

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY

BY-LAW NUMBER 22\01

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

AND WHEREAS it is expected to pass a By-Law for the maintenance management, regulation and control of the Hawkesville Cemetery;

THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF WELLESLEY 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	Internment
Section G	Disinterment
Section H	Markers

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 for the term of Council.
“BY-LAW”	shall mean the rules under which the Cemetery is operated.' Said by-law shall be approved by both Council of the Corporation and the Registrar.
"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.
"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;
"CEMETERY SUPPLIES"	shall mean interment vaults, markers, liners, flowers, artificial wreaths and other articles intended to be placed in a cemetery.
"CLERK"	shall mean the Clerk of the Corporation.
"CORPORATION"	shall mean the Corporation of the Township of Wellesley.
"COUNCIL"	shall mean the Municipal Council of the Corporation of the Township of Wellesley.
"INTER"	shall mean the burial or interment in the Cemetery of the body or remains of a human being.
"INTERMENT"	shall mean the form to be completed by the Interment Rights

PERMISSION FORM"	Holder(s) to designate, in writing, if another person is to be buried in their lot or plot.
"INTERMENT RIGHTS CERTIFICATE"	shall mean the certificate issued to the Interment Rights Holder by the Cemetery and shall include the name of the Interment Rights Holder, the location and dimensions of the lot or plot, the date on which the interment rights are purchased, the amount paid by the purchaser, the amount deposited into the Care and Maintenance Fund, and a statement regarding transfer restrictions of said interment rights.
"INTERMENT RIGHTS"	shall include the right to require or direct the interment of 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, 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 or fees and charges set forth in the fee schedule as approved by the Council and Registrar.
"TRANSFER FORM"	shall mean the form to be completed for any transfer made without consideration as a gift.
"TREASURER"	shall mean the Treasurer of the Hawkesville Cemetery Board.

SECTION B – ADMINISTRATION

1. The business and affairs of the Hawkesville Cemetery shall be managed and supervised by a Board composed of six members maximum.

2. The Council shall by by-law appoint the Board who shall hold office during the term of Council.
3. The Board shall be responsible for the administration, management, care, maintenance and improvement of the Cemetery.
4. The Board shall have the authority to engage and authorize caretakers, employees or agents to carry out the duties of the Board.
5. The Board shall be responsible to the Council for the execution of their duties.
6. The Council 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.
7. The Board and the Clerk shall each keep such registers, records and books as are necessary for properly recording all matters, acts, interment rights certificates and matters pertaining to the Cemetery as come within their respective jurisdiction, and as may be prescribed.
8. The Board shall make and render such reports as may be prescribed or as the Council may require.
9. The Clerk has the authority to make final and binding decisions on behalf of the Board.

SECTION C - FINANCIAL

All fees and charges shall be payable in accordance with the Tariff which shall be set annually by the Council upon recommendation of the Board, subject to the approval of the Registrar.

2. Payments for all fees and charges shall be made to the Treasurer of the Hawkesville Cemetery Board.
3. The Treasurer shall keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the Cemetery 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 Operation and Maintenance Fund in accordance with the provisions and regulations of the Act.
6. The Treasurer of the Municipality shall maintain, invest and administer the Care and Maintenance Fund in accordance with the provisions and regulations of the Act.
7. 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 any part thereof.
8. 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.

9. 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.
10. 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. Vehicles within the Cemetery shall be driven at a speed not exceeding 25 kilometers per hour and shall not allow wheels of any such vehicle to run on sod. All drivers of any vehicle shall respect all lot or plots as if they were their own. Vehicle owners and drivers shall be held responsible for any damage done by them.
4. Recreational vehicles are not permitted within the Cemetery.
5. No persons under the age of sixteen years shall be admitted within the Cemetery unless attended by an adult who shall be responsible for their conduct.
6. No persons shall:
 - (a) place any fences, railings, or other enclosures around any lot or plot;
 - (b) plant any flowers, plants, ornamental evergreen shrubs of dwarf nursery stock without the permission of the Board. The Board reserves the right to enter onto the lot or plot and remove said flowers, plants or shrubs planted without the permission of the Board; or if flowers, plants or shrubs have deteriorated and become unsightly or interferes with another lot, road or walk; or are not planted in area as designated in Schedule "A" attached hereto;
 - (c) write upon, deface, injure or damage any markers 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 9:30 P.M. and 7:00 A.M. the following day;
 - (f) allow entry into the Cemetery of any animal under their ownership and/or control;
 - (g) place or plant any flowers or shrubs or anything on a cremation plot or child's plot. One day before until one week after the memorial service, potted plants or wreaths may be set on the plots.
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.

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, subdivision of lots or plots may be purchased by individuals upon payment of the appropriate Tariff rate. At the time of sale, the Treasurer shall provide a copy of the following:

- (a) copy of the Contract; and
- (b) copy of the Cemetery By-Law

Upon payment in full, the Treasurer 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. Each purchaser of a lot or plot shall be entitled to an Interment Rights Certificate, but only when all indebtedness has been satisfied and all charges on the lot or plot have been paid.
4. 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 or 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.
5. 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.
6. 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

restrictions on Interment Rights in the Cemetery; and
(g) a Certificate of Interment Rights will not be issued until the Interment Rights have been paid 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, a 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 Treasurer and the original certificate must be returned. The Treasurer 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 Treasurer.

2. Upon receipt of a request in writing from the Interment Rights Holder specifying the name and address of the transferor and transferee, and location of lot or plot, the Treasurer, 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:

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

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

(b) Intestate:

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

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.
4. No interment shall be made on Sunday, or Statutory Holidays, except in accordance with the regulations of the Medical Officer of Health.
5. No more than one (1) interment may be made in a lot, ~~and the interment must be in a concrete liner unless coffin is five (5) feet in length or under~~
6. No more than two cremation interments shall be made in the cremation lots and no more than six (6) cremation interments, if placement allows, in the regular lots.
7. Workmen shall cease work, if in the immediate vicinity of a funeral, until the conclusion of the service.
8. All work must be done during regular Cemetery hours, unless by special permission of the Board.
9. Notice of each interment shall be given to the Treasurer. A minimum of 24 hours' notice (not including Saturday, Sunday or holidays) is required unless otherwise ordered by the Medical Officer of Health.

SECTION G: DISINTERMENT

1. No disinterment shall be allowed in any lot or plot nor any body removed there from 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. 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;
 - (b) no upright or pillow markers will be permitted on a cremation or a child's plot. One flat marker, in accordance with the regulations for flat markers will be allowed;

- (c) the minimum thickness of a marker shall be 6 inches at its narrowest point;
 - (d) all markers, other than markers located on a single lot, shall not exceed 48 inches in height and width, including the base;
 - (e) upright markers on a single lot shall not exceed 36 inches wide by 16 inches deep by 34 inches high, including the base;
 - (f) flat markers on a single lot shall not exceed 24 inches wide by 18 inches high and be of a minimum of 4 inches to a maximum of 6 inches in thickness;
 - (g) all markers shall be made of standard marble, granite or bronze;
 - (h) all bronze castings shall be true, free from weakening or minor defects, blemishes or imperfections, with smooth exposed surfaces; rough, "sand-like" or painted or pigmented finishes or ornamentations are not permitted. The alloy used in bronze markers shall consist of 86% to 89% copper, 5% to 6.5% tin, 1.25% to 1.75% lead, and 3.5% to 5% zinc, with not more than 1.5% other elements;
 - (i) no marker shall be allowed to stand on interment space in any lot or plot.
3. Markers to be erected shall be set upon adequate concrete foundation which shall be no less than five 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. Foundation must be approved by the Board before the marker is erected thereon.
4. No marker shall be erected without the permission of the Board.
5. Any inscription placed in or upon any lot or plot must be in keeping with the dignity and decorum of the cemetery.
6. Markers may be scratched or chipped by equipment during regular maintenance of the Cemetery grounds and the Cemetery shall not be held responsible for such damage.
7. 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 and second time this 22nd day of May, 2001.

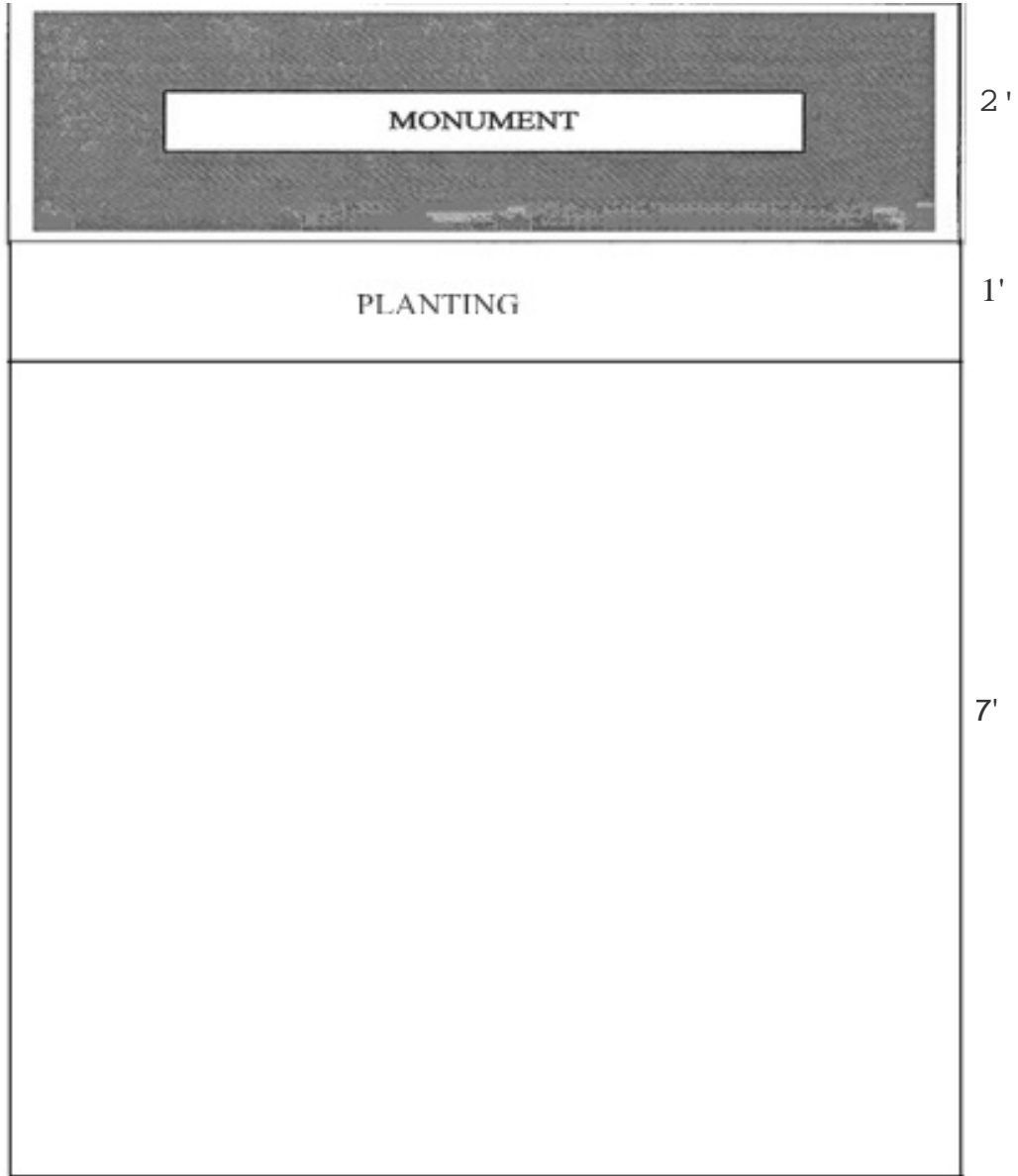
READ a third time and passed this 22nd day of May, 2001.

Signed by Carol Church, Clerk
Carol Church, Clerk

Signed by Doug Bergman Mayor
Doug Bergman, Mayor

SCHEDULE 'A' TO BY-LAW NUMBER 22/01

Designated Planting Areas



* Not to scale