work shall be done between the hours of 8:00 a.m. and 5:00 p.m. Monday to Saturday unless authorized by the Manager. All debris shall be removed by 5:00 p.m. daily.
- 4.17 No person shall, within the Cemetery, take part in any parade or procession except a funeral procession or as permitted by the City.
- 4.18 Any complaints by interment rights holder(s) or visitors shall be made to the Manager and not to workmen on the grounds.
- 4.19 No person shall drive a vehicle at a rate of speed greater than 20 kilometres per hour within the Cemetery.
- 4.20 No person shall drive a snowmobile within the Cemetery.

5.0 SALES

- 5.1 Purchasers of Lots acquire only the right and privilege of interment of human remains and or erecting markers, monuments or other authorized structures, subject to the provisions of this By-law.
- 5.2 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 and scattering rights sold; and prescribed amounts for monuments and markers is contributed into the care and maintenance fund. If no scattering rights are sold but scattering is permitted, a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this fund is 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 or scattering rights are cancelled within the 30-day cooling off period.
- 5.3 The Manager shall keep available for inspection a map showing lots available for sale.
- 5.4 Upon payment in full of the purchase price of the lot the Manager shall prepare an Interment Rights Certificate and record the same in a Register kept for that purpose and deliver the Certificate to the Interment Rights Holder.

6.0 RESALE AND TRANSFER OF INTERMENT RIGHTS

- 6.1 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 this By-law. In accordance with this By-law, no burials, entombment 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. An interment rights holder wishing to resell their interment rights may advise the Manager of their intention prior to seeking a third party buyer for their interment rights.

- 6.2 The City permits the Interment Rights Holder(s) to sell or transfer their interment rights to a third party, at no more than the current price listed on the Cemetery price list, as long as the sale or transfer is conducted through the City and the purchaser meets the qualifications and requirements as outlined in this By-law.
- 6.3 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 City. The City will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
- 6.4 Upon receiving written notice from the purchaser of the interment rights, the City will cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights less the appropriate amount that is required to be deposited in the Care and Maintenance Fund. This refund will be made within thirty (30) days of receiving said notice. If the interment rights certificate has been issued to the interment rights holder(s), the certificate must be returned to the City along with the written notice of cancellation.
- 6.5 If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment rights.
- 6.6 Unless the interment rights have been exercised the purchaser retains the right to cancel the contract or re-sell the interment rights. Once payment for the interment rights has been made in full, and an interment rights certificate has been issued, the interment rights holder(s), as recorded on the cemetery records, has the right to re-sell the interment rights. Any resale of the interment rights shall be in accordance with the requirements of this By-law and in keeping with the Act.
- 6.7 If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to re-sell the interment rights.
- 6.8 The interment rights holder(s) intending to sell their rights shall provide the following documents to the City so that the City can confirm the ownership of the rights and provide the third party purchaser with the required Certificate:
 - a) an interment rights certificate endorsed by the current rights holder.
 - b) a written statement of the number of lots that have been used in the plot and the number of lots that remain available.
 - c) any other documentation in the interment or scattering rights holder(s) possession relating to the rights.
- 6.9 The third party purchaser will be provided with the following documents by the City:
 - a) an interment rights certificate endorsed by the current rights holder.
 - b) a copy of the City's current by-law.
 - c) a copy of the City's current price list.
 - d) a written statement of the number of lots that have been used in the plot and the number of lots that remain available.
 - e) any other documentation in the interment rights holder(s) possession relating to the rights.

6.10 The City will:

- a) require a statement signed by the rights holder(s) selling the interment rights acknowledging the sale of the interment rights to the third party purchaser.
- b) require confirmation that the person selling the interment rights is the person registered on the cemetery records and that they have the right to re-sell the interment rights.
- c) record the date of transfer of the interment rights to the third party.
- d) require the name and address of the third party purchaser(s).
- e) require a statement of any money owing to the City in respect to the interment rights.

6.11 Once the endorsed certificate and all required information has been received by the City from the rights holder(s), the City will issue a new interment rights certificate to the third party purchaser.

6.12 Upon completion of the above listed procedures, and upon the issuance of the new interment rights certificate, the third party purchaser or transferee(s) shall be considered the current interment rights holder(s) of the interment rights, and the resale or transfer of the interment rights shall be considered final in accordance with this By-law and Act.

6.13 The City may charge an administration fee for the issuance of a duplicate certificate in accordance with the price listed on the City's current price list as shown in Fees and Charges By-law 190-2018 or any amendment thereto.

6.14 The City does not prohibit the resale of an interment rights and may repurchase the interment rights from the rights holder(s) if the City so desires and may negotiate a purchase price so long as the seller acknowledges being aware of the City's current price list amounts for the interment rights.

7.0 INTERMENTS

7.1 Interment rights holder(s) must provide written authorization to the Manager prior to a burial or an entombment taking place. Should the interment rights holder(s) be deceased, authorization must be provided in writing by the person authorized to act on behalf of the interment rights holder, such as but not limited to personal representative, estate trustee, executor or next of kin.

7.2 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 an interment taking place. A Certificate of Cremation must be submitted to the Cemetery Office prior to the interment taking place.

7.3 In accordance with the Act, the purchaser of interment rights must enter into a cemetery contract, providing such information as may be required by the City for the completion of the contract and the public register prior to each interment.

7.4 Payment must be made to the City before an interment can take place.

7.5 The Manager shall be given at least twenty-four (24) business hours of notice for each interment.

Deemed approved and filed effective October 28, 2019 by the Bereavement Authority of Ontario

- 7.6 Only the City may open and seal crypts for entombments and niches for interments. This applies to the inside sealer, crypt front and niche front.
- 7.7 To ensure quality control, desired uniformity and standard of workmanship, the City reserves the right to inscribe all crypt fronts and niche fronts or install all lettering, vases, adornments, or any other approved attachment.
- 7.8 Photographs are permitted and must conform to the design, material and standards of the mausoleum building.
- 7.9 No person other than City staff shall remove or alter niche fronts.
- 7.10 Cremated remains are not permitted to be scattered on a lot.
- 7.11 One casket interment only shall be allowed in each lot or crypt, except prepaids prior to 2014 when extra depth burials may be allowed with the approval of the Cemetery Manager. One casket burial and four urns per single grave with an upright marker are permitted.
- 7.12 A maximum of two approved receptacles (urns) may be placed in each niche as specified in Fees and Charges By-law 190-2018 or any amendment thereto.
- 7.13 The City assumes no responsibility for:
 - a) any misunderstanding when a lot or plot is ordered by telephone;
 - b) damages, should a lot be opened in a wrong location due to wrong or insufficient information;
 - c) Any extra expenses incurred in connection with errors of this kind shall be paid by the parties ordering the interment.
- 7.14 All interments within the Cemetery shall be under the direction of the Manager or designate.
- 7.15 No committal service shall be held or no interment shall be made in the Cemetery on any Sunday, Statutory or proclaimed Holiday except pursuant to an order of the Medical Officer of Health.
- 7.16 To allow for adequate time for employees to complete the burial, all funerals should arrive in the cemetery in accordance with the following. Charges for other times and late arrival of funerals are as shown in Fees and Charges By-law 190-2018 or any amendment thereto:
 - a) During working hours - between the hours from 8:30 a.m. to one hour prior to closing, Monday through Friday (statutory holidays excluded).
- 7.17 Saturday grave-side services will be allowed if staff is available and weather permits, and will be subject to an additional charge as set forth in Fees and Charges By-law 190-2018 or any amendments thereto.

8.0 COMMON SCATTERING GARDEN

- 8.1 That scattering of cremated remains in Avondale Cemetery is permitted in the common ground cremation dedication garden only.
- 8.2 Created remains that have been scattered are non-recoverable.
- 8.3 The scattering of cremated remains during the winter months may be limited by weather and soil conditions. The Cemetery Manager or designate will make the determination on when and if a scattering interment can proceed.
- 8.4 No person shall place, erect, install, maintain or allow to maintain any memorial in any scattering garden.
- 8.5 The Manager will keep available a map showing the location of all designated common scattering ground.
- 8.6 Memorialized names can be placed on the scattering garden plaque. Three size options for plates are available:
- 1" X 6" – single
 - 2.25" X 6" – double
 - 3.5" X 6" – additional text

9.0 DISINTERMENTS

- 9.1 No disinterment of human remains shall be allowed in any Lot or Niche unless in accordance with the Act and upon payment of the applicable fee.
- 9.2 Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder(s) has been received by the City 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 may take place. A certificate from the local medical officer of health is not required for the removal of cremated remains.
- 9.3 In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder(s) and/or next of kin(s).
- 9.4 If the burial was made in other than a permanent type outer case, a new outer case must be supplied.
- 9.5 Any marker or monuments designating the location of an interment shall be removed at the time a disinterment is made. The charge for disinterment shall be as set forth in the Tariff.

10.0 MONUMENTS

- 10.1 No marker, monument or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- 10.2 Upon request for the placement of a monument or other structure within the Cemetery, an order in writing shall be delivered to the office of the Manager at least three (3) weeks prior to the erection of the marker, monument or other structure, said order to include the dimensions of the marker monument or other structure, foundation, and location of the lot.

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- 10.3 No monument, footstone, or marker of any description shall be placed, moved, altered or removed without permission from the City.
- 10.4 Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
- 10.5 The City 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.
- 10.6 All foundations for monuments and markers shall be built by, or contracted to be built for, the City at the expense of the interment rights holder(s).
- 10.7 No monument shall be delivered to the Cemetery for installation until the monument foundations has been completed and the interment rights holder(s) and/or marker retailer have been notified by the City.
- 10.8 Markers and footstones of bronze or granite are permitted with size and quantity restrictions according to this By-law and the placement of such memorials shall not interfere with future interments:

single lot maximum – 1m x 3m
double lot maximum – 2m x 3m
cremation lot maximum - 4ft x 4ft
- 10.9 Every monument shall be made of granite and no ornament of stone, metal or other material shall be attached thereto.
- 10.10 Each monument shall have a base or footing not greater than 10% of the area of the lot and shall be centrally located at the head of the lot. In the case of a two-grave lot, the size of the base and dimensions shall be no more than 60" x 14".
- 10.11 All monument foundations shall be constructed of concrete and flush with the level of the adjoining ground and shall be of a length and width as nearly as practicable equal to the length and width of the base of the monument.
- 10.12 Only one (1) monument shall be erected within the designated space on any lot.
- 10.13 An inspection fee as set out in Schedule "A" to this By-law, shall be charged for the installation of a foundation.
- 10.14 No embellishments may be attached to any niche fronts with the exception of an approved bronze wreath and scroll for inscription.
- 10.15 Inscriptions must be on an approved bronze wreath and scroll which can be attached to the granite face of niche in the pre-drilled holes.
- 10.16 No corner posts shall be allowed except those supplied by the City.
- 10.17 Every marker shall be made of granite.
- 10.18 Height, Width, Thickness Ratios of Markers / Monuments
 - a) Flush markers shall be a minimum of 4" thick and not exceed 18" x 48". Markers larger than this shall be 6" thick;
 - b) 6" thick die stones: any 6" thick die stone which is less than 2' 0" in height, requires a method of installation which will enable the die to withstand a horizontal force of at least 100 lbs.

- i) 36" (L) x 34" (H) x 6" (thick) including the base;
- ii) 42" (L) x 20" (H) x 6" (thick) including the base.

Note: Dowel pins are allowed to provide for safe installation (to meet 100 lb. standard).

- c) 8" thick die stones: die stones which are 8" thick are allowed to a maximum height of 3' 6" (including base);
- d) 10" thick die stones: die stones which are 10" thick are allowed to a height of 5' 6" including base;
- e) 12" thick die stones: die stones which are 12" thick are allowed to a height of 7' 6" including base.

Note: memorial must be able to withstand a horizontal force of 100 lb. Doweling or other means are permitted to ensure safety of installation.

10.19 Should any monument or marker or other structure present a risk to public safety because it has become unstable, the City shall do whatever it deems necessary by way of repairing, resetting or laying down the monument or marker or other structure or any other remedy so as to remove the risk.

10.20 The City 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 City.

11.0 CONTRACTOR/MONUMENT WORK

11.1 Any contract work to be performed within the Cemetery requires the written pre-approval of the interment rights holder(s) and the City before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plan and detailed specifications relating 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 in the Cemetery.

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

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

11.3 This By-law applies to all contractors and all work carried out by contractors within the Cemetery.

11.4 Contractors, monument dealers and suppliers shall not enter the Cemetery in the evening, weekends, or statutory holidays unless approval has been granted by the City.

11.5 No work shall be performed at the Cemetery except during the regular business hours of the Cemetery.

11.6 Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The City 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 interment or public gathering within the Cemetery.

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

12.0 PENALTIES

- 12.1 Every person who contravenes any of the provisions of this by-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the provisions of the *Provincial Offences Act*, R.S.O. 1990, c. P.33 as amended.

13.0 REPEAL

- 13.1 That By-law 51-93, as amended, and any other By-laws inconsistent with the provisions of this By-law, are hereby repealed upon this By-law coming into effect.

14.0 EFFECTIVE DATE

- 14.1 This By-law and amendments are subject to the approval of the Registrar, Funeral, Burial and Cremation Services Act, 2002, Bereavement Authority of Ontario.

Read a FIRST, SECOND and THIRD time and

FINALLY PASSED this 23rd day of July, 2012.

"Daniel B. Mathieson"

MAYOR – Daniel B. Mathieson

"Joan Thomson"

CITY CLERK – Joan Thomson