THE CORPORATION OF THE TOWNSHIP OF SOUTH FRONTENAC

PORTLAND DISTRICT CEMETERY BOARD

BY-LAW TO PROVIDE FOR THE MAINTENANCE, MANAGEMENT AND CONTROL OF THE CEMETERIES WITHIN PORTLAND DISTRICT IN ACCORDANCE WITH THE CEMETERIES ACT.R.S.O.1990, C.C.4

This By-law shall be composed of eight sections, namely:

Section A	**Definitions**
Section B	**Administration**
Section C	**Financial**
Section D	**Rules & Regulations**
Section E	**Operations**
Section F	**Interment**
Section G	**Disinterment**
Section H	**Markers**

This By-law shall apply to the following Cemeteries:

Harrowsmith
Verona
St. Lukes (Murvale)

SECTION A: DEFINITIONS

"ACT"	**shall mean the Cemeteries Act, R.S.O. 1990, C.4.**
"BOARD"	**shall mean the Cemetery Board appointed by the Council of the Corporation for the term of Council.**
"BURIAL PERMIT"	**shall mean a permit issued by the Division Registrar indicating that death has been registered.**
"BY-LAW"	**shall mean the rules under which the Cemetery is operated. Said by-law shall be approved by both the Council of the Corporation and the Registrar.**
"CARE AND MAINT-ENANCE FUND"	**shall mean the trust fund in which all monies received by the Corporation for the care and maintenance of cemetery property and markers has been invested.**
"CEMETERY"	**shall mean the land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains, within South Frontenac Cemeteries.**
"CEMETERY SERVICES"	**shall mean the following services provided for by this Cemetery in respect to a lot or plot:** **(i) opening and closing of a lot,** **(ii) interring and disinterring of human remains,** **(iii) setting of corner markers, flat markers**
"CEMETERY SUPPLIES"	**shall mean and include interment vaults, markers, flowers, liners, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery.**
"CORNER MARKER, CORNER POSTS"	**shall mean any stone or other landmarks set flush with the surface of the ground and used to indicate the corners of the lot or plot.**
"CORPORATION"	**shall mean the Corporation of the Township of South Frontenac.**
"COLUMBARIUM"	**shall mean a structure designed for the purpose of interring cremated human remains in sealed compartments.**

"INTER"	**shall mean the burial or "interment" of human remains in the Cemetery.**
"INTERMENT PERMISSION FORM"	**shall mean a form provided by the Corporation, to be completed by the Interment Rights Holder to authorize, in writing, the interment of another person in their lot or plot.**
"INTERMENT RIGHTS CERTIFICATE"	**shall mean the certificate issued to the Interment Rights Holder by the Cemetery and shall include the name of the Interment Rights Holder, the location and dimensions of the lot or plot, the date on which the interment rights were purchased, the amount paid by the purchaser, the amount deposited into the Care and Maintenance Fund, and a statement regarding transfer restrictions of said interment rights.**
"INTERMENT RIGHTS"	**shall include the right to require or direct the interment of human remains in a lot or plot.**
"INTERMENT RIGHTS HOLDER"	**shall mean a person with interment rights with respect to a lot or plot and said Interment Rights Holder shall be listed in the records of the Cemetery.**
"LOT"	**shall mean an area of land in the Cemetery containing or set aside to contain human remains, and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium.**
"MARKER"	**shall mean any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche, or other structure or place intended for the deposit of human remains.**
"PLOT"	**shall mean two or more lots in which the rights to inter have been sold as a unit.**
"REGISTRAR"	**shall mean the Registrar appointed under the Cemeteries Act, ~~R.S.O. 1990, c. C.4.~~** (Revised)
"TARIFF"	**shall mean the tariff or fees and charges set forth in the fee schedule as approved by the Council and the Registrar.**

"TRANSFER FORM"	**shall mean a form provided by the Corporation to be completed by the Interment Rights Holder for the transfer of interment rights to another party.**
"TREASURER"	**shall mean the Treasurer for the Corporation.**

SECTION B: ADMINISTRATION

1. **The business affairs of Harrowsmith, Verona and Murvale Cemeteries shall be managed and supervised by a Board appointed by Council.**

2. **The Council shall by by-law appoint the members of the Board, who shall hold office during the term of Council.**

3. **The Board will consist of a minimum of five members who reside in the District of Portland, one of whom shall be a member of Council.**

4. **The Board shall operate under the same rules and procedures as the Council of the Township of South Frontenac.**

5. **The Board shall appoint a Chairperson from amongst its members who shall chair the meetings and ensure the Board follows the directions of Council and terms of this By-Law.**

6. **The Board shall hold a minimum of two meetings per year.**

7. **The Board shall be responsible for the administration, management, care, maintenance, and improvement of the Cemetery.**

8. **The Board shall have the authority to engage and authorize caretakers, employees or agents to carry out the duties of the Board.**

9. **The Board shall be responsible to the Council for the execution of their duties.**

10. **The Council shall have the right to remove any or all of the members of the Board for their failure or neglect to carry out their duties or for any other just cause.**

11. **The Board and the Treasurer shall each keep such registers, records and books as are necessary for properly recording all matters, acts, interment rights certificates and matter pertaining to the Cemetery as come within their respective jurisdiction, and as may be prescribed.**

12. **The Board shall make and render such reports as may be prescribed or as the Council may require.**

SECTION C: FINANCIAL

1. **All fees and charges shall be payable in accordance with the Tariff which shall be set by the Council upon recommendation of the Board, subject to the approval of the Registrar.**

2. **Payments for fees and charges shall be submitted to the Treasurer.**

3. **The Treasurer shall keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the Cemetery as may be prescribed.**

4. **All revenue and other monies belonging or pertaining to the Cemetery shall be received by the Treasurer.**

5. **The Treasurer shall maintain, invest, and administer the Care and Maintenance Fund in accordance with the provisions and regulations of the Act.**

SECTION D: RULES AND REGULATIONS

1. **Visitors are welcome at the Cemetery between the hours of 7:00 a.m. until sunset. They are reminded to behave with due order and decorum and with due respect for the dead.**

2. **Children under the age of sixteen years shall not be permitted within the Cemetery unless accompanied by an adult who shall be responsible for their conduct.**

3. **Vehicles within the cemetery shall be driven at a moderate rate of speed not exceeding 25 kilometers per hour and shall not leave the roadways. Vehicle owners and drivers shall be held responsible for any damage done by them. Other than to facilitate interment arrangements, vehicles are not permitted within Murvale Cemetery.**

4. **Pets shall not be permitted upon the grounds of the Cemetery.**

5. **Recreational vehicles, with the exception of bicycles, are not permitted within the cemetery. Bicycles are permitted subject to points 2 & 3 of this section.**

6. **Interment Rights Holders shall not permit interments to be made in their lots or plots for remuneration and shall not sell their lots or plots for**

remuneration except to the Board (see Section E – Re-sale of Interment Rights).

7. **No persons shall:**

   (i) **place any fences, railings, or other enclosures upon or around any lot or plot,**

   (ii) **write upon, deface, injure or damage any markers, railing, fence or other structure, or remove any article that is considered to be part of the Cemetery,**

   (iii) **place artificial flowers or wreaths from May 1 to October 31, nor upon a lot or plot that would interfere with ongoing maintenance,**

   (iv) **place upon a lot or plot any nails, wires, wooden crosses, articles of glass, pottery or any other material which when left, neglected or are broken could cause personal injury to visitors or workers, damage maintenance equipment or impede grounds maintenance procedures,**

   (v) **change the grade of a lot or plot or the level or positioning of markers contained thereon without the authorization of the Board,**

   (vi) **have in their possession or be under the influence of alcohol or a prohibited substance,**

   (vii) **have in their possession any firearm within the Cemetery enclosure except in the case of an interment service having Honour Guards present.**

   (viii) **plant any flowers, plants or shrubs without the permission of the Board. The Board is not responsible for maintaining plants or embellishments placed upon a lot or plot. The Board reserves the right to order the removal of such plantings where permission has not been granted.**

8. **Flowerbeds, where permitted, shall be planted in front of an upright marker. The length of the flowerbed shall not exceed the length of the upright marker. The width of the flowerbed shall be confined to an area inclusive of upright marker width not to exceed thirty inches. Solar lights and lanterns may be placed only within the boundaries of a maintained garden. Any device used for suspending floral arrangements or ornamentation may be placed only within, and shall not extend over the boundaries of the maintained garden.**

9. All plantings, where permitted by the Board, must be maintained by the individual(s) responsible for placement. The Board reserves the right to order the removal of plantings that have not been maintained at the expense of those responsible.

10. No plantings are permitted upon a cremation lot or plot.

11. Conveyances heavily loaded shall not be permitted to enter the Cemetery without the approval and supervision of the Board.

12. Any person who damages any lot or plot, marker or other structure, or otherwise does an injury in the Cemetery shall be personally responsible for such damage or injury.

13. Any person violating any of the provisions in this by-law shall be deemed to be a trespasser and shall be subject to immediate summary eviction from the Cemetery in addition to any and all other penalties provided by law.

SECTION E: SALE AND TRANSFER OF INTERMENT RIGHTS

Sales:

Interment Rights in the Cemetery (except Murvale Cemetery, as Murvale is a closed Cemetery) are sold in the following manner:

"Standard Lot" measures 40 inches wide by 10 feet long, inclusive of space allocated for the placement of an upright marker. A standard lot accommodates an upright marker and one flat marker or two flat markers. The site permits the interment of one casket and optional outer container at a standardized depth as regulated under the Cemeteries Act. As well, the interment of cremated remains of three individuals is permitted so long as the container to be utilized for standard interment allows sufficient soil coverage to be placed over the cremation container(s). OR A standard lot will permit the interment of the cremated remains of four individuals.

"Cremation Lot" measures 24 inches by 24 inches inclusive of space allocated for the placement of a flat marker. A cremation lot will accommodate one cremation intermit and permit the placement of one flat marker with perimeter dimensions not to exceed 20 inches in length and 14 inches in width.

1. Interment Rights for lots or plots, subdivision of lots or plots may be purchased by individuals upon payment of the appropriate Tariff rate. At the time of sale, the Purchaser shall be provided a copy of the following:

    a) copy of the Contract for the Purchase of Interment Right; and
    b) copy of the Cemetery by-law.

Upon payment in full, the Treasurer shall provide a Certificate of Interment Rights.

2. **Purchasers of interment rights acquire only the right and privilege of interment of the dead and of placing a marker subject to provisions of the By-law.**

3. **Each purchaser of Interment Rights shall be entitled to an Interment Rights Certificate, but only when all indebtedness has been satisfied and all charges on the lot or plot have been paid.**

4. **The Interment Rights Certificate shall specify the name of the Interment Rights Holder, the size and location of the lot or plot, the date of purchase, the amount paid, the amount deposited into the Care and Maintenance Fund, and a statement regarding transfer of said interment rights.**

5. **The Interment Rights Holder must designate in writing, upon an Interment Permission Form supplied by this Cemetery, the names of other persons permitted interment within their lot or plot, subject to the by-laws of this Cemetery. Interment Rights belong only to the person(s) named on the Interment Rights Certificate and there is not transmission of interest through death.**

6. **The Interment Rights Holder may transfer Interment Rights by gift, but shall not re-sell Interment Rights except to the Board.**

7. **The Board may restrict the sale of single lots to certain areas in the cemetery.**

8. **The Board reserves the right to correct at its expense any error that may be made by its authorized representative in providing for interment or disinterment, or in the description, conveyance or transfer of interment rights. The Board may cancel such conveyance and substitute and convey in lieu thereof-other interment rights of equal value and similar location, as far as is possible, or may refund all monies paid on account of such purchase. Notice of such correction shall be given to the Interment Rights Holder. If unable to be delivered personally, notice shall be provided by mail to the Interment Rights Holder or legal representative at the last appearing address in the record books of the Treasurer. In the event that any such correction involves the disinterment of human remains, the Board shall obtain the approval of the Medical Officer of Health and consent of the Interment Rights Holder.**

<u>Re-sale of Interment Rights:</u>

1. **Only licensed cemeteries can sell Interment Rights.**

2. **An individual wishing to sell their Interment Rights may do so, but only to the Board. The Interment Rights Holder may require by written demand, the Board to repurchase Interment Rights at any time before used.**

3. **Upon receipt of a request in writing and surrender of interment rights ownership by the Interment Rights Holder, the Treasurer will reimburse the individual the amount that was originally paid for the interment rights less the amount deposited into the Care and Maintenance Fund and an administrative fee as set in the Tariff.**

4. **The Board shall not be required to repurchase Interment Rights for more than four lots held by the same Interment Rights Holder within a twelve-month period.**

5. **No refund shall be made for any lot or plot for which any interment rights have been exercised.**

Transfers:

1. **For the purpose of this subsection, "transfer" means a gift, a bequest or any other transfer made without financial consideration. If an Interment Rights Holder wishes to transfer their Interment Rights, notice must be given to the Treasurer and the original Certificate of Interment Rights must be returned. The Treasurer shall issue a new certificate of interment rights to the transferee. The transfer of ownership of Interment Rights is not binding upon the Board until a duly executed transfer has been deposited with the Treasurer.**

2. **Upon receipt of a request in writing from the Interment Rights Holder specifying the name and address of the transferor and the transferee, and location of the lot or plot, the Treasurer, upon payment of the administration fee in accordance with the Tariff, will perform the transfer.**

3. **In case of succession the following will be required in addition to Clause 2 above (unless otherwise ordered by the Board):**

   a) **with a Last Will and Testament:**
      - (i) **in case of a specific bequest of the lot or plot, a Notarial Copy or Court Certified Copy of the will or probate,**
      - (ii) **if no specific bequest, a request in writing from the Executor with a consent of all or a majority of the beneficiaries,**

   b) **Intestate:**

a request in writing from the administrator with the consent of all or a majority of the heirs-at-law.

Corner Markers:

1. The boundaries of any lot or plot ~~shall~~ should be marked with corner markers. All corner markers are to be placed by the Board at the expense of the Interment Rights Holder of the lot or plot wherein the same are placed.

SECTION F: INTERMENT

1. No interment shall take place until such a time as the lot or plot has been paid for in full.

2. An order for interment must be authorized in writing by the Interment Rights Holder, the legal representative or the heir-at-law, who shall be responsible for charges incurred.

3. The following documents, where applicable, are required to exercise interment rights in the Cemetery; Burial Permit or Certificate of Cremation, Certificate of Interment Rights or Predecessor Easement, Interment Permission Form.

4. Notice of Interment shall be given to the Caretaker of the Cemetery at least 16 working hours in advance of the date and time of interment service, unless otherwise ordered by the Medical Officer of Health. The Board reserves the right to reschedule the day and time of an interment service.

5. Interment shall be permitted between the hours of 9:00 a.m. and 4:00 p.m. Monday to Saturday. However, interment arrangements must allow for lot closure during daylight hours.

6. Interment shall not be permitted on Sunday nor on a statutory holiday unless by order of the Medical Officer of Health or under exceptional circumstances approved by the Board.

7. Only human remains shall be permitted interment within the Cemetery.

8. Human remains to be interred shall be enclosed and sealed securely within a container of sufficient strength that will remain intact during interment procedures. The container or exterior container utilized for interment must not exceed the dimensions of the lot for which interment rights have been sold. Confirmation of acceptable container size must be made for all interment requests.

9. **The interment fee provides for the opening and closing of a lot and the registration of interment.**

10. **No lot shall be opened or closed by any person not in the employ or under the direction of the Board.**

11. **Contractors supplying an outer container, tent, planking, dressings or lowering device for an interment service shall be under the direction of an authorized representative of the Board.**

SECTION G: DISINTERMENT

1. **No disinterment shall occur unless in compliance with Section 51 of the Act.**

2. **The legally authorized individual(s) requesting disinterment will be responsible for all reasonable charges pertaining to disinterment.**

3. **Only individuals authorized by the Board or those required under the Act shall be present at a disinterment.**

SECTION H: MARKERS

GENERAL INFORMATION

1. **The Board reserves the right to determine the maximum size of markers, composition, number and location on each lot or plot.**

   For the purpose of these by-laws a;

   (a) **"Upright Marker", means any marker projecting above the surface of the ground, which must be placed upon a concrete foundation installed within the space allocated for this purpose.**
   An upright marker sold or purchased for the purpose of memorializing a lot or plot, which is also designed for the purpose of entombment of cremated remains is considered to be a 'Columbarium', and thereby must be addressed as a separate issue by the Board.

   (b) **"Flat Marker", means any marker of which the top surface is set flush with the surface of the ground.**

   (c) **"Corner Marker", (cornerstone) means a granite marker having a surface measurement of no less than 4 inches square & no larger than 5 inches square, that is set flush with the surface of the ground to indicate the outer perimeter of a lot or plot.**

"All markers shall be constructed of granite or granite with bronze attachment".

2. **After the placement of a marker has occurred, no inscription or engraving may be made on any marker without the permission of the Board. The contractor providing inscription or engraving services must supply a written request signed by the Interment Rights Holder or Legal Agent of same, stating the work to be done. Upon receipt of this written request the authorized representative of the Board will complete arrangements with the contractor.**

3. **No marker or other structure shall be placed until all accrued charges pertaining to the lot or plot, and charges applicable to the installation of a marker have been paid in full. In accordance with the Act, all upright markers, and flat markers 173 square inches or larger are subject to a Marker Care and Maintenance Fee.**

4. **Markers shall not be delivered to, or installed in the cemetery without prior receipt, by the Treasurer, of a Marker Installation Form as provided for this purpose. Upon receipt of a marker installation form, if acceptable, and applicable monies owing the Treasurer will confirm installation or delivery arrangements with the marker supplier.**

5. **No person other than an authorized representative of the Board shall install, alter the position of, or remove a flat marker or corner marker, or designate the positioning of a foundation for an upright marker. An upright marker will not be altered in any way or removed from the Cemetery without the approval of the Board.**

6. **The Board reserves the right to order the removal of any marker or other structure, or any inscription placed upon a marker or structure that is not in keeping with the dignity and decorum of the cemetery**

7. **Council, the Board or their authorized representatives will not accept financial responsibility for unintentional damage to markers that may occur during regular maintenance of the Cemetery grounds.**

8. **The Board shall have the right to maintain, repair, remove or lay down markers or parts of markers and use ~~or not use~~ the Care and Maintenance Funds for Markers for such purpose.**

9. **The Board shall have the right to charge a re-setting fee, as approved by the Ministry, for the requested raising of any settled flat marker under the measurements of 173 square inches.**

10. **Any marker located upon a lot or plot that may interfere or pose a threat to worker or public safety during interment procedures will be moved or dismantled for the required time and purpose. Upon completion of the interment service the marker will be restored to its pre-existing condition.**

UPRIGHT MARKERS

1. **Only one upright marker shall be erected upon a lot that has sufficient space allocated for this purpose.**

2. **All upright markers to be erected within this Cemetery must be capable of resisting a horizontal force of 100 pounds (applied 4 inches below the top of the monument, in any direction) when set in dry mode (without monument compound between the base and die-stone). Any upright marker unable to withstand 100 pounds of horizontal force must be properly pinned (permitting possible dismantling and safety restoration) to achieve this requirement.**

3. **Markers to be erected shall be set upon an adequate foundation that shall be greater than 4.5 feet in depth or the full depth of the grave. Specifications for foundation construction shall be as follows;**

    i. **the concrete mix for the foundation shall be greater than 3000 psi, maximum 3 inch slump, maximum 0.8 inch aggregate, the concrete shall have 6% +/- 1% air entraining agent. Solid granite pieces not exceeding 6 inches in diameter may be utilized to comprise up to 35% of the volume of the excavated foundation, so long as the granite is totally encapsulated within the concrete,**

    ii. **the dimensions of the bottom of the foundation shall be at least equal to the dimensions of the top of the foundation,**

    iii. **the dimensions of the top of the foundation shall be equal to the dimensions of the base of the monument, a form for the top of the foundation is to be used,**

    iv. **the surface of the foundation shall be flush with the lowest point of the surrounding ground surface, square, smooth and level to within 1/16" over 2'0" and is to be checked with a carpenter's level,**

    v. **a proper bonding agent and re-bar shall be used when it is necessary to add to an existing foundation**

vi. **the finished concrete shall be permitted to cure for 48 hours before a marker is erected,**

vii. **the lot or plot upon which foundation work is executed shall be returned to proper condition.**

4. **Markers are to be erected at the head and centre of each lot or plot, within the allocated space upon;**

   i. **A single lot shall not exceed an overall height of 46 inches, the base stone shall not be less than six inches in height and shall not exceed 30 inches in length and 12 inches in width.**

   ii. **A plot containing two graves shall not exceed an overall height of 54 inches, the base stone shall not be less than 6 inches in height, and shall not exceed 50 inches in length and 14 inches in width.**

   iii. **A plot containing more that two graves shall not exceed an overall height of 54 inches, the base stone shall not be less than six inches in height, and shall not exceed 60 inches in length and 16 inches in width.**

5. **The die-stone shall not protrude over the surface dimensions of the base.**

6. **The top and bottom of the base stone shall be smooth- sawn. A base having a polished top will require pinning to the bottom of the die-stone.**

7. **Freestanding crosses or upright markers of exceptional design that may exceed upright marker specifications may be permitted, should the design, plan and specifications relative to material, construction and the proposed location be submitted to and approved by the Board**

8. **Upright markers shall have no uncovered vertical joints.**

9. **Unless adjoining (end-to-end) lots or plots are owned by the same interment rights holder the back of the upright marker may not be used to contain personal or family related information, in written or pictorial form.**

FLAT MARKERS

1. **The minimum thickness of a flat marker and for the base of a bronze marker plate shall be four inches.**

2. **A flat marker to be placed within the space allocated for an upright marker in a lot shall not exceed 30 inches in length and 18 inches in width.**

3. **A flat marker to be placed upon a standard lot, other than within the upright marker spacing, for the purpose of memorializing the interment of cremated remains shall not exceed 24 inches in length and 16 inches in width.**

4. **A flat marker to be placed upon a cremation lot shall not exceed 20 inches in length and 14 inches in width. A flat marker to be installed upon a cremation plot containing two lots shall not exceed 30 inches in length and 14 inches in width.**

Ministry of Government Services
Ministère des Services gouvernementaux
Ontario
Cemeteries Regulation
Réglementation des cimetières

APPROVED
In accordance with the regulations under The Cemeteries Act.

APPROUVÉ
conformément aux règlements afférents à la Loi sur les cimetières

Date of Approval/ Date de l'approbation: 29 December 2002
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