

THE CORPORATION OF THE MUNICIPALITY
OF OLIVER PAIPOONGE

BY-LAW NO. 734 - 2013

A By-law to establish rules and regulations for Stanley Hill Cemetery.

WHEREAS the Municipality of Oliver Paipoonge has established the Stanley Hill Cemetery upon those lands more particularly described as Con 2 N/R Pt Lot 32 & 33 incl RP 55R12290 Part 2 & 3;

WHEREAS Section 150 of the *Funeral Burial & Cremation Services Act, 2002* provides that the owner of every cemetery may pass by-laws affecting the operations of the cemetery;

AND WHEREAS no such by-law comes into force or takes effect until it is filed with, and approved by the Registrar under the *Funeral Burial & Cremation Services Act, 2002*, Section 151;

AND WHEREAS Section 8 of the Municipal Act S.O. 2001, C. 25 provides that the Council of every municipal corporation may pass by-laws providing for the use by the public of lands of which the corporation is the owner and for the regulation of such use and the protection of such lands;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF OLIVER PAIPOONGE ENACTS AS FOLLOWS:

1. DEFINITIONS

- a) **Burial:** The opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.
- b) **By-laws:** The rules and regulations under which the Cemetery (and/or Crematorium) operates.
- c) **Care and Maintenance Fund:** It is a requirement under the FBCSA that a 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.
- d) **Contract:** For purposes of these by-laws, all purchasers of interment rights must sign a contract with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-laws.
- e) **Corner Posts:** Shall mean any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.
- f) **Grave:** (Also known as Lot) means any inground burial space intended for the interment of a child, adult or cremated human remains.
- g) **Interment Right:** The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and direct the associated memorialization.
- h) **Interment Rights Certificate:** The document issued by the Cemetery to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.
- i) **Interment Rights Holder:** Any person designated to hold the right to inter human remains in a specified lot.

- j) **Lot:** For the purposes of these By-Laws a lot is a single grave space.
- k) **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.
- l) **Monument:** Any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial or lot.
- m) **Niche:** An individual compartment in a columbarium for the entombment of cremated human remains.
- n) **Plot:** For the purposes of these by-laws, a plot is a parcel of land, sold as a single unit, containing multiple lots.

2. GENERAL INFORMATION

a) **Hours of Operation:**

Visitation Hours: 8:00 a.m. to Sundown 7 days a week, year round

Office Hours: 9:00 a.m. – 4:30 p.m. – Monday to Friday

Burial Hours: 9:00 a.m. – 4:30 p.m.

b) **General Conduct:**

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

No person may damage, destroy, remove or deface any property within the Cemetery.

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

c) **By Law Amendments:**

The cemetery shall be governed by these bylaws, 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:

- i) published once in a newspaper with general circulation in the locality in which the cemetery is located;
- ii) conspicuously posted on a sign at the entrance of the cemetery; and
- iii) delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or 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.

d) **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, columbarium niche, 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.

e) **Public Register:**

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

f) Pets or Other Animals:

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

g) 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 approval of the appropriate authorities.

h) Notice of Resale and Transfer of Interment:

Interment rights holders may first offer the interment rights to the cemetery operator. If the cemetery operator does not wish to re-purchase the interment rights, the interment right may be sold to a third party for no more than the current price listed on the cemetery price list, as long as the sale or transfer is conducted through the cemetery operator and the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws.

at the most
current price
listed on the
cemetery price
list, then

3. RULES AND REGULATIONS

- 1) Those buried within the Cemetery must be or have been local residents.
- 2) Notice of each interment to be made shall be given to the treasurer of the Cemetery at least 48 hours of any interment.
- 3) No trees or shrubs may be cultivated on lots.
- 4) Flowers or other plants may be cultivated on lots, but must meet the Cemetery's general plan.
- 5) No glass containers allowed at any time.
- 6) All borders, fences, railings, walls, cut stone coping or hedges are prohibited.
- 7) Artificial wreaths and flowers are permitted after October 15th but must be removed from the grounds before May 24th in the same fiscal year.
- 8) Flower beds not exceeding 45.72 cm, or 18 inches, are permitted around the base of the monuments.
- 9) Potted plants may be placed on top of the ground, as close to the monument as possible and must be removed from the grounds before October 15th.
- 10) No monument, footstone, marker or memorial of any kind, shall be placed, moved, altered or removed without permission from the cemetery operator.
- 11) Visitors are welcome at the Cemetery from 8:00 a.m. until sundown.
- 12) No all-terrain vehicles, snowmobiles or dirt bikes are allowed in the Cemetery.
- 13) No dogs or other pets allowed.
- 14) Receptacles are provided for the deposit of weeds, decayed flowers and other rubbish from the Cemetery.
- 15) Water is available from the tank by the utility building.
- 16) The Cemetery maintenance crew is authorized to remove any articles which are not in conformity with the foregoing rules, or which are in any way detrimental to the adjoin lots or to the natural appearance of the grounds.

4. CANCELLATION OR RESALE OF INTERMENT RIGHTS

Purchasers of interment acquire only the right to direct the burial of human remains and of cremated human remains, and 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 burial, 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 cemetery operator of their intention prior to seeking a third party buyer for their interment rights.

a) **Cancellation of Interment Rights within 30 Day Cooling-Off Period:**

A purchaser has the right to cancel an interment within thirty (30) days of signing the interment, 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.

b) **Cancellation of Interment after the 30 Day Cooling Off Period:**

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 or re-sell the interment rights.

c) **Resale of Interment after 30 Day Cooling Off Period:**

Unless the interment rights have been exercised the purchaser retains the right to cancel the contract or re-sell the interment. Once payment for the interment has been made in full, and an interment rights certificate has been issued, the interment, as recorded on the cemetery records, has the right to re-sell the interment rights.

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.

d) **Care and Maintenance Fund Contributions:**

As required by Sections 166 and 168 of Regulation 30/11, a percentage of the purchase price of all interment rights, and a prescribed amount of \$25.00 where there was no rights sold, 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 the care and maintenance fund are not refundable except when interment rights are cancelled within the 30 day cooling off period.

5. BURIALS

- 1) Interment rights holder(s) must provide written authorization prior to a burial, or an entombment 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 interment rights holder i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- 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 a burial taking place. A Certificate of Cremation must be submitted to the cemetery office prior to the burial of cremated remains or of cremated remains taking place.
- 3) In accordance with the FBCSA the purchaser of interment rights must enter into a cemetery contract, providing such information as may be required by the cemetery operator for the completion of the contract and the public register prior to each burial of human remains, or of cremated human remains.
- 4) Payment must be made to the cemetery before a burial can take place.

- 5) The cemetery shall be given 48 hours of notice for each burial of human remains or of cremated human remains.
- 6) The opening and closing of graves and niches or of cremated remains may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- 7) Grave side services and interments shall be permitted only on Monday to Saturday between 8:00 a.m. and 4:00 p.m. An additional charge will apply on Saturdays.
- 8) Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the cemetery operator 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) In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder and/or next of kin(s).

Number of casket interments and/or cremated remains interments allowed per grave:

- One (1) casket
OR
 One (1) casket plus an infant
OR
 One (1) casket plus four (4) cremations
OR
 Five (5) cremations

Number of cremated remains interments allowed per cremation plot:

Two (2) urns

Number of cremated remains interments allowed per columbarium niche:

Two (2) urns

6. MEMORIALIZATION

- a) Monuments may only be constructed and placed by a monument company.
- b) No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- c) No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the cemetery operator.
- d) Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
- e) The cemetery operator 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.
- f) The cemetery operator reserves as per cemetery legislation the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments.
- g) All foundations for monuments and markers shall be built by, or contracted to be built for, the cemetery operator at the expense of the interment rights holder.

- h) 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.
- i) The cemetery operator 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 board.
- j) A monument or other structure shall be erected only after the specific design plans have been approved by the cemetery operator including: dimensions, material of structure, construction details, and proposed location.
- k) In keeping with the cemetery by-laws only one monument shall be erected within the designated space on any lot.
- l) The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
- m) All monuments and markers shall be constructed of bronze or natural stone (i.e. granite).
- n) No monument shall be delivered to the cemetery for installation until the monument foundation has been completed, and the interment rights holder(s) and/or marker retailer have been notified by the cemetery operator.
- o) 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.

Single lot maximum: 12 x 24

Double lot maximum: 12 x 42

Cremation lot maximum: 16 x 20

7. CARE AND PLANTING

A portion of the price of interment 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-leveling 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 columbarium
- f) Repairs and general upkeep of cemetery maintenance buildings and equipment
- g) No person other than cemetery staff shall remove any sod or in any other way change the surface of the burial lot in the cemetery.
- h) No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the cemetery.
- i) 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 tidy appearance of the cemetery.

8. PROHIBITED AND PERMITTED

- a) The cemetery reserves the right to regulate the articles placed on lots or plots that 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.
- b) The cemetery reserves the right to disallow or remove quantities of memorial wreaths, flowers or trees considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.
- c) Artificial wreaths and flowers are permitted after October 15th but must be removed from the grounds before May 24th in the same fiscal year.

9. CONTRACTOR/MONUMENT DEALER BYLAWS

- a) Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the cemetery operator before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plans and detailed specifications relating to 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 on the cemetery property.
- b) Prior to the start of any said work, contractors must provide proof of :
 - a. WSIB coverage
 - b. Occupational Health and Safety compliance standards
 - c. Environmental Protection
 - d. WHMISEvidence of liability insurance of not less than \$2,000,000.
- c) All cemetery by-laws apply to all contractors and all work carried out by contractors within the cemetery grounds.
- d) Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the cemetery operator.
- e) Contractors shall temporarily cease all operations if they are working during services of a funeral until the conclusion of the service. The cemetery 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 funeral or public gathering within the cemetery.
- f) Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved in order to protect the surface from damage.

10. COLUMBARIUM

- a) Payment must be made to the cemetery operator before an interment may take place.
- b) Only the cemetery operator may open and seal niches for interments. This applies to the inside sealer and the niche front.
- c) To ensure quality control, desired uniformity and standard of workmanship, the cemetery reserves the right to inscribe all niche fronts or install all lettering, vases, adornments, or any other approved attachment.
- d) No person other than cemetery staff shall remove or alter niche fronts.

11. BRANCH #22 OF THE ROYAL CANADIAN LEGION

- a) Branch #225 of the Royal Canadian Legion (Kakabeka Legion) controls the distribution of plots within a section of the Stanley Hill Cemetery for the interment of Legion members, veterans and spouses.
- b) The Municipality is willing to enter into an agreement with the Kakabeka Legion to provide care and maintenance of this portion of the Stanley Hill Cemetery based on the rules and regulations as set out in By-law 734-2013.

12. THAT By-law No. 1233-93 The Corporation of the Municipality of Paipoonge is hereby repealed.

13. THAT this by-law shall come into force and take effect upon the final reading thereof.

Enacted and passed this 10th day of February, A.D. 2014, as witnessed by the Seal of the Corporation and the hands of its proper Officers.

THE CORPORATION OF THE MUNICIPALITY
OF OLIVER PAIPOONGE


Mayor Lucy Kloosterhuis


Margaret Dupuis, CAO/Clerk

