

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES

BY-LAW #01-28

BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE, MANAGEMENT AND CONTROL OF THE HURON SHORES CEMETERIES IN ACCORDANCE WITH THE CEMETERIES ACT, R.S.O. 1990, c. C.4.

WHEREAS Municipalities under the Cemeteries Act R.S.O. 1990 Chap. C.4 are empowered to establish, regulate and operate cemeteries within their jurisdiction;

AND WHEREAS the Corporation of The Municipality of Huron Shores deems it necessary to pass a by-law governing the operation and maintenance of the 6 cemeteries under the jurisdiction of The Municipality of Huron Shores Cemetery Board namely:

- Armill Cemetery
- Carlyle Cemetery
- Day Mills Cemetery
- Spruce Grove Cemetery
- Sunset Cemetery
- McArthur Cemetery

The Council of the Corporation of the Municipality of Huron Shores enacts as follows:

1. This by-law shall be composed of nine sections, namely:

SECTION A	Definitions
SECTION B	Administration
SECTION C	Financial
SECTION D	Restrictions (Rules and Regulations)
SECTION E	Operations
SECTION F	Interment
SECTION G	Disinterment
SECTION H	Markers
APPENDIX A	Schedule of Fees

SECTION A: DEFINITIONS

- “ACT” shall mean the Cemeteries ACT, R.S.O. 1990, c. C.4.
- “BOARD” shall mean the Cemetery Board appointed by the Council of the Corporation of the Municipality of Huron Shores.
- “BY-LAW” shall mean the rules under which the Cemetery is operated. Both Council of the Corporation and the Registrar shall approve said by-law.
- “CARE AND MAINTENANCE FUND” shall mean that trust fund in which all monies received by the Corporation for perpetual care of lots or plots and markers has been invested.
- “CARETAKER” shall mean the person or persons appointed by the Board as caretaker of the Cemetery.
- “CEMETERY” shall mean the land set aside to be used for the interment of human remains and may include a columbarium or other structure intended for the interment of human remains.
- “CEMETERY SERVICES” shall mean the following services in respect of a lot or plot:
 - (i) opening and closing of a lot or plot;
 - (ii) interring or disinterring human remains;
 - (iii) construction of a foundation for a marker;
 - (iv) setting of corner stones.

“CEMETERY SUPPLIES”	shall mean interment vaults, markers, liners, flowers, articles intended to be placed in a cemetery.
“CLERK”	shall mean the Clerk of the Corporation.
“CORNER STONES”	shall mean any stone or other land marks set flush with the surface of the ground and used to indicate the corners of a lot or plot.
“CORPORATION”	shall mean the Corporation of the Municipality of Huron Shores.
“COUNCIL”	shall mean the Municipal Council of the Corporation of the Municipality of Huron Shores.
“INTER”	shall mean the burial or interment in the Cemetery of the body or remains of a human being.
“INTERMENT RIGHTS CERTIFICATE”	shall mean the certificate issued to the Interment Rights Holder (s) to designate, in writing, if another person is to be buried in their lot or plot.
“INTERMENT RIGHTS”	shall include the right to require or direct the interment of human remains in a lot or plot.
“INTERMENT RIGHTS HOLDER”	shall mean a person with interment rights with respect to a lot or plot and said Interment Rights Holder shall be listed in the records of the Cemetery.
“LOT”	shall mean an area of land in a cemetery containing, or set aside to contain, human remains.
“MARKER”	shall mean any monument, tombstone, plaque, headstone, or other structure or ornament affixed to or intended to be affixed to a lot or plot, columbarium niche or other structure or place intended for the deposit of human remains.
“MINISTER”	shall mean the Minister of Consumer and Commercial Relations for the Province of Ontario.
“PLOT”	shall mean two or more lots in which the rights to inter have been sold as a unit.
“REGISTRAR”	shall mean the Registrar appointed under the Cemeteries Act, R.S.O. 1990, c. C.4.
“TARIFF”	shall mean the tariff of fees and charges set forth in the fee schedule as approved by the Council and the Registrar.
“TRANSFER FORM”	shall mean the form to be completed for any transfer made without consideration as a gift.
“TREASURER”	shall mean the Director of Finance of the Corporation.

SECTION B: ADMINISTRATION

1. The business and affairs of the Cemetery shall be managed and supervised by a Board composed of nine members. Two of which shall be members of Council. Five members of the Board shall comprise a quorum and no business shall be transacted unless a quorum is present.
2. The Council shall by by-law appoint the Board who shall hold office during the term of Council.

3. The Board shall meet semi-annually, during January and June or at the call of the Chairperson. The Board shall elect from their own number, a chairperson and vice chairperson and secretary who shall hold office for the term of the presiding Council.
4. The Board shall be responsible for the administration, management, care, maintenance, and improvement of the aforesaid cemeteries.
5. The Board shall have the authority to engage and authorize caretakers, employees and agents to carry out the duties of the Board.
6. The Board shall be responsible to Council for the execution of their duties.
7. The Board shall have the right to remove any or all of the members of the Board for their failure or neglect to carry out their duties or for any other just cause.
8. The Clerk and/or Treasurer shall keep such registers, records and books as are necessary for properly recording all matters, acts, interment rights certificates and matters pertaining to the Cemeteries as come within their jurisdiction, and as may be prescribed.
9. The Board shall make and render such reports as may be prescribed or as the Council may require.
10. The Clerk has the authority by the direction of Council to make final and binding decisions on behalf of the Board.

SECTION C: FINANCIAL

1. All fees and charges as recommended by the board shall be paid as set out in the Schedule of Fees approved by the Council, which is subject to the approval of the Registrar. A Schedule of Fees is attached hereto as Schedule "A".
2. Payment for all fees and charges shall be made at the Office of the Clerk.
3. The Treasurer shall keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the Cemeteries as may be prescribed.
4. All revenue and other monies belonging or pertaining to the Cemetery shall be received by the Treasurer.
5. The Treasurer shall maintain, invest, and administer the Care and Maintenance Fund in accordance with the provisions and regulations of the Act and under the advisement of the Board and /or Council.
6. The Board shall submit a yearly budget to Council setting out operating and capital expenses for the approval of Council. The application and use of said monies shall be under the control and management of the Board. In determining the budget, the Board shall not be bound to expend the whole of operating or capital revenues in any year or years but may accumulate and hold or subsequently expend the same or any part thereof, or invest the same or part thereof.

7. The revenue derived from the Care and Maintenance Fund shall be applied at the discretion of the Board, subject to the approved budget, and shall be used for general maintenance and improvement of the Cemetery, The Board shall not be bound to expend the whole or any part of the interest or money earned, including the compounding thereof, but may accumulate and hold or subsequently expend the same or any part thereof, or invest the same or any part thereof.
8. The revenue derived from that portion of the Care and Maintenance Fund pertaining to care of markers shall be applied at the discretion of the Board, subject to the approved budget, and shall be used for general maintenance of markers. The board shall not be bound to expend the whole or any part of the interest or money earned, including the compounding thereof, but may accumulate and hold or subsequently expend the same or any part thereof, or invest the same or any part thereof.
9. The Board shall have the authority to establish special funds for donations. The application and use of said funds shall be at the discretion of the Board, subject to the approved budget. The Board shall not be bound to expend the whole or any part of the interest or money earned, including the compounding thereof, but may accumulate and hold or subsequently expend the same or any part thereof, or invest the same or any part thereof.

SECTION D: RESTRICTIONS (RULES AND REGULATIONS)

1. All persons entering the Cemetery shall behave with due order and decorum and with due respect to the dead.
2. Interment Rights Holders shall not permit interments to be made in their lots or plots for remuneration and shall not sell their lots or plots for remuneration.
3. Persons entering the Cemetery, shall do so at their own risk.
4. Recreation vehicles are not permitted within the Cemetery.
5. No persons under the age of fourteen years shall be admitted with in the cemetery unless attended by an adult who shall be responsible for their conduct.
6. No person shall:
 - a) place any fences, railings, or other enclosures around any lot or plot;
 - b) plant any flowers, plants, shrubs or trees without the permission of the Board. The Board reserves the right to enter onto the lot or plot and remove (a) flowers, plants, shrubs or trees planted without the permission, of the Board, and
(b) remove unsightly or neglected flowers, plants, shrubs or trees;
 - c) write upon, deface, injure or damage any markers, railing, fence or other structure, or pick or cut flowers of any kind;
 - d) have in their possession any firearm within the Cemetery enclosure except in the case of a Military or Police Funeral;
 - e) enter into the Cemetery between sunset and sunrise of the following day;
 - f) allow entry into the Cemetery of any animal under their ownership and/or control. Leader dogs are accepted;
 - g) have homemade flower boxes or anything that will interfere with the care and maintenance of the grounds;

- h) place artificial and cut flowers on the lot or plot unless in containers attached to the monuments. The caretaker will be remove these when they become discoloured, faded or interfere with the maintenance.
- 7. Conveyances heavily loaded shall not be permitted to enter the Cemetery without the approval and supervision of the Board.
- 8. Any person who damages any lot or plot, marker or other structure, or otherwise does any injury in the Cemetery shall be personally responsible for such damage or injury.
- 9. Any person violating any of the provisions of this by-law shall be deemed to be a trespasser and subject to immediate summary eviction from the Cemetery in addition to any and all other penalties provided by law.

SECTION E: OPERATIONS

I SALES

- 1. Lots or plots, subdivisions of lots plots may be purchased by individuals upon payment of the appropriate Tariff rate. At the time of sale, the Clerk shall provide a copy of the following:

- Interment Rights Certificate
- copy of the Contract; and
- copy of the Cemetery By-law.

Upon payment in full, the Clerk shall provide an Interment Rights Certificate.

- 2. Purchasers of lots or plots acquire only the right and privilege of interment of the dead and of erecting markers, subject to the provisions of the By-law.
- 3. The Interment Rights Certificate shall specify the name of the Interment Rights Holder, the size of the lot or plot, the location of the lot plot, the date of purchase, the amount paid, the amount deposited into the Care and Maintenance Fund, and a statement regarding transfer restrictions of said interment rights.
- 4. The Interment Rights Holder must designate in writing, upon the Interment Permission Form, if another person is to be buried in their lot or plot.
- 5. The Board may restrict the sale of single lots to certain areas in the Cemetery.

II CONTRACT

- 1. The purchaser of Interment Rights shall be provided with a contract, at the time the Contract is made, which shall indicate:
 - a) The date Interment Rights were purchased;
 - b) the name and address of the purchaser;
 - c) the purchase price including an itemized breakdown of charges and all applicable taxes;
 - d) the percentage of the purchase price being set aside for Care and Maintenance;

- e) the prohibition on the resale of the Interment Rights by the Purchaser;
- f) the existence of a by-law that governs the operation of the cemetery and includes restriction on Interment Rights in the Cemetery; and
- g) a Certificate of Interment Rights will not be issued until the Interment Rights have been paid for in full.

III TRANSFERS

1. Only licensed Cemeteries can sell Interment Rights.

Sale: If an individual wishes to sell their lot or plot, they must sell their Interment Rights back to the Board. The Board will reimburse the individual the price paid for the lot or plot less the amount placed into the Care and Maintenance Fund.

Transfer: For the purposes of this subsection, “transfer means a gift, bequest or any other transfer made without consideration.

If an Interment Rights Holder wishes to transfer their interment rights, notice must be given to the Clerk and the original certificate must be returned. The Clerk shall issue a new certificate of interment rights to the transferee.

The transfer of ownership of Interment Rights is not binding upon the Board until a duly executed transfer has been deposited with the Clerk.

2. Upon receipt of a request in writing from the Interment Rights Holder specifying the name and address of the transferor and the transferee, and location of lot or plot, the Clerk, upon payment of the administration fee in accordance with the Tariff, will perform the transfer.

3. In case of succession the following will be required in addition to Clause 2 above (unless otherwise ordered by the Board):

a) with a Last Will and Testament;

(1) in case of specific bequest of the lot or plot, a Notaries Copy of Court Certified Copy of the will or probate;

(11) if no specific bequest, a request in writing from the Executors with a consent of all for a majority of beneficiaries;

b) in testate;

(1) with the consent of all or a majority of the heirs-at-law, a request in writing from the administrator.

IV CORNER STONES

1. The boundaries of any lot or plot may be marked with corner stones. All corner stones are to be placed as directed by the Board at the expense of the owner of the lot or plot wherein the same are placed.

2. All corner stones shall be of granite six inches square, and at least four inches deep. They shall be placed level with the ground.

SECTION F: INTERMENT

1. The Board is empowered to fix and regulate the price for opening and closing lots or plots subject to approval by Council and the Registrar.
2. No interment shall take place until such time as the lot or plot has been paid for in full.
3. For every Interment the Board must obtain a burial or cremation certificate, completed report form, applicable fees and a completed Interment Permission form if required.
4. No interment shall be made on Sunday, Good Friday or during winter months of each year (dates to be decided annually by the Board and caretaker), except in accordance with the regulations of the Medical Officer of Health.
5. Interment shall take place between the 1st day of May and the 1st of December unless otherwise authorized by the Board.
6. No more than one interment may be made in a lot if a second interment would leave less than two feet of earth at the surrounding ground level, over the case used in such second interment.
7. No concrete vaults shall be allowed where a truck has to cross over existing burial sites in transporting it.
8. Workmen shall cease work, if in the immediate vicinity of a funeral, until the conclusion of the service.
9. All work must be done during regular Cemetery hours, unless by special permission of the Board.
10. Notice of each interment shall be given to the Clerk. A minimum of 24 hours notice (not including Saturday, Sunday or holidays) is required unless otherwise ordered by the Medical Officer of Health.
11. Any person having occasion to make any complaint shall submit it in writing to the Municipal Office and not complain to any employee on the grounds of the Cemetery.
12. The opening and closing of lots or plots shall be the responsibility of the caretaker and he/she shall be reimbursed by the Funeral Director.

SECTION G: DISINTERMENT

1. No disinterment shall be allowed in any lot or plot nor anybody removed therefrom unless in accordance with Section 51 of the Act.

SECTION H: MARKERS

1. The Board requires order forms from Monument Dealers showing monument size, base size, property location, and the fee for Marker Care and Maintenance Fund before constructing the foundation for markers.
2. For the purposes of Subsections 38 (1) and (3) of the Act, the prescribed amount payable when a marker is installed in a cemetery is as follow:
 - a) in the case of installing a flat marker measuring less than 1116.3 square centimetres (173 square inches) - \$0.00.

- b) in the case of installing a flat marker measuring more than 1116.3 square centimetres (173 square inches) - \$50.00 plus G.S.T.
 - c) in the case of installing an upright marker, homemade or otherwise measuring 1.22 metres (four feet) or less in height and 1.22 metres (four feet) or less in length including base - \$100.00 plus G.S.T. (Ont. Regulation 132/92 – Trust Funds – subsection 4)
3. The Board reserves the right to determine the maximum size of markers, their composition, their number and their location on each lot or plot.
 - a) not more than one marker shall be erected on any one lot;
 3. b) the minimum thickness of a marker shall be not less than 5 inches at its narrowest point;
 - c) all markers, other than markers located on single lots, shall not exceed 42 inches in height, including the base;
 - d) only one upright marker or monument shall be permitted at the center of each plot, but one foot marker level with the ground may be placed at each grave in the plot in addition to the upright stone;
 - e) flat markers on a single lot shall not exceed 24 inches wide by 18 inches deep;
 - f) all markers shall be made of granite or bronze;
 - g) no marker shall be allowed to stand on interment space in any lot plot;
 - h) the Funeral Director will install the temporary markers at the time of the closing of the grave. These temporary markers will be allowed to remain on the gravesite for a period of not longer than 6 months.
4. Markers to be erected shall be set upon an adequate concrete foundation, which shall be installed by the caretaker upon the direction of the Board, which shall be no less than two feet in depth or the full depth of the grave and must exceed the marker by a minimum of three inches on all sides. All foundations shall be set one inch above the surface of the ground. The Board must approve foundation before the marker is erected thereon.
 5. No marker shall be erected without the supervision of the Board.
 6. Any inscription placed in or upon any lot or plot shall be in keeping with the dignity and decorum of the cemetery.
 7. Should markers be scratched or chipped by equipment during regular maintenance of the Cemetery grounds and the Cemetery Board shall not be held responsible for such damage.
 8. The Board shall have the right to maintain, repair, or lay down markers or parts of markers and to use or not to use the Care and Maintenance Funds for Markers for such purposes.

Read a first, second and third time and passed this 26 day of September, 2001.

REEVE – E. W. Linley

CLERK – Deborah Tonelli

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES

APPENDIX 'A'

TO BY-LAW #01-28

Schedule of Fees

The Municipality of Huron Shores Cemetery Board

Full Size Burial Lot	\$200.00 (\$150.00 Allocated to Care and Maintenance)
Small Lot for Burial of Cremains	\$ 50.00 (\$20.00 Allocated to Care and Maintenance)

Installation of Markers:

Flat Markers less than 173 Square Inches	Nil
Flat Markers more than 173 Square Inches	\$ 50.00
Upright Markers up to 4 Feet in Height or Width	\$100.00
Upright Markers over 4 Feet in Height or Width	\$200.00

100% of all Marker Erection Fees are allocated to the Care and Maintenance Fund.

APPENDIX

TO

THE CORPORATION OF

THE MUNICIPALITY OF HURON SHORES

BY-LAW #01-28

HURON SHORES CEMETERY BOARD

INTERMENT RIGHTS CONTRACT

Date of Purchase: _____
(Day/Month/Year)

Grantee: _____ Rights For: _____

Grantee Bus. Phone: _____ Grantee Home Phone: _____

Witnesseth that for the sum of Two Hundred Dollars paid to the Grantor, of which the sum of One Hundred and Fifty Dollars is set-aside in trust for perpetual care with the Treasurer of Huron Shores in accordance with the provisions of the Cemeteries Act, R. S. O., 1980, the Grantor doth hereby sell to the Grantee, burial rights in:

Section: _____ Row: _____ Lot: _____

As shown having an area of 40 square feet on the approved plan of the cemetery.

Total Purchase Price: _____

Amount set aside in Care and Maintenance Fund: _____

Subject to the provisions of the Cemeteries Act, R.S.O. 1980, and the Ontario Regulations in effect thereunder and to the approved roles and regulations in effect there under and to the approved rules and regulations of the Grantor which may be in effect from time to time.

Signature of Purchaser

Per:

Personal information contained on this form is collected pursuant to the Cemeteries Act (Revised) R.S.O. 1990, c. C.4 and Regulations thereunder, and will be used for the completion of Cemetery Records. Questions about this collection should be directed to:

Treasurer

Please refer to attached Conditions and Restrictions.