

**THE CORPORATION OF THE TOWN OF TILLSONBURG**

**BY-LAW NUMBER 3640**

**A BY-LAW** to govern the operation of municipal cemeteries under the jurisdiction of the Town of Tillsonburg 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, c.33

**WHEREAS** The Corporation of the Town of Tillsonburg owns and operates municipal cemeteries known as the Tillsonburg Cemetery, located at 191493 Simcoe Street, CON 12 S PT LOT 1 REG COMP, LOT 39, PLAN 1653, Town of Tillsonburg;

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

**AND WHEREAS** the Council of The Corporation of the Town of Tillsonburg deems it desirable to enact a By-law to regulate the operation of municipal cemeteries;

**AND WHEREAS** the Council of the Corporation of the Town of Tillsonburg deems it expedient and necessary to repeal By-Law 3628 in its entirety;

**AND WHEREAS** public notice of Council's intention to pass this By-law will be provided in accordance with the Act;

**NOW THEREFORE** THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF TILLSONBURG ENACTS AS FOLLOWS:

**A. DEFINITIONS**

**Burial:** The opening and closing of an in ground lot or plot for the disposition of human remains or cremated human remains.

**By-laws:** The rules and regulations under which the Cemetery operates.

**Care and Maintenance Fund:** It is a requirement under the Act 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 or monument care fund as is appropriate. Interest earned from these funds is used to provide care and maintenance of plots, lots, and stability of markers and monuments at the cemetery.

**Cemetery Lead hand:** A person(s) designated by the Corporation of the Town of Tillsonburg to execute all rights and responsibilities under this by-law and under the Act.

**Cemetery Operator:** The Corporation of the Town of Tillsonburg.

**Contract:** For purposes of this by-law, all purchasers of interment rights or cemetery services must sign a contract with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-law.

**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.

**Grave:** (Also known as a Lot) means any in ground burial space intended for the interment of a child, adult or cremated human remains.

**Interment Right:** The right to require or direct the interment of human remains or cremated human remains in a grave or lot and direct the associated memorialization.

**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.

**Interment Rights Holder:** Any person designated to hold the right to inter human remains in a specified lot.

**Lot:** For the purposes of this By-Law a lot is a single grave space measuring 38 inches by 120 inches, 38 inches by 96 inches and 48 inches by 120 inches.

**Marker:** Shall mean any permanent memorial structure that is set flush and level with the ground within the designated memorial space, and used to mark the location of a burial lot.

**Monument:** Any permanent memorial projecting above the ground installed within the designated memorial space to mark the location of a burial or lot.

**Memorial Space:** An area specified on a grave for the installation of a monument or marker.

**Plot:** For the purposes of these by-laws, a plot is a parcel of land, with deeded interment rights and sold as a single unit, containing multiple lots.

## **B. GENERAL INFORMATION**

### **Cemetery Operator Discretion**

The sale of interment rights or the authorization for burial is at the discretion of the Cemetery Operator. Burial authorization is subject to the provision of evidence of interment rights by the interment rights holder, availability of documentation proving unused lot space, and other factors as may require consideration. The sale of interment rights is subject to the cemetery being considered an 'active' cemetery.

### **Hours of Operation:**

Visitation Hours: Daily from dawn until dusk

Office Hours: 8:30am - 4:30pm Monday to Friday with the exception of all public holidays

Burial Hours: There are no Sunday burials. Burials from Monday to Saturday are available after 9am and before 4pm. Note: Additional charges may apply depending on day and time.

### **Fees:**

Fees are published in the Town of Tillsonburg Rates & Fees By-Law. The by-law is revised yearly.

### **General Conduct:**

The Cemetery Operator 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 shall conduct themselves in a quiet manner that shall not disturb any service being held. Children under the age of twelve are welcome on the cemetery grounds when accompanied by an adult. Said adult shall be responsible for their good conduct and shall see that they do not run over the graves or climb upon the monuments.

### **By Law Amendments:**

The cemetery shall be governed by this bylaw, and all procedures shall comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, as may be amended.

All amendments must include proper notice as per Section 151 of Ontario Regulation 30/11. All by-laws and amendments are subject to the approval of the Registrar, Cemeteries Regulation Unit, Ministry of Consumer Services.

### **Liability:**

The Cemetery Operator shall 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 right save and except for direct loss or damage caused by gross negligence of the cemetery operator.

### **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.

### **Parades:**

No parade shall be admitted or organized within the cemetery without approval from the Cemetery Operator.

### **Vehicles:**

Only automobiles, motorcycles, bicycles shall be permitted upon cemetery grounds. Vehicles within the cemetery shall be driven with due decorum and not above the posted rate of speed. Vehicles shall not be driven or parked on the lawns nor may drivers use the avenues for purposes of turning. Motorized vehicles such as mini bikes, snowmobiles, recreational vehicles, including skateboards and roller blades are prohibited within the cemetery. Proprietors of vehicles and their drivers shall be held responsible for any damage done by said vehicles.

### **Eternal Flames:**

No natural or propane gas light will be allowed on the individual lots or graves.

**Burial of Pets or Other Animals:**

Pets or other lower animals, including cremated animal remains, are prohibited from burial or scattering on cemetery grounds.

**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.

**Notice of Resale and Transfer of Interment Rights:**

The Cemetery Operator permits the interment rights holder to sell or transfer their interment rights to a third party, at no more than the current price listed on the cemetery price list, provided 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 and provides for the administrative charge outlined in the cemetery price list to transfer the interment rights certificate.

**C. CANCELLATION OR RESALE 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-laws.

In accordance with cemetery by-laws, 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 shall 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 shall advise the Cemetery Operator of their intention prior to seeking a third party buyer for their interment rights.

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

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 Cemetery Operator. The Cemetery Operator shall refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

**Cancellation of Interment Rights after the 30 Day Cooling-Off Period:**

Upon receiving written notice from the purchaser of the interment rights, the Cemetery Operator shall 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 right has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment rights.

**Resale of Interment Rights 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 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 right shall be in accordance with the requirements of the cemetery by-laws and in keeping with the Act.

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.

**Care and Maintenance Fund and Monument Care 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 for monuments and markers is contributed into the care and maintenance fund or the monument care fund as is appropriate. Income from these funds are used to provide only general care and maintenance of the cemetery and maintain safety of monuments. Contributions to the care and maintenance fund or monument care fund are not refundable except when interment rights are cancelled within the 30 day cooling off period.

**Permit or prohibit resale of interment rights to a third party:**

Note: All resales of interment rights must be carried out through the Cemetery Operator.

### **Requirements for the resale of interment rights:**

The interment rights holder(s) intending to sell their rights shall provide the following documents to the Cemetery Operator in order that the operator can confirm the ownership of the rights and provide the third party purchaser with the required certificate:

1. an interment rights certificate endorsed by the current rights holder
2. if the resale involves interment rights, a written statement of the number of lots that have been used in the plot and the number of lots that remain available
3. any other documentation in the interment rights holder(s) possession relating to the rights

The third party purchaser shall be provided with the following documents by the Cemetery Operator:

1. an interment rights certificate endorsed by the current rights holder
2. a copy of the cemetery's current by-laws
3. a copy of the cemetery's current price list
4. a written statement of the number of lots that have been used in the plot and the number of lots that remain available
5. any other documentation in the interment rights holder(s) possession relating to the rights

The Cemetery Operator shall:

1. 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;
2. 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;
3. record the date of transfer of the interment rights to the third party;
4. record the name and address of the third party purchaser(s);
5. require a statement of any money owing to the Cemetery Operator in respect to the Interment Rights;

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

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 the cemetery by-laws and the Act.

The Cemetery Operator may charge an administration fee for the issuance of a duplicate certificate in accordance with the price listed on the Cemetery Operator's current price list.

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

### **D. BURIAL**

Interment rights holder(s) must provide written authorization prior to any burial or cremation 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.

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 taking place.

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 Cemetery Operator for the completion of the contract and the public register prior to each burial of human remains.

Payment must be made to the cemetery before a burial can place.

The cemetery shall be given 8 business hours of notice for each burial of human remains.

The opening and closing of graves shall only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.

Cremated remains are not permitted to be scattered on a grave.

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 prior to the removal of casketed human remains. A certificate from the local medical officer of health is not required for the removal of cremated remains.

Note: 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).

The Cemetery will permit multiple interments under the following limitations:

Only one full burial per standard adult grave

Two cremains in a cremation plot;

Up to four cremains in a standard adult grave;

Up to three cremains in a standard adult grave where there has already been a full body burial;

Two cremains in a columbarium niche.

When cremains are to be interred in a grave in which there is to be a full adult burial at a later date, cremains must be in an urn that will not decompose over time or an urn vault.

The body of a deceased person must be buried/entombed in the receptacle that was used for transportation to the Cemetery such as a casket, container or receptacle. It shall be the responsibility of the funeral director/vault company to lower the remains into the grave. The Cemetery assumes no responsibility in the actual interment.

Double depth interments will not be carried out due to the sandy soil conditions which present a safety hazard. In the case of pre-need arrangements already made, approval by the Director of Parks & Recreation Services is required before a double depth interment can take place.

Interments on Statutory Holidays and interments after business hours are subject to an extra surcharge as set out in the Town Rates & Fees By-Law.

#### **E. MEMORIALIZATION**

No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.

No monument, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Cemetery Operator.

Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.

The Cemetery Operator shall take reasonable precautions to protect the property of interment rights holders, but assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.

The Cemetery Operator shall not be held responsible for any damage sustained to the flower vases, wreath stands, low shrubs, or any submerged articles by employees of the Cemetery, where such damage may occur during the process of removing snow, ice, or frozen ground for the purposed of preparing a grave and the general maintenance of the Cemetery.

The Cemetery Operator reserves the right to determine 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.

All foundations for monuments and markers shall be built by the Tillsonburg Cemetery at the expense of the interment rights holder according to the specifications as set out by the Cemetery Operator and under the supervision of the Cemetery Operator. All full depth foundations shall be constructed of solid concrete to a minimum depth of 5'-0" below the natural ground surface. All marker(s) will be installed by the Cemetery Operator in the appropriate location on the lot.

All conventional monuments, except natural field stone, require a minimum six (6) inch base. The base/length of the monument shall not exceed two-thirds (2/3) the width of the plot on which the monument is erected, except in the case of a single lot where no upright monument will be allowed that exceeds two (2) foot, six (6) inches in overall width or thirty two (32) inches in overall height

All diestones with columns, limbs of crosses, etc. Shall be adequately dowelled to their bases, unless the underside of each superstructure is of sufficient area in relation to its height to ensure stability.

If incorrect dimensions have been given on the application form, the foundations will be removed and rebuilt by the Cemetery at the owner's expense.

Foundations will not be installed during times of frost.

Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Operator shall do whatever is deemed necessary by way of stabilizing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.

No monument, vault, or any other structure shall be erected or placed on any plot unless its design, size, lettering and specifications have been submitted to the Superintendent's office, and meet specifications set out within this by-law. No monument shall exceed sixteen (16) inches in thickness or two-thirds (2/3) of the lot.

No upright monument will be allowed that exceeds two (2) foot, six (6) inches in base width or die height.

Only monuments will be permitted in the monument line and all bases must be at least six (6) inches in height.

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 Cemetery Operator.

A monument 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.

In keeping with the cemetery by-laws only one monument shall be erected within the designated space on any lot.

One additional marker with a flat and low surface set flush with the ground may be placed at each grave in addition to any monument. Grave markers must be placed at the opposite end of the lot from the monument and are subject to the following restrictions:  
Only flat markers will be permitted for cremation and baby plots and must not exceed a size of twenty (20) by twelve (12) inches and set with a four (4) inch border of concrete, or three (3) inch granite margin and set flush with the ground.

Each marker section shall not exceed: 14 inches by 24 inches for single grave 14 inches by 36 inches two graves; and 14 inches by 48 inches for three graves, and must be set with a four (4) inch border of concrete flush with the ground or a three (3) inch granite margin.

Marker shall be no less than three (3) inches or more than five (5) inches in thickness.

All corner posts shall have sawn sides and be a minimum of six (6) inches and are not to exceed twelve (12) inches square and are to be installed flush with the ground.

Open urns intended as receptacles for flowers and forming an integral part of a monument are permitted, subject to prior approval of the Superintendent. The Cemetery assumes no responsibility for damage, theft or loss.

When any monument or marker is to be removed for cleaning, inscription work, renovation, etc., application for permission for such removal shall be made beforehand in writing to the Operator and signed by the lot/monument owners and shall be removed and replaced during the regular hours of operation of the Cemetery and under Cemetery supervision.

The Cemetery designates the following areas where restrictions on monuments shall apply:  
Divisions 2B, 2C and New Legion Section – Flat markers only  
Divisions 2A, 4 and 5 – Upright monuments only permitted in monument line.

All monuments and markers shall be constructed of granite and/or bronze. Marble, ceramic or wood memorials are not permitted.

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 has notified the Cemetery Operator.

## F. ITEMS THAT ARE PROHIBITED AND PERMITTED

The Cemetery Operator 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 Operator from performing general cemetery operations, or are not in keeping with the respect and dignity of the cemetery. Prohibited articles shall be removed and disposed of without notification, including all glassware or crockery.

The cemetery reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.

The scattering of cremated remains is not permitted on a grave or within the cemetery.

There shall be no discharge of firearms except at a military funeral.

No dogs or other pets shall be permitted in the cemetery.

Picnics shall not be permitted within the cemetery.

## G. MONUMENT CONTRACTORS

Every contractor employed to erect markers or do any work in the cemetery shall first present an application to the Cemetery Operator signed by the interment rights holder or his representative requesting permission to employ such contractor to do the work specified.

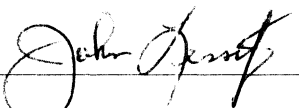
The demeanor and behavior of all contractors employed by others in the cemetery shall be subject to the control of the Cemetery Operator. Contractors shall lay planks on the lots and paths over which heavy materials are to be moved in order to prevent damage to the grounds. Contractors shall cease work in the immediate vicinity of a funeral until the conclusion of the service. All work must be done during regular cemetery hours. No work shall be started on Saturday that cannot be completed and litter and debris removed by noon Saturday. The employee of any contractor who damages any plot, monument, marker or other structure or otherwise does any damage in the cemetery shall be held liable for such damage.

## H. ADMINISTRATION


1. This By-law may be cited as the "Cemeteries By-law".
2. That By-Law 3628 shall be repealed in its entirety.
3. This By-law shall come into force and effect upon the requisite notice provisions for this by-law being carried out in compliance with section 151 of the *Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33*.

READ A FIRST AND SECOND TIME THIS 13<sup>TH</sup> DAY OF August, 2012.

READ A THIRD AND FINAL TIME AND PASSED THIS 13<sup>TH</sup> DAY OF August, 2012.



Mayor – John Lessif



Clerk – Donna Wilson