



THE CORPORATION OF THE TOWNSHIP OF
ASHFIELD-COLBORNE-WAWANOSH

BY-LAW NO. 29 – 2018

**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 Bereavement Authority of Ontario.
 - (b) **Grave** or **lot** shall mean an area of ground, 4'x 12' within a plot and identified by grave number and plot number.
 - (c) **Columbarium** shall mean a structure designed for the inurnment of cremated human remains in sealed compartments above ground.
 - (d) **Niche** shall mean a sealed compartment in a Columbarium designed for the inurnment of cremated human remains.
 - (e) **Board** shall refer to the Cemetery Board as hereinafter designated.
 - (f) **Administrator/Clerk-Treasurer** shall refer to the Administrator/Clerk-Treasurer of the Township of Ashfield-Colborne-Wawanosh.
 - (g) **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 Board, is authorized to make decisions and reserves the right to make alterations as approved by the Board to ensure that guidelines are met as per the Funeral, Burial, Cremation Services Act, 2002.
 - (h) **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 Cemetery's By-laws established by the Council.

2. There shall be appointed by the Municipal Council, a 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 price list, a copy of which is attached as Schedule 7 and forming part of this By-law, as filed with the Bereavement Authority of Ontario.
7. 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.
8. 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.
9. 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.
10. 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.
11. All prices 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 Board and amended accordingly as deemed advisable, subject to filing with the Bereavement Authority of Ontario.
12. Cemetery By-laws as attached hereto as Schedules 1, 2, 3, 4, 5, 6 and 7 shall form a part of this By-law and may be enforced by the provisions herein contained.
13. All By-Laws previously enacted dealing with the operation and maintenance of the Colborne Cemetery including By-law No. 40-2012 are hereby rescinded.

14. This By-Law shall come into force and effect only when approved by the Registrar, Bereavement Authority of Ontario.

15. This By-Law shall be cited as the “Colborne Cemetery By-Law.”

Read a FIRST and SECOND time this 4th day of September, 2018.

Read a THIRD TIME and FINALLY PASSED this 4th day of September, 2018.

Original signed by:

Reeve, Ben VanDiepenbeek

Original signed by:

Administrator/Clerk-Treasurer, Mark Becker

SCHEDULE 1
Cemetery Operations & Maintenance
By-Law 29-2018

1. 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.
2. 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.
3. The Caretaker or one of his staff shall be present at all burials and generally supervise the conduct and routine of all Cemetery matters.
4. 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.
5. The Board shall, on recommendation of the Caretaker, engage assistants and shall pay such remuneration as determined by Resolution in Council.
6. 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 Board.
7. 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 29-2018

1. 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.
2. The planting of any trees or shrubs or removal of the same in any portion of the cemetery may be carried out at the discretion of the Cemetery Caretaker.
3. 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.
4. Should a dispute in regards to the above sections 2 and 3 of this schedule arise, a written appeal may be submitted to the Board, following which the Board will consider the matter at their next scheduled meeting and issue a decision. The decision of the Board is final.
5. 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.
6. As per the Funeral, Burial, Cremation Services Act, 2002, all burials require a minimum of two feet of earth coverage.
7. Mandatory written notice, of all address changes of Rights Owners shall be provided to the Corporation of the Township of Ashfield-Colborne-Wawanosh.
8. 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.
9. 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 as per Schedule 7 shall be paid and delivered to the Cemetery Caretaker or the Municipal Office prior to installation.

SCHEDULE 3
Sale of Rights
By-Law 29-2018

1. 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 Schedule 7. No limitations on religion, residency and non-residency shall exist.
2. 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.
3. 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.
4. Should an owner desire to transfer their Rights, they shall register with the Caretaker the name and address of the individual 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 Schedule 7.
5. The transfer of Ownership of Interment Rights are not binding upon the Cemetery until a duly executed transfer has been approved by the Board.
6. Where the interment rights holder is deceased and the transfer is made within the family, the Board will accept:
 - a. Notarial Copy and or/court certified copy of the Last Will and Testament or a certificate of appointment of estate trustee or other evidence sufficient to prove the proper transmission of ownership on death of the rights holder, OR;
 - b. Where the interment rights holder died intestate, a request in writing from the estate trustee, or if no estate trustee has been appointed, affidavits signed by all family members approving the transfer to one or more family members, OR;
 - c. In cases where the estate is evenly divided, affidavits signed by all family members or beneficiaries approving the transfer to one or more family members.
7. The Colborne Cemetery will not be required to sell pre-need burial services. Such services may be acquired at funeral homes.
8. A rights owner 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 Board. The board will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
9. The 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 Board and the purchaser meets the qualifications and requirements as outlined in the Cemetery By-laws.
 - a. The Rights Owner intending to sell their rights shall provide the following documentation to the Board so that the board can confirm the ownership of the rights and provide the third party purchaser with the required certificate etc.:
 - i. An Interment Rights certificate endorsed by the current Rights Owner;

- ii. 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;
 - iii. Any other documentation in the Interment Rights Owners possession relating to the rights.
 - b. The third party purchaser will be provided with the following documents by the Board:
 - i. An Interment Rights certificate endorsed by the current Rights Owner;
 - ii. A copy of the cemetery's current By-laws;
 - iii. A copy of the cemetery's current price list;
 - iv. 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;
 - v. Any other documentation in the Interment Rights Owners possession relating to the rights.
 - c. The Board will require:
 - i. A statement signed by the Rights Owner selling the Interment Rights acknowledging the sale of the Interment Rights to the third party purchaser;
 - ii. 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;
 - iii. Record the date of transfer of the Interment Rights to the third party;
 - iv. The name and address of the third party;
 - v. A statement of any money owing to the Board in respect to the Interment Rights.
10. Once the endorsed certificate and all required information has been received by the Board from the Rights Owner, the Board will issue a new Interment Rights Certificate to the third party purchaser.
11. 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 owner of the Interment Rights and the resale or transfer of the Interment Rights shall be considered final in accordance with the Cemetery By-law and the Funeral, Burial, Cremation Services Act, 2002.
12. The Board permits the Interment Rights Owner to request at any time the repurchase of those rights by the Board, subject to the following conditions:
- a. For rights purchased prior to July 1, 2012, the Board shall pay the rights holder an amount equal to that paid for the rights under the original contract.
 - b. For rights purchased after July 1, 2012, the rights holder shall receive the greater of the following amounts less the less the "Trusted" portion as per section 14 of this Schedule 3:
 - i. All money received by the Cemetery Caretaker under the contract.
 - ii. The market value of the rights, as indicated by Schedule 7 of this by-law, on the day the Cemetery Caretaker receives notice of cancellation of the contract, less the amount, if any, owing under the contract as of the day on which the rights holder cancels the contract.

13. If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to resell the interment rights to the Board or a third party.

14. It is a requirement under the Funeral, Burial, Cremation Services Act, 2002 and Ontario Regulation 30/11 and 184/12 that a prescribed amount or percentage of the purchase price (excluding tax) of all interment and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the Care and Maintenance Fund. Interest earned from this fund is used to provide care and maintenance of the lots, plots, markers and monuments at the cemetery. Contributions into the fund are not refundable except when interment or scattering rights are cancelled within the 30-day cooling off period.

SCHEDULE 4
Burials and Disinterments
By-Law 29-2018

1. 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.
2. Persons ordering graves will be held responsible for charges incurred.
3. A burial permit shall be presented to the Caretaker or his assistant before an interment will be permitted.
4. Interments in lots shall be permitted as follows:
 - a. One (1) casket burial in a single lot;
 - b. Up to six (6) cremations in a single lot;
 - c. One (1) casket burial plus two (2) cremated remains (not in vaults) in a single lot only if the casket burial has taken place.

Any alteration to these regulations shall not be allowed unless the Board receives and approves of the written request.

5. It is recommended that casket burials be within a concrete vault and that the interments be received in a wooden or aluminum casket.
6. In accordance with the Funeral, Burial, Cremation Services Act, 2002 the purchaser of Interment Rights must enter into a cemetery contract, providing such information as may be required by the Board for the completion of the contract and the public register prior to an Interment.
7. Payment must be made to the cemetery before an Interment can take place.

SCHEDULE 5
Rules of Visitors
By-Law 29-2018

1. 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.
2. All visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any services being held, by noises or otherwise.
3. Visitors shall travel through the Cemetery by way of roads and paths and shall not trespass over burial lots of others.
4. Children under twelve (12) years of age must be accompanied by an adult who shall be responsible for their conduct.
5. 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.
6. 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.
7. No congregation or other large assembly shall be permitted at the Cemetery except for purposes of a burial or a memorial service.
8. 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.
9. The Cemetery will be open for visitors every day from sunrise to sunset.

SCHEDULE 6
Columbarium Regulations
By-Law 29-2018

1. The internal dimensions of a niche are 12.5” high x 12.5” wide x 14” deep.
2. Two (2) urns may be placed in a niche. Urns must adhere to the internal dimensions of the niche. The Caretaker may refuse to place any unsuitable and/or oversized container in the urn space.
3. All containers designed to hold the cremated remains must be permanent in nature.
4. Niches will be opened only by the Cemetery Caretaker or his/her assistant or those designated to do work on behalf of the Cemetery Operator or Caretaker and sealed by them after an inurnment is made.
5. No person other than the Cemetery Caretaker or his/her assistant or those designated to do work on behalf of the Cemetery Operator or Caretaker shall remove or alter niche fronts.
6. No inurnment shall be made without permission from the Interment Rights Holder or a person authorized to act on the Holder’s behalf.
7. The only inscription permitted is on the front of the niche and the inscriptions are arranged through the Cemetery Caretaker using the designated layout form.
8. The niche, inurnment charges and the charge for the inscription that will go on the front of the niche must be paid in full prior to inurnment in the niche.
9. The inscription may consist of the name(s) of the deceased, the year of birth and the year of death.
10. No external decoration or ornamentation, temporary or permanent, will be permitted on the wall of or near the Columbarium and no photograph cases will be permitted to be attached to the niche.
11. Temporary floral tributes are permitted at the time of inurnment.

**SCHEDULE 7
Cemetery Fees
By-Law 29-2018**

Interment Rights	
Interment Rights (Single Lot, Untrusted portion)	\$ 540.00
Care and Maintenance Trust	\$ 360.00
Total	\$ 900.00

Interment Fees	
Adult Casket	\$ 750.00
Child Casket (up 13 years of age)	\$ 270.00
Infant Casket (up to 1 year of age)	\$ 185.00
Cremation interment	\$ 350.00
Two interments, same Lot/time (burial & cremation)	\$ 950.00
Two cremation interments, same Lot/time	\$ 550.00
Opening and Closing of Niche	\$ 200.00

Columbarium					
<i>Niche Interment Rights</i>		<i>Care & Maint.</i>	<i>Inscription</i>	<i>Total</i>	
1, 2, 3	\$ 900.00	\$ 135.00	\$ 600.00	\$ 1700.00	
4, 5, 6	\$ 1200.00	\$ 180.00	\$ 600.00	\$ 2000.00	
Memory Wall Plaque	\$ 200.00	\$ 200.00	\$ 350.00	\$ 350.00	

Extra to Interment	
<i>Interment Time</i>	<i>Fee</i>
Saturday (Adult/Child/Infant Casket or Cremation)	\$ 200.00
Sundays or Statutory Holidays (Adult Casket)	\$ 750.00
Sundays or Statutory Holidays (Child/Infant Casket)	\$ 200.00
Sundays or Statutory Holidays (Cremation)	\$ 350.00
Weekdays before 4:00pm	\$ -
Weekdays after 4:00pm	\$100.00/30min
<i>Other Fees</i>	
Foundation and Markers (per cubic foot)	\$ 25.00
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	\$ 500.00
<i>Care and Maintenance</i>	
Flat marker over 172 in ²	\$ 50.00
Upright Monument up to and including 4 feet in height and 1.5 feet in width	\$ 100.00
Upright Monument over 4 feet in height and 1.5 feet in width	\$ 200.00

All fees not marked with * are subject to HST