

THE CORPORATION OF THE TOWNSHIP OF MCMURRICH/MONTEITH

BY-LAW # 13-2017

BEING A BY-LAW TO GOVERN THE OPERATION OF THE CEMETERIES

WHEREAS Section 150 of the Funeral, Burial and Cremation Services Act, 2002 provides that a cemetery operator may pass by-laws governing the operation of cemeteries;

AND WHEREAS it is desirable and expedient to provide for the rules and regulations that govern the St. Paul's Anglican Church, (part Lot 12, Concession 11; as well as our inactive cemeteries: Presbyterian Cemetery (Part Lot 14, Concession 11; Rome or Townline Cemetery (Part Lot 25, Concession 1), Haldane Hill Cemetery (Part Lot 16, Concession 5) and Bear Lake Cemetery (Con 10, Lot 6).

AND WHEREAS this By-law has been approved by the Registrar of Cemeteries; *Funeral, Burial and Cremation Services Act, 2002*; Cemeteries Regulations Unit, Ministry of Consumer Services.

This By-Law repeals By-Laws #17-2007, 11-2005, 04-2013, 22-2013m 02-2014 as well as Schedule "F" of the Fees and Charges Bylaw 14-2015.

NOW THEREFORE the Council of the Corporation of the Township of McMurrich/Monteith Enacts as follows:

1. Definitions:

Burial: The opening and closing of an in ground lot 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 *Funeral, Burial and Cremation Services Act, 2002 (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 lots, markers and monuments at the Cemetery.

Cemetery: Shall mean St. Paul's Anglican Church, (part Lot 12, Concession 11; as well as our inactive cemeteries: Presbyterian Cemetery (Part Lot 14, Concession 11; Rome or Townline Cemetery (Part Lot 25, Concession 1), Haldane Hill Cemetery (Part Lot 16, Concession 5) and Bear Lake Cemetery (Con 10, Lot 6), which are owned by the Township of McMurrich/Monteith.

Columbarium: Shall mean a vault with Niches for urns containing the ashes of the dead.

Contract: For purposes of these by-laws, all purchasers of interment rights must sign a contract with the municipality, detailing obligations of both parties and acceptance of the cemetery by-laws.

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.

Corporation: Shall mean the Corporation of the Township of McMurrich/Monteith.

Grave: (Also known as lot) means any in-ground burial space intended for the interment of a child, adult or cremated human remains, and having a size of 3 feet by 10 feet.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave 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: (Also known as a Grave) for the purposes of these By-Laws is a single grave space measuring 3 feet by 10 feet.

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

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

Niches: Shall mean the individual doors in a columbarium that lock and are able to house one to two urns.

Plot: For the purpose of this by-law, a plot is a parcel of land, sold as a single unit, containing multiple lots.

Price List: Shall mean the list of fees and charges as set out by the Corporation of the Township of McMurrich/Monteith.

Rights of Interment: Shall be defined as the placement of one full size formal casket, with or without interment vault; or the placement of up to four (4) cremated remains in one regular lot, or a 24" x 12" infant container may be buried at the head of a single grave in which a casket containing human remains has been buried, provided space is available.

Township of McMurrich/Monteith Cemetery Committee:

Council of the Township of McMurrich/Monteith shall appoint 3-5 members plus one member of Council to hold office for a period of time to coincide with the term of municipal council.

2. Administration:

Hours of Operation:

Visitation Hours: Cemetery sites open 8:00 a.m. to sundown.

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

Municipal Office Office is closed statutory holidays and weekends.

Burial Hours: By Appointment as required.

There shall be no burials on Sundays or Statutory Holidays, unless there are special circumstances needing this.

3. General Conduct:

- a. The Township of McMurrich/Monteith reserves full control over the cemetery operations and management of land within the cemetery grounds.
- b. The Clerk/Treasurer and/or designate shall have custody of the Cemetery under the direction of the Corporation.
- c. No interment or removal of bodies shall take place without notice to the Clerk/Treasurer and/or designate, and he/she shall see that a proper Burial Permit or other certificate required by law is furnished to him/her in each instance.
- d. No person shall cause damage, destroy, remove or deface any property within the Cemetery.
- e. All visitors and contractors should conduct themselves in a quiet manner that shall not disturb any service being held.
- f. No person shall allow or permit a pet on Cemetery Grounds.
- g. No person shall allow or operate any snowmobile or ATV on Cemetery Grounds.

By-Law Amendments:

The cemeteries shall be governed by this by-law, and all procedures will comply with the Funeral Burial and 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 posed 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, and Ministry of Consumer Services.

Liability:

- h. 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, 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.

Public Register:

- i. 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.
- j. **Pets or Other Animals: No person shall permit or allow pets or other animals, including cremated animal remains, to be buried on cemetery grounds.**

Right to Re-Survey:

- k. The Township 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 part of the cemetery, subject to approval of the appropriate authorities.

4. Notice of Resale and Transfer of Interment Rights

- a. 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, 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. Cancellation or Resale of Interment Rights:

- a. Purchasers of interment rights holders acquire only the right to direct the burial of human remains, the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws. In accordance with cemetery by-law, no burial, 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.

6. Cancellation of Interment Rights with 30 Day Cooling-Off Period:

- a. 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 will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

7. Transfer of Interment Rights

- a. To ensure the correctness of records of ownership and interments, no transfer of interment rights or any interest therein shall be binding upon the Corporation until notice is given in writing to the Corporation specifying the name and address of the proposed transferee and date of transfer, and such particulars have been entered in a register for that purpose. Upon receipt of such notice, and payment of a fee, the transfer shall be made.

8. Care and Maintenance Fund Contributions

- a. 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. 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.

9. Burial

- a. Interment rights holder(s) must provide written authorization prior to a burial 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 ie: Personal Representative, Estate Trustee, Executor or next of kin.
- b. 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 operator or Caretaker, prior to a burial taking place. A Certificate of Cremation must be submitted to the cemetery operator or Caretaker prior to the burial of cremated remains taking place.
- c. 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.
- d. Payment must be made to the cemetery operator before a burial can take place.
- e. The cemetery operator or Caretaker shall be given 24 hours advance notice, 8 hours of which must be regular business hours, for each burial of human remains.
- f. No winter burials shall take place between November 15th and April 1st, unless weather permits an extension.
- g. No more than one burial shall be made in any single grave except:
 - That of one casket and up to three (3) cremated remains.
 - That of the cremated remains of four (4) persons.
 - A 24" x 12" infant container may be buried at the foot end of a single grave in which a casket containing human remains has been buried, provided space is available.
- h. Remains to be buried in a grave must be enclosed in a casket or container, sealed securely, and of sufficient strength to permit burial with the container remaining intact. The container must be of a size to permit burial within the size of the lot.
- i. The opening and closing of graves may only be conducted by the cemetery staff or those designated to do work on behalf of the cemetery.
- j. The Caretaker of the Cemetery, their assistant or someone in the employ of the Corporation shall be in attendance at each interment.
- k. No person shall scatter or permit to be scattered cremated remains on a grave or within the cemetery grounds.**
- l. 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 owner and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be provided to the Corporation before the

removal of the human remains may take place. A certificate from the local medical officer of health is not required for the removal of cremated remains.

- m. 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).

10. Memorialization:

- a. **No person shall erect or permit the erection of a memorial or other structure on a lot until all charges have been paid in full.**
- b. **No person shall place, move, alter, remove or permit a monument, marker or memorial of any description without permission from the cemetery operator.**
- c. No monument or other structure shall be erected or permitted on a lot, until the accrued charges have been paid in full for the Care and Maintenance Fund, in accordance with the FBCSA:
- 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 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.
- 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 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 Cemetery 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-law, only one monument shall be erected within the designated space on any lot.
- l. 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.

11. Columbarium

- a. No more than two (2) urns will be placed in any niche. The maximum size for any urn is 5 ½"W x 10"D x 10"H. A memorial wreath plaque must be purchased when purchasing a niche.

12. Care and Planting

- a. A portion of the price of interment rights 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:
 - Re-leveling and sodding or seeding of lots
 - Maintenance of perimeter walls and fences
 - Maintenance of cemetery landscaping
 - Repairs and general upkeep of cemetery maintenance buildings and equipment
- b. 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.
- c. No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the Corporation/Cemetery Board.
- d. If any trees or shrubs situated in any lot shall have become by means of their roots or branches or in any other way, detrimental to the adjacent lots, drains, roads or walks, or prejudicial to the general appearance of the grounds or inconvenient to the public, the Corporation/Cemetery Board may remove such trees, shrubs or parts thereof.
- e. 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.
- f. Implements or materials used in doing any work within the cemetery shall be removed without delay and if this is not done, the Caretaker shall remove the same.

13. Items that are 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. No person shall bring any glass containers of any kind in the cemetery at any time.
- c. The cemetery operator reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and diminish the otherwise tidy appearance of the cemetery.

- d. No person shall place memorial wreaths in the cemetery except between the months of April to November. In order to prepare the grounds for spring, wreaths shall be removed prior to November 30th. Wreaths not removed by November 30th will be removed and disposed by the Cemetery Caretaker without notification.

14. Contractor/Monument Dealer Rules

- 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, 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 Township of McMurrich/Monteith 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: WSIB coverage, Occupational Health and Safety compliance standards, and evidence 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 must state on each order the date they wish foundations to be ready and must give at least fifteen working days' notice before the work is required.
- e. No monument or marker will be delivered to the cemetery until the foundation is completed and the contractor is ready to proceed with the work of erection.
- f. 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.
- g. No work will be performed at the cemetery except during the regular business hours of the cemetery.
- h. No person shall remove any monument or marker without written permission from the Caretaker/Corporation.

15. Visitors

- a. Visitors are always welcome at the cemetery, during the open hours from 8:00 a.m. until sundown. **No person (other than employees etc) shall remain after sundown.** They are asked to remember the respect due to the dead.
- b. The Caretaker and assistants are empowered and are required to preserve order and decorum in the cemetery.

- c. **No person shall discharge or allow the discharge of firearms, other than in regular volleys at burial services and around the cemetery.**
- d. Any person who, in the cemetery, damages or moves any tree, plant, marker, fence, structure or other things usually erected, planted or placed in a cemetery is liable to the Corporation and any interment rights holder who, as a result, incurs damage. The amount of damages shall be the amount required to restore the cemetery to the state that it was in before anything was damaged or moved by the person liable.
- e. Any complaints by interment rights holders or visitors should be made to the Corporation and not to the workers on the grounds and controversies with workers or others on the grounds are to be avoided.
- f. **No person shall throw rubbish on walks or on any part of the grounds and any rubbish shall be removed by the owner.**
- g. Any article which is detrimental to efficient maintenance or constitutes a hazard to machinery, employees or visitors, or is unsightly or does not conform to the natural beauty or design of the cemetery, may be removed by the Corporation/Cemetery Board/Caretaker. An article will be held at the cemetery for collection. If not collected, it will be disposed of after one month.

16. Penalties:

- a. Every person who contravenes any provision of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for by the *Provincial Offences Act*, R.S.O. 1990, chapter P.33, as amended.

17. Schedules

The following Schedule is attached to and forms part of this By-law:

Schedule "C" – Price List

18. Effective date

No part of this by-law shall come into force and take effect until it is filed and approved by the Registrar of the Cemeteries Regulation Unit, Ministry of Consumer Services, pursuant to the Funeral, Burial and Cremation Services Act.

By-law read a first and second time on the 5 day of June, 2017.

By-Law read a third and finally passed and enacted this 4 day of July, 2017.

Joanne Griffiths
Reeve

Cheryl Marshall
Clerk-Treasurer

Schedule "C"

To By-law 13-2017

Tariff of Rates

for all Cemeteries under the ownership of the
Township of McMurrich/Monteith

PLOTS

Adult Plot 3' x 10"	Care & Maintenance 40%	General Fund	Cost	Corner Posts	H.S.T. 13%	Total
Single Casket	\$240.00	\$360.00	\$600.00	*\$250.00 (4)	\$110.50	\$960.50
Child 3' x 5'	\$160.00	\$240.00	\$400.00	*\$250.00	\$ 84.50	\$734.50
**Cremated remains with casket Max: 3	\$120.00	\$180.00	\$300.00 for each urn	Marker must be purchased	\$39.00	\$339.00

*Fee for cornerstones includes installation

** Up to 3 cremated remains can be placed in with a casket.

Cremation 1 x 1 x 3 (min) 1 1.2 x 1 ½ x 3 (max urn size)	Care & Maintenance	General Fund	Cost	Corner Posts	H.S.T. 13%	Total
Single 2' x 4'	\$160.00	\$240.00	\$400.00	\$125.00 (2)	\$68.25	\$593.75

OPENING AND CLOSING (Collected by Funeral Home)

Opening & Closing	Cost	H.S.T. 13%	Total
Adult Grave	\$375.00		\$375.00
Cremation & Child	\$100.00		\$100.00

MARKER INSTALLATION

Marker	Care & Maintenance	H.S.T. 13%	Total
Flat Marker 173 square Inches or more	\$50.00	\$6.50	\$56.50
Pillow or Slant Slope Monument	\$100.00	\$13.00	\$113.00
Upright marker up to 4 Feet in height or width	\$100.00	\$13.00	\$113.00
Upright marker over 4 Feet in height or width	\$200.00	\$26.00	\$226.00

TRANSFER FEES

	Cost	H.S.T. 13%	Total
Transfer Fee (per plot)	\$40.00	\$5.20	\$45.20

COLUMBARIUM

*Niche	Care & Maintenance	General Fund	Wreath Plaque	Cost	H.S.T. 13%	Total
*Single	\$250.00	\$367.00	\$250.00	\$767.00	\$112.71	\$979.71

*Maximum Urn Size: 5 ½"W x 10"D x 10"H

*First Opening & Closing Cost of \$250.00 included in cost of purchasing Niche

** Second Cost of Opening & Closing Niche = \$250.00 + hst = \$282.50

*Fees changed on July 5, 2017 to reflect Fees & Charges Bylaw #24-2017.

Schedule "D"

To By-law 13 -2017

Exception List

There are to be no burials (including cremated remains), in the old section of the Bear Lake Cemetery with the exception of 2 that have already had headstones purchased.

1. Mr. Robert (Kirk) Weber deceased, Mrs. Weber reserved
2. Sanborn, Claire cremated, Rita Sanborn reserved

Resolution: 2015-359:

Be it resolved that Council permits, as a one-time only occurrence and due to the previously purchased and install headstones, two families, (named above), (husband and wife only), to have their cremated remains be interred in the "old" section of the Bear Lake Cemetery and further that this section is to remain inactive and not be available for future burials.

PART 1 – PROVINCIAL OFFENCES ACT
TOWNSHIP OF MCMURRICH/MONTEITH
BY-LAW – 13- 2017
CEMETERY BY-LAW

ITEM	SHORT FORM WORDING	PROVISION CREATING OR DEFINING OFFENCE	SET FINE
1	Allow pets on cemetery property	Section 3(f)	\$300.00
2	Allow snowmobiles and/or ATV's on cemetery property	Section 3 (g)	\$300.00
3	Allow a pet or other animal, including cremated remains, to be buried in the cemetery	Section 3(j)	\$300.00
4	Cause damage, destroy, remove or deface any property within the Cemetery.	Section 3(d)	\$300.00
5	Allowing cremated remains to be scattered within the cemetery	Section 9(k)	\$300.00
6	Allowing a monument to be erected prior to paying in full	Section 10(a)	\$300.00
7	Allowing the planting of trees, flower beds or shrubs in the cemetery	Section 12(c)	\$300.00
8	Allowing the removal of sod or in any way changing the surface of a burial lot	Section 12(b)	\$300.00
9	Allowing the discharge of firearms, other than in regular volleys 2 burial services	Section 15(c)	\$300.00
10	Fail to remove litter from cemetery property	Section 15(f)	\$150.00

Note: The Penalty provision for the offences indicated above is in Section 16 of this By-law and Section 61 of the Provincial Offences Act, R.S.O. 1990, Chapter P.33.