

THE CORPORATION OF THE TOWNSHIP OF O'CONNOR

BY-LAW NUMBER 2014-06

Being a By-law of the Corporation of the Township of O'Connor respecting the O'Connor Cemetery.

WHEREAS the Corporation of the Township of O'Connor has established certain lands in the Township of O'Connor and has designated such lands as a public cemetery to be known as the O'Connor Cemetery;

AND WHEREAS the Council for the Township of O'Connor, under the authority of the Funeral, Burial and Cremation Services Act, 2002, c. 33 as amended from time to time, may enact by-laws for the proper management of the O'Connor Cemetery;

NOW THEREFORE the Council for the Corporation of the Township of O'Connor hereby enacts as follows:

1. Definitions

"Act" shall mean the Funeral Burial and Cremation Services Act, 2002, S.O. 2002, c. 33 as amended from time to time.

"Burial" shall mean the opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.

"Care and Maintenance Trust Funds" shall mean money, as required under Section 53 of the Act, be held in a Care and Maintenance Fund or in a Care and Maintenance Account for the price of Interment Rights and the installation of markers and monuments.

"Cemetery" shall mean the O'Connor Cemetery.

"Cemetery Operator" shall mean the Township of O'Connor.

"Cemetery services" shall mean services provided by the Cemetery Operator in respect of the interment of human remains in the Cemetery and includes such services as may be prescribed.

"Contract" shall mean, for the purpose of this By-law(s), a signed contract with the Cemetery Operator and the purchaser(s) of interment rights, detailing obligations for both parties and acceptance of the Cemetery By-Law(s).

"Cremation lot" shall mean a lot within the Cremated Ashes Garden of the O'Connor Cemetery and is a lot two (2) feet by (2) feet in size that is set aside for interment of cremated human remains.

"Heirs-At-Law" shall mean the person legally entitled to inherit the property of someone who dies intestate.

"Human remains" shall mean a dead human body or the remains of a cremated human body.

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“Inter” shall mean the burial of human remains and includes the placing of human remains in a lot.

“Interment Rights” shall mean the right to require or direct the interment of human remains or cremated human remains in a lot and direct the associated memorialization.

“Interment Rights Certificate” shall mean the document issued by the Cemetery Operator to the purchaser once the interment rights have been paid in full, identifying ownership of the Interment Rights.

“Interment Rights Holder(s)” shall mean any person(s) designated to hold the rights to inter human remains in a specified lot whether the person be the purchaser of the rights, the person named in the Interment Rights Certificate or such other person to whom the Interment Rights have been assigned.

“Lot” for the purpose of this By-law, shall mean a single grave space.

“Marker” shall mean any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot.

“Monument” shall means any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial lot.

“O’Connor Resident” shall mean any person who resides or has resided in the past in the Township of O’Connor.

“Plot” shall mean, for the purpose of this By-law(s), a parcel of land, sold as a single unit, containing multiple lots.

2. By-Law Amendments

The Cemetery shall be governed by this By-law and all procedures will comply with the Funeral Burial & 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 locality in which the cemetery is located;
- b) conspicuously posted on a sign at the entrance of the cemetery; and
- c) delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law amendment pertains to markers or their installation.

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

3. Liability

The Cemetery Operator will not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to, any lot, plot, monument, marker or other article that has been placed in relation to an interment save and except for direct loss or damage caused by gross negligence of the Cemetery Operator.

4. General Administration

Subject to the jurisdiction of Council, the Cemetery Operator has complete control and management of the land, planning, books and records of the O'Connor Cemetery and complete authority to administer this by-law.

The Clerk-Treasurer/Deputy Clerk-Treasurer of the Corporation of the Township of O'Connor shall receive, dispense and account for all monies payable under this By-law in accordance to the regulations thereto and as prescribed in Schedule "A" – O'Connor Cemetery Fees and Charges.

The Clerk-Treasurer/Deputy Clerk-Treasurer shall ensure that all funds payable for the Care and Maintenance of the O'Connor Cemetery shall be deposited into a Care and Maintenance Trust Fund Account, and that such funds shall be invested into a high interest bearing account from time to time.

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. The Clerk-Treasurer/Deputy Clerk-Treasurer shall keep such register and all records and books as are necessary for properly recording all matters, acts, deeds and things pertaining to the Cemetery and as may be prescribed.

On an annual basis, the Clerk-Treasurer/Deputy Clerk-Treasurer shall transfer from the Care and Maintenance Fund an amount not to exceed the income earned by the fund less any expenses incurred for the trustee's fees and these monies shall only be used for those purposes as provided for by the Act.

The Clerk-Treasurer/Deputy Clerk-Treasurer, upon the sale of Interment Rights shall provide a copy of the Consumer Information Guide to Funerals, Burials and Cremation Services or any subsequent publication issued by the Minister of Consumer Affairs, a copy of this By-law with schedules and the Interment Rights Certificate and signed Contract.

5. Rights to Re-Survey

The Cemetery Operator 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.

6. Pets or Other Animals

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

7. Resale, Transfer or Succession of Interment Rights

The Cemetery Operator prohibits the resale of interment to a third party and will repurchase these rights at the price listed on the current price list less the Care and Maintenance portion of the lot price. Transfers of interment rights cannot be prohibited as long as the purchaser meets the qualifications and requirements as outlined in the Cemetery Operator's by-laws.

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

Where the deceased Interment Rights Holder has left a Last Will and Testament or a Certificate containing a specific bequest of the Lot, a Notarial Copy and/or Court Certified Copy of the Said Last Will and Testament or Certification of Appointment of Estate is required.

If the Last Will and Testament does not contain a specific bequest of the Lot, a request in writing from the Estate Trustee(s) for the transfer is required.

Where the Interment Rights Holder died Intestate, a request in writing from the Estate Trustee(s) or, if no Estate Trustee has been appointed, from all of the heirs-at-law.

8. Purchase of Interment Rights

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

Cemetery lots will be allowed to inter one (1) casket (with vault if applicable) and two (2) cremated human remains (provided that the casket is interred first) or 3 cremated human remains. In the Cremation Ashes Garden of the Cemetery, there shall be one (1) cremated human remains allowed in each lot.

The Clerk-Treasurer/Deputy Clerk-Treasurer shall have charge of the sale of Interment Rights and all sales shall be at the prescribed fees and charges as set forth in Schedule "A" - O'Connor Cemetery Fees and Charges.

9. Cancellation of Interment Rights within 30 Days

A purchaser has the right to cancel an interment contract within thirty (30) days of signing the Interment Rights Contract, by providing written notice of the cancellation to the Cemetery Operator. The Cemetery Operator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

10. Cancellation of Interment Rights after the 30 Days

Upon receiving written notice from the purchaser of the Interment Rights, the Cemetery Operator 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 into 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 cemetery operator along with the written notice of cancellation.

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.

11. 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 the installation of 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 the care and maintenance fund are not refundable except when interment rights are cancelled within the 30 days.

12. Fees and Charges

All fees and charges for various services such as lot purchase, opening and closing graves and any other service shall be determined by a resolution of Council and amended from time to time as deemed advisable.

Upon request, families may undertake the opening and closing of lots themselves, at their own expense, and only with the consent of the Cemetery Operator.

13. Cemetery By-law Schedules

Cemetery regulations as attached as Schedules to this By-law shall form part of this By-law and shall be enforced as required.

Schedule "A" – Rules and Regulations of O'Connor Cemetery

Schedule "B" – Map of the O'Connor Cemetery

This By-law shall come into force and effect when approved by the Minister of Consumer Services.

BY-LAW NUMBER 2014-06 (con't)

By-law Number 92-13, By-law Number 92-15, By-law Number 95-21 and By-law Number 95-23 are hereby rescinded as of the date that this By-law is approved by the Ministry of Consumer Services.

Enacted and Passed in Council this 14th day of April, 2014.

THE CORPORATION OF THE
TOWNSHIP OF O'CONNOR

Mayor

Clerk-Treasurer

Schedule "A" to By-law 2014-06

Rules and Regulations for the O'Connor Cemetery

1. All lots shall be sold by the Clerk-Treasurer or Deputy Clerk-Treasurer for the Township of O'Connor during regular office hours. Lots may be purchased by O'Connor residents or former residents only.
2. The Transfer of Ownership of Interment Rights are not binding upon the Cemetery until a duly executed transfer has been deposited with the Clerk-Treasurer/Deputy Clerk-Treasurer of the Township of O'Connor.
3. The purchaser has 30 days to cancel the purchase contract and receive a full refund. After 30 days, the purchaser may elect to sell the lot(s) back to the Township of O'Connor for the current value of the lot. A request to return the lot must be in writing and signed by the Interment Rights Holder or the executor for the estate of the Interment Rights Holder.
4. The Township of O'Connor shall provide each Interment Rights Holder at the time of sale
 - a) A copy of the contract.
 - b) A copy of the cemetery by-laws.
 - c) Upon payment in full a certificate of interment rights.
 - d) Consumer Information Guide to Funerals, Burials and Cremation Services or any subsequent publication issued by the Ministry of Consumer Services.
5. Notice of interment shall be given to the Clerk-Treasurer/Deputy Clerk-Treasurer at least 48 hours before the time of interment except under special circumstances where the Coroner requests immediate burial.
6. No human remains may be removed or disinterred without the written consent of the Chief Medical Officer of Health and the owner of the lot, except on an order from the Court or as provided in the Funeral, Burial and Cremation Services Act and the Regulations thereto. Notice must be received by the Clerk-Treasurer /Deputy Clerk-Treasurer of the Township of O'Connor at least 24 hours before disinterment takes place.
7. No interment will be made without the permission of the Rights Holder or his/her authorized representative.
8. The Township of O'Connor requires the following documentation for:
 - a) Interment – a Burial Certificate or Cremation Certificate.
 - b) Disinterment – a written consent of the local medical officer of Health and the owner of the lot.
9. No interment shall be made on Sunday except on a Doctor's certificate that burial must be made within 24 hours of death in accordance with the regulations of the Ministry of Health and Long-Term Care.

Schedule "B" to By-law 2014-06 (con't)

10. Cemetery lots will be allowed to inter one (1) casket (with vault if applicable) and two (2) cremated human remains (provided that the casket is interred first) or 3 cremated human remains. In the Cremation Ashes Garden of the Cemetery, there shall be one (1) cremated human remains allowed in each lot.
11. The Township of O'Connor shall be notified before a monument is installed by or for the Interment Rights Holder and any monument to be erected shall be set upon a floating foundation, the thickness of the foundation shall be four (4) inches for smaller monuments and five (5) inches for larger monuments and not more than the full width of the lot. Monuments erected by or for the Interment Rights Holder shall pay the required Care and Maintenance monies.
12. If any trees, shrubs, borders, flowers, decorations or other materials are, in the opinion of the Cemetery Operator, detrimental to the lot or adjacent lots, prejudicial to the general appearance of the grounds, the Cemetery Operator shall have such trees, shrubs, borders, flowers, decorations or other material removed after thirty (30) days notice to the interment rights holder.
13. The erection of borders on 5 x 10 lots shall be permitted as follows:
 - a) the borders shall not be imbedded in concrete.
 - b) the borders shall be no higher than eight (8) inches and have a path of sand no less than eight (8) inches wide around the boarder for easy maintenance.
 - c) any damages occurring to borders will be the responsibility of the interment rights holder.
14. Interment rights holders are required to provide to the Clerk-Treasurer/Deputy Clerk-Treasurer of the Township of O'Connor, any change of their mailing address.
15. Rules and regulations for the Cremated Ashes Garden
 - a) no upright monuments are allowed, only flat markers.
 - b) no borders are allowed.
 - c) no flowers, shrubs or trees are allowed.
 - d) there will be only one cremated remains allowed per lot.
 - e) The flat marker for each lot must be no more than eighteen (18) x eighteen (18) inches. A plot owner having two lots side by side may have a flat marker eighteen (18) x thirty-six (36) inches.
16. Any conflicts with the above rules and regulations shall be directed to the Council of the Township of O'Connor

Schedule "B" to By-law Number 2014-06

Connor Cemetery Map

Cremation Ashes Garden

