

THE CORPORATION OF THE TOWNSHIP OF PERRY

BY-LAW No. 2013-09

Being a By-law to Establish Maintenance, Management,
Regulation and Control of Township Operated Cemeteries

WHEREAS the Corporation of the Township of Perry acts as the licensed operator of the St. Andrews United Church Cemetery located at 33 Long Lake Road, Novar, Ontario upon those lands more particularly described as Concession 1, Part Lot 16, within the Township of Perry;

AND WHEREAS the Corporation of the Township of Perry may be required to act as the licensed operator of other acquired cemeteries some point in the future;

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

AND WHEREAS no such by-law comes into force or takes effect until it is filed with, and approved by the Registrar under Section 151 of *Ontario Regulation 30/11* made under the *Funeral, Burial and Cremation Services Act*, 2002, S.O. 2002, c.33, as amended;

AND WHEREAS Section 10 (1) of the *Municipal Act*, S.O. 2001, Chapter 25, as amended, authorizes single-tier municipalities to provide any service or thing that the municipality considers necessary or desirable for the public;

NOW THEREFORE BE IT RESOLVED THAT the Council of the Corporation of the Township of Perry enacts as follows:

1. DEFINITIONS

In this by-law:

- 1.1 **Act** means the *Funeral, Burial and Cremation Services Act*, 2002, S.O. 2002, c.33, as amended, and regulations made thereunder.
- 1.2 **Cemetery** means the cemetery formally known as St. Andrews United Church Cemetery, or any other cemetery in which the Township becomes the licensed operator.
- 1.3 **Cemetery Operator** means the Corporation of the Township of Perry.
- 1.4 **Cemetery Service** means:
 - 1.4.1 Opening and closing of graves;
 - 1.4.2 Interring or disinterring human remains;
 - 1.4.3 Setting of corner posts and flat markers;
 - 1.4.4 Providing interment services including the provision, setting up and removal of artificial grass or ground cover, lowering devices, or other interment accessories at a grave site;
 - 1.4.5 Installing markers, monument foundations and monuments.
- 1.5 **Council** means the Council of the Corporation of the Township of Perry.
- 1.6 **Interment** means the burial of human remains and includes the placing of human remains in a lot.
- 1.7 **Interment Rights** includes the right to require or direct the interment of human remains in a lot.

- 1.8 **Interment Rights Holder** means the person who holds the interment rights with respect to a lot whether the person be the purchaser of the rights, the person named in the certificate of interment or such other person to whom the interment rights have been assigned.
- 1.9 **Marker** means any tombstone, plaque, headstone, cornerstone or other structure or ornament on a lot which is installed or intended to be installed flush with the surface of the ground.
- 1.10 **Monument** means any permanent memorial on a lot which projects above the surface of the ground.
- 1.11 **Personal Representative** shall mean an executor, administrator or administrator with will annexed, of the estate of a deceased individual or the attorney by power of attorney of a living individual.
- 1.12 **Plot** means each individual parcel for which an Interment Rights Certificate has been issued or an area of land in the cemetery containing, or set aside to contain human remains.
- 1.13 **Township** means The Corporation of the Township of Perry.

2. ADMINISTRATION – MANAGEMENT OF CEMETERY

- 2.1 The business and affairs of the cemeteries in the Township of Perry shall be managed and supervised by the Clerk of the Township of Perry. It is his/her responsibility to:
 - 2.1.1 Observe and carry out all of the provisions of this By-Law, the Act and its Regulations, as may from time to time be amended.
 - 2.1.2 Make, open and close all graves in the cemetery which may be required to be opened or closed and allow no other person to do so, except upon the express direction of Council.
 - 2.1.3 Ensure that appropriate staff are appointed to attend to the regular and proper maintenance of the cemetery.
 - 2.1.4 Perform such other duties as Council may from time to time require.
- 2.2 The Clerk may delegate any cemetery responsibilities or duties to other municipal staff.
- 2.3 The Clerk shall maintain and make available for public inspection, during regular office hours and without charge, the following information to the best of his/her ability:
 - 2.3.1 The plan of the cemetery.
 - 2.3.2 The name and address of each interment rights holder and location of the lot to which the rights pertain.
 - 2.3.3 The name and address of each original purchaser of interment rights that have been transferred to another person and the date on which the rights were transferred.
 - 2.3.4 The name of each person whose remains are interred in the cemetery, the location of the lot in which the remains are interred and the date on which the remains were interred.

2.3.5 Any other information required by the Act and regulations made thereunder.

2.5 This by-law shall be known and may be cited as the "Cemetery By-law" of the Corporation of the Township of Perry.

3. RULES AND REGULATIONS

The following rules and regulations are hereby adopted for the care and control of the cemetery:

- 3.1 No person shall enter the cemetery, save through an established entrance.
- 3.2 Public visitation times are during daylight hours seven (7) days per week, year round. Winter maintenance is not performed within the cemetery, entry is at the visitors own risk.
- 3.3 No motorized snow vehicles or off-road vehicles are permitted within the cemetery grounds
- 3.4 No person shall bring any alcoholic beverage upon the cemetery grounds.
- 3.5 No person shall deposit rubbish or debris on the cemetery grounds, except in receptacles provided for that purpose.
- 3.6 No person shall engage in soliciting of any kind in the cemetery.
- 3.7 No person shall engage in any activity which may damage the monuments or cemetery grounds (i.e. baseball, hockey, horseplay etc.).
- 3.8 No person shall destroy, mutilate, deface, damage, injure or remove any monument, marker, road, walk, fence, railing or other structure or works placed in a cemetery.
- 3.9 No person shall willfully disturb persons assembled for the purpose of an interment of a body in a cemetery.
- 3.10 No person shall willfully disturb the quiet and good order of a cemetery by noise or other improper conduct.
- 3.11 Any person who violates this by-law or any provision thereof may be expelled from the grounds of the cemetery by the Clerk and/or other person acting under the authority of either the Clerk or the Council of the Township of Perry.

4. NOTICE OF RESALE AND TRANSFER OF INTERMENT RIGHTS

- 4.1 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 at the current price less the original Care & Maintenance amount paid at the time of purchase, then the interment right may be sold on the to a third party for no more than the current price as decided by Council resolution, 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.

5. INTERMENTS

- 5.1 A person wishing an interment shall give notice to the Clerk at least forty-eight (48) hours in advance of the proposed time of interment. For the purpose of this section, Saturdays, Sundays and statutory holidays may not be considered in determining working hours.
- 5.2 No interment shall take place without a Burial Permit issued by the Division Registrar under the *Vital Statistics Act*, R.S.O. 1990, c. V.4 for full interments or an original *Certificate of Cremation* signed by the Superintendent, or designate of the crematorium for cremation interments.
- 5.3 Pets or other animals, including cremated animal remains, are not allowed to be buried on cemetery grounds.

6. LOT DECORATIONS

- 6.1 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, municipal employees, contractors and volunteers, 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.
- 6.2 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.
- 6.3 Flowers placed on a grave for a funeral shall be removed by municipal staff after a reasonable time to protect the sod and maintain the tidy appearance of the cemetery.
- 6.4 Planting of trees is not permitted.
- 6.5 The Township shall not be responsible for any damages to lots and structures, or objects thereon, other than for damage caused by Township staff. The Township shall not be responsible for flowers or articles removed from any lot or grave.
- 6.6 The Township may remove flowers, shrubs, or any plant material that interferes with the opening and closing of a lot for an interment.

7. MARKERS AND MONUMENTS

- 7.1 Except under authority of this by-law, no person shall cause a monument or marker to be erected on, installed on, or removed from a lot unless the written consent of the interment rights holder or legal representative, and the permission of the Clerk or his/her designate have first been given.
- 7.2 Only established monument/marker companies may supply and install monuments or markers; individual or homemade markers/monuments may be permitted at the discretion of the Clerk.
- 7.3 The Clerk shall not grant permission for the installation or erection of a monument or marker on a lot unless all amounts owing to the Township for interment rights, cemetery services and cemetery supplies with respect to that lot, and the amounts required to be paid to the Township under Section 166 of *Ontario Regulation 30/11* made under the *Funeral, Burial and Cremation Services Act*, 2002, S.O. 2002, c.33, as amended, have been paid.

- 7.4 Every person installing a marker or monument shall pay to the Township the amounts as prescribed under Section 166 of *Ontario Regulation 30/11* made under the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c.33, as amended, and such amounts shall be credited to the Care and Maintenance Fund established in this by-law.
- 7.5 No person shall cause a monument or marker to be erected or installed on a lot except in accordance with the following restrictions:
- 7.5.1 Both monuments and flat markers are permitted on all lots and plots, subject to further restrictions in this by-law.
- 7.5.2 No more than one monument may be erected or placed on any one lot.
- 7.5.3 No more than one flat marker may be placed per interment on any one plot.
- 7.5.4 A concrete base shall be designed to have sufficient structural capacity and structural integrity to safely and effectively support the monument placed on it.
- 7.5.5 No inscription shall be made on any monument or marker which, in the opinion of Council, is not in keeping with the dignity and decorum of the cemetery.
- 7.5.6 Any person engaged in placing or removing a monument/marker shall provide planking adequate to protect the cemetery turf and shall remove materials and equipment immediately upon completion of the work so that the site is left in a clean, orderly condition.
- 7.6 No person shall cause a monument to be erected or installed on a lot or plot except in accordance with the following restrictions:
- 7.6.1 The base of each monument must be level and uniform in thickness so as to allow full bearing upon the foundation. Building up or under pinning with spalls or chips is not permitted.
- 7.6.2 A base or monument shall not extend beyond the limits of the lot or plot on which it is erected.
- 7.7 Repair of Markers and Monuments:
- 7.7.1 If a cemetery monument/marker presents a risk to public safety because it is unstable, the cemetery operator shall do whatever is necessary to remove the risk, including repairing, resetting or laying down the marker.

8. CARE AND MAINTENANCE FUND

- 8.1 As required by sections 166 and 168 of Regulation 30/11, a percentage of the purchase price of all interment rights, scattering rights and a prescribed amount of \$25.00 where there was no scattering 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 or scattering rights are cancelled within a 30 day cooling off period.

9. REGULATIONS FOR CONTRACTORS AND WORKERS

- 9.1 All contractors and workers in any capacity within the cemetery including masons, carters, stonecutters, erectors or helpers are subject to the direction and control of the Clerk or his/her designate and are further governed by the *Occupational Health and Safety Act* and Regulations with respect to proper safety wear.
- 9.2 Contractors shall lay planks on the in ground lots and paths over which transport is required and at the request of the Clerk or his/her designate shall utilize a cart or dolly to prevent damage. Damage determined to be caused by contractors shall be rectified by the Township at the expense of the contractor.
- 9.3 All persons performing work in the cemetery shall conduct themselves in a manner in keeping with the dignity of the cemetery and shall respect any restrictions or regulations which may be required by the Township in the performance of their work.

10. COMPLAINTS

- 10.1 Any person having occasion to make any complaint shall make it to the Clerk or his/her designated alternate at the Township Office, and not to an employee on the cemetery grounds.
- 10.2 Any decision of the Clerk or his/her designate made pursuant to this by-law may be appealed to the Council.

11. PUBLIC REGISTER

- 11.1 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.

12. PENALTIES

- 12.1 Every person who contravenes any of the provisions of this By-law is guilty of an offence, and upon conviction is liable to a fine of not more than Five Thousand Dollars (\$5,000.00) as provided for in the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

13. AMENDMENTS

- 13.1 The cemetery shall be governed by Township By-Laws, and all procedures will comply with the *Funeral Burial & Cremation Services Act, 2002* and Ontario Regulation 30/11, which may be amended periodically.
- 13.2 All by-law amendments must be:
 - 13.2.1 Published once in a newspaper with general circulation in the locality in which the cemetery is located;
 - 13.2.2 Conspicuously posted on a sign at the entrance of the cemetery; and
 - 13.2.3 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.

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

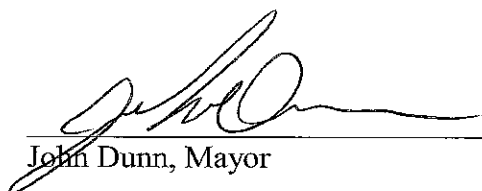
14. LIABILITY

14.1 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 damaged caused by gross negligence of the cemetery.

15. EFFECTIVE DATE

15.1 This By-law shall come into force and take effect on April 3rd, 2013 or the date approval is received from the Registrar.

READ a first and second time this 5th day of June, 2013.

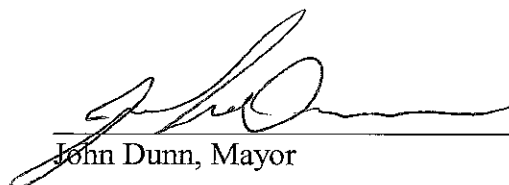


John Dunn, Mayor




Beth Morton, Clerk-Administrator

READ a third and final time and enacted in Open Council this 5th day of June, 2013.



John Dunn, Mayor



Beth Morton, Clerk-Administrator

Approval of the Registrar, *Funeral, Burial, and Cremations Services Act, 2002*.
As per the Cemeteries Regulation Unit:

	Ministry of Government Services Cemeteries Regulation	Ministère des Services gouvernementaux Règlementation des cimetières
APPROVED In accordance with the regulations under The Cemeteries Act.		APPROUVE conformément aux règlements afférents à la Loi sur les cimetières
Date of Approval/ Date de l'approbation		<u>15 May 2013</u>
File No. of Cemetery/ Numéro de fiche du cimetière		<u>03142</u>
		

Date: