



THE CORPORATION OF THE TOWNSHIP OF
ASHFIELD-COLBORNE-WAWANOSH

BY-LAW NO. 40 – 2012

**Being a By-Law to regulate the Colborne Cemetery in the Township of
Ashfield-Colborne-Wawanosh**

WHEREAS the Township of Ashfield-Colborne-Wawanosh has acquired and established certain lands within the Township of Ashfield-Colborne-Wawanosh and has designated such lands as a public cemetery to be known as the Colborne Cemetery.

AND WHEREAS the Council of the Township of Ashfield-Colborne-Wawanosh, under the authority of the Funeral, Burial, Cremation Services Act, 2002,, may enact by-laws for the proper management thereof;

AND WHEREAS the Council of the Township of Ashfield-Colborne-Wawanosh deems it expedient to enact certain laws, rules and regulations for the efficient operation and management of the Cemetery;

NOW THEREFORE, the Council of the Corporation of the Township of Ashfield-Colborne-Wawanosh ENACTS as follows:

1. For the purpose of this By-law-
 - (a) Plot shall mean an area of ground consisting of one or more graves and shall be designated by a number on a Cemetery Plan as filed with the Ministry of Consumer & Commercial Relations.
 - (b) Grave shall mean an area of ground, 4' x 12' within a plot and identified by grave number and plot number.
 - (c) Board shall refer to the Cemetery Board as hereinafter designated.
 - (d) Administrator/Clerk-Treasurer shall refer to the Administrator/Clerk-Treasurer of the Township of Ashfield-Colborne-Wawanosh.
 - (e) Cemetery Caretaker shall refer to the person appointed by the Board to care for the Cemetery in accordance with the Cemetery By-laws established by the Board. The Caretaker, being responsible to the Cemetery Board, is authorized to make decisions and reserves the right to make alterations as approved by the Cemetery Board to ensure that guidelines are met as per the Funeral, Burial, Cremation Services Act, 2002.
 - (f) Rights Owner shall refer to the person who has purchased the right to use the land for burying human remains and erecting suitable memorials subject to the Cemeteries By-laws established by the Council.
2. There shall be appointed by the Municipal Council, a Cemetery Board consisting of the Reeve and members of Council for the interpretation and enforcement of this By-law and this Board shall have powers of Council in Cemetery matters.

3. The Administrator/Clerk-Treasurer of the Corporation of the Township of Ashfield-Colborne-Wawanosh shall receive, dispense, and account for all monies payable under this By-law and regulations thereto.
4. The Administrator/Clerk-Treasurer of the Corporation of the Township of Ashfield-Colborne-Wawanosh shall issue, record, and transfer such Burial Rights as the Board may from time to time direct.
5. All monies received for Care and Maintenance of lots sold prior to the passing of this By-law and all other monies now in the custody of the Administrator/Clerk-Treasurer and earmarked for Care and Maintenance from any source whatsoever shall be placed to the credit of a special bank account in a Chartered Bank to be known as "The Cemetery Care and Maintenance Trust Account" and shall be invested from time to time by the Administrator/Clerk-Treasurer in such funds as are authorized for the investment of trust funds as the Board may see fit.
6. All graves/lots or plots sold after the final passing of this By-law shall be under Care and Maintenance as set forth in the Tariff of Rates, a copy of which is attached as Schedule 6 and forming part of this By-law, and as filed with the Ministry of Consumer & Commercial Relations.
7. The Board is authorized to accept for resale such unused lots or portions thereof which are voluntarily returned to the Corporation of the Township of Ashfield-Colborne-Wawanosh. All such transfers must be authorized in writing by the Rights Owner or the Estates thereof.
8. The Cemetery Caretaker, on instruction from the Board, may solicit and accept donations for Care and Maintenance purposes from the owners of lots which were purchased prior to the passing of this By-law and on which no Care and Maintenance was provided for in the original purchase price. All such donations, when received, to be deposited to the credit of the Cemetery Care and Maintenance Trust Account.
9. As per Section 166 of the Act and Regulations, a prescribed amount shall be paid into a Care and Maintenance Fund upon the installation of a marker. All other income received in the general operation of the Cemetery shall be placed to the credit of the General Account and shall be used for the ordinary expenses of maintenance and improvement in the Cemetery.
10. All expenses incurred in the operation, maintenance and improvement of the Cemetery in excess of revenue received from the operation thereof and income received from the Care and Maintenance Trust Fund shall be charged against the general fund of the Corporation and shall be provided for in the yearly estimates of the Corporation.
11. The Board may authorize the issuing, registration and transfer of Interment Rights Certificates for all graves/lots, or plots on request and same shall be issued over the signature of the Administrator/Clerk-Treasurer and the Seal of the Corporation.
12. All tariffs of charges for various duties required by plot holders of graves/lots and such services as opening graves, seeding and sodding, issuing Certificates, etc., shall be determined by Resolution of the Cemetery Board and amended accordingly as deemed advisable, subject to filing with the Ministry of Consumer & Commercial Relations.
13. Cemetery By-laws as attached hereto as Schedules 1,2,3,4,5 and 6 shall form a part of this By-law and may be enforced by the provision herein contained.

14. All By-Laws previously enacted dealing with the operation and maintenance of the Colborne Cemetery including By-law No. 27-2012 are hereby rescinded.
15. This By-Law shall come into force and effect only when approved by the Ministry of Consumer Services.
16. This By-Law shall be cited as the “Colborne Cemetery By-Law.”

Read a FIRST, SECOND and THIRD time, and FINALLY PASSED this 4th day of December, 2012

Original signed by
Reeve, Ben Van Diepenbeek

Original signed by
Administrator/Clerk-Treasurer, Mark Becker

SCHEDULE 1

Cemetery Operations & Maintenance By-Law 40-2012

- A. The Board shall appoint each year by By-law a Cemetery Caretaker who shall report to the Board each month or as required, on all Cemetery matters. The Caretaker shall supervise all Cemetery staff, oversee all work in connection with the Cemetery and maintain record of all lots, graves and burials, etc.
- B. The Caretaker shall render to the Administrator/Clerk-Treasurer each month an account of all the lots sold, burials conducted, foundations installed, time sheets of staff and all other data necessary for Township records.
- C. The Caretaker or one of his staff shall be present at all burials and generally supervise the conduct and routine of all Cemetery matters.
- D. The Caretaker shall ensure that all water supply tanks, pipes, and lines are properly and completely drained before the onset of freezing temperatures in the autumn and are not recharged until all danger of freezing temperatures is past in the spring.
- E. The Board shall, on recommendation of the Caretaker, engage assistants and shall pay such remuneration as determined by Resolution in Council.
- F. The Caretaker shall not be responsible for the cleaning of monuments. The Caretaker shall not be required to repair stones that have been vandalized or damaged by personnel not hired by the Cemetery Board.
- G. The Cemetery Caretaker, being responsible for the safety of all monuments, markers, stones, etc. within the Cemetery grounds, shall carry out various inspections of monuments, markers, stones, etc. to determine their level of safety. If a marker is determined unsafe by the Cemetery Caretaker, a picture of the monument in its current state shall be taken and the marker shall be laid down on the ground immediately to ensure the monument will not cause a situation of harm/danger. Upon the approval of the Cemetery Caretaker that the monument is no longer in an unsafe state, the monument may be restored to its original position.

SCHEDULE 2

Restrictions for Rights Owners By-Law 40-2012

- A. The Cemetery Caretaker is the only party who shall remove any sod or in any way change the surface of any burial plot in the Cemetery.
- B. The planting of any trees or shrubs now located in any portion of the cemetery may be removed at the discretion of the Cemetery Caretaker.
- C. The Caretaker shall approve the placement of shrubs and flowerbeds etc. Plants/flowers both artificial and real may be placed within the flowerbed provided they meet the Caretaker's approval.
- D. No Rights Owner shall cause any objects such as benches, flower urns, trellises, wood or metal stands or other objects that will interfere with the working of the mowers, etc. to be placed on the lot. No enclosures of iron, wire, concrete, etc. shall be permitted on any lot.
- E. As per the Funeral, Burial, Cremation Services Act, 2002 , all burials require a minimum of two feet of earth coverage.
- F. Mandatory written notice, of all address changes of Rights Owners shall be provided to the Corporation of the Township of Ashfield-Colborne-Wawanosh.
- G. Flowers, placed on a grave at a funeral, shall be removed by the Cemetery Caretaker after a reasonable time to protect the sod and maintain a neat appearance in the cemetery.
- H. Markers and Memorials: Monuments are permanent memorial structures projecting above the level of the ground. Any monument or other object of like description shall be placed upon the lot only in the space provided therefore, and under the supervision of the Cemetery Caretaker and shall in no case exceed a height of 4 ½ feet and a depth of 1 ½ feet. All upright monuments shall be erected upon a footing a minimum of 3 ½ feet in depth, level with the ground and may be two inches larger than the monument on all sides. All costs associated with the installation of the footing are the responsibility of the Rights Owner and/or the monument company and not the responsibility of the Cemetery owner. Any markers for the memorialization may be used provided they meet the approval of the Cemetery Caretaker. The monument company is to prepare an application for monument installation which requires approval and authorization by the Cemetery Caretaker. The appropriate Care and Maintenance amount shall be paid and delivered to the Cemetery Caretaker or the Municipal Office prior to installation.

CARE AND MAINTENANCE FOR MARKER INSTALLATION

Flat marker over 172 sq. in.	\$ 50.00
Upright monument up to and including 4 ft. in height & 1 ½ ft. in width	\$100.00
Upright monument over 4 ft. in height & 1 ½ ft. in width	\$200.00

SCHEDULE 3

Sale of Rights By-Law 40-2012

- A. Rights for burial purposes may be sold upon application to the Caretaker and in accordance to the existing plan of the Cemetery and at a scale of prices as listed in the Tariff of Charges being Schedule '6'. No limitations on religion, residency and non-residency shall exist.
- B. The Board, on payment of the sale prices, shall cause to be issued a Certificate of Interment Rights/Deed, executed by the Administrator/Clerk-Treasurer and sealed with the Corporation Seal.
- C. The Rights Owner at the time of sale shall receive a copy of the Cemetery By-laws and upon full payment, a Certificate of Interment Rights.
- D. Should an owner desire to transfer his Rights, he shall register with the Caretaker the name and address to whom the transfer shall be made together with a probated will and/or a notarized statement. A transfer fee per grave shall be paid according to the charges as set forth in the Tariff of Charges.
- E. The transfer of Ownership of Interment Rights are not binding upon the Cemetery until a duly executed transfer has been deposited with the Cemetery Board.
- F. The Colborne Cemetery will not be required to sell pre-need burial services. Such services may be acquired at funeral homes.
- G. A Rights Owner who wishes to sell back Interment Rights will receive only the "Untrusted" portion paid to the Cemetery Caretaker. The "Trusted" amount, which represents funds payable to the Care and Maintenance Fund, is non-refundable.
- H. A rights owner has the right to cancel an Internment Rights contract within thirty (30) days of signing the Internment Rights contract, by providing written notice of the cancellation to the cemetery board. The board will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
- I. The Cemetery Board permits the Rights Owner 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 board and the purchaser meets the qualifications and requirements as outlined in the Cemetery By-laws
 - The Rights Owner intending to sell their rights shall provide the following documentation to the cemetery board so that the board can confirm the ownership of the rights and provide the third party purchaser with the required certificate etc.:
 1. An Interment Rights certificate endorsed by the current Rights Owner
 2. If the resale involves Interment Rights, a written statement of the number of graves that have been used in the plot and the number of graves that remain available.

3. Any other documentation in the Interment Rights Owners possession relating to the rights.
- The third party purchaser will be provided with the following documents by the Cemetery Board:
 1. An Interment Rights certificate endorsed by the current Rights Owner.
 2. A copy of the cemetery's current By-laws
 3. A copy of the cemetery's current price list
 4. If the resale involves Interment Rights, a written statement of the number of graves that have been used in the plot and the number of graves that remain available
 5. Any other documentation in the Interment Rights Owners possession relating to the rights.
 - The Cemetery Board will require:
 1. A statement signed by the Rights Owner selling the Interment Rights acknowledging the sale of the Interment Rights to the third party purchaser
 2. 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. The name and address of the third party
 5. A statement of any money owing to the Cemetery Board in respect to the Interment Rights.
- J. Once the endorsed certificate and all required information has been received by the Cemetery Board from the Rights Owner, the Cemetery Board will issue a new Interment Rights Certificate to the third party purchaser
- K. Upon Completion of the above listed procedures, and upon the issuance of the new Interment Rights Certificate, the third party purchaser or transferee shall be considered the current Interment Rights Owner 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 Funeral, Burial, Cremation Services Act, 2002.
- L. The Cemetery Board does not prohibit the resale of Interment Rights and may repurchase the Interment Rights from the Rights Owner if the Cemetery Board so desires and may negotiate a purchase price so long as the seller acknowledges being aware of the Cemetery's current price list amounts for Interment Rights.

CARE AND MAINTENANCE TRUSTING PROVISIONS

Lot - 40% or \$250.00 whichever is greater.

SCHEDULE 4

Burials and Disinterments By-Law 40-2012

- A. Whenever an interment is to be made, written authorization thereof shall be given to the Caretaker and an order therefore issued by the owner or his/her representative at least twenty-four (24) hours previous thereto, giving all particulars as to locations, etc.
- B. Persons ordering graves will be held responsible for charges incurred.
- C. A burial permit shall be presented to the Caretaker or his assistant before an interment will be permitted.
- D. Casket burials will allow for one casket per grave site. Cremation remains in a grave burial allow for a maximum of six (6) cremains per grave site. Any alteration to these regulations shall not be allowed unless the Cemetery Board receives and approves of the written request.
- E. It is mandatory that casket burials be within a concrete vault and that the interments be received in a wooden or aluminum casket.
- F. In accordance with the Funeral, Burial, Cremation Services Act, 2002 the purchaser of Internment Rights must enter into a cemetery contract, providing such information as may be required by the Cemetery Board for the completion of the contract and the public register prior to an Interment.
- G. Payment must be made to the cemetery before an Interment can take place.

SCHEDULE 5

Rules of Visitors By-Law 40-2012

- A. Colborne Cemetery is devoted to the burial of the deceased and the provisions and penalties of the law shall be enforced in all cases of disturbance, wanton injury to property, disregard of the established rules or conduct unbecoming to a Cemetery.
- B. All visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any services being held, by noises or otherwise.
- C. Visitors shall travel through the Cemetery by way of roads and paths and shall not trespass over burial lots of others.
- D. Children under twelve (12) years of age must be accompanied by an adult who shall be responsible for their conduct.
- E. Visitors entering the Cemetery do so at their own risk and waive any claims to redress from the Board and/or Cemetery Owner for accidents while on the grounds.
- F. The carrying of firearms or the discharging of same within any Cemetery grounds, except where used for the firing of a volley at a burial, is prohibited.
- G. No congregation or other large assembly shall be permitted at the Cemetery except for purposes of a burial or a memorial service.
- H. All persons are prohibited from picking any flower or disturbing any tree shrub or plant within the Cemetery and, likewise, are prohibited from defacing any monument, fence, or other structure in or belonging to the Cemetery.
- I. The Cemetery will be open for visitors every day from sunrise to sunset.

**SCHEDULE 6
By-Law 40-2012**

INTERMENT RIGHTS FEES: (Graves)

Single Grave – 4' x 12' \$900.00 per grave
Interment Right fees subject to allocation of fund to Care and Maintenance Trust.
(Care & Maintenance \$360.00 Interment Rights \$540.00)

OPENING CHARGES: (Burial Fees)

Interment (<u>Casket Burial</u>)	\$750.00
Child (to 13 years of age)	\$270.00
Infant (to one year of age)	\$185.00
Interment weekdays after 4:00 p.m.	\$100/per half hour added to above rate
Interment Saturday a.m.	\$750.00
Interment Saturday after 12:00 noon	\$950.00/Child\$470/Infant\$385(\$200 added)
Any opening Sunday or Statutory Holidays	\$1500/\$470/\$385(Double for adult rate)
Spring Interments out of mausoleum Saturday a.m.	\$1025 (\$275 to Saturday a.m. rate)
Spring Interments out of mausoleum Saturday p.m.	\$1225 (\$275 to Saturday p.m. rate)
Interment (<u>Cremation</u>)	\$350.00
Interment weekdays after 4:00 p.m.	\$100/per half hour added to above rate
Interment Saturday a.m.	\$700.00 (Double the above rate)
Interment Saturday after 12:00 noon	\$900.00 (\$200.00 to above rate)
Interment Sunday or holidays	\$1050.00 (Triple above rate)

OTHER CHARGES:

Foundation and markers	\$25.00 per cubic foot
Transfer of Ownership (per grave)	\$60.00
Mausoleum Storage (Interment Colborne Cemetery)	\$90.00
Mausoleum Storage (Interment Other Cemetery)	\$150.00
Interment from Mausoleum after June 1	add \$500.00
Care & Maintenance Flat Marker over 172 sq. in.	\$50.00
Care & Maintenance Upright Monument Up to and including 4 ft. in height & 1 ½ ft. in width	\$100.00
Care & Maintenance Upright over 4 ft. in height & 1 ½ ft. in width	\$200.00

Note: Transfer is not subject to H.S.T.