



The Municipal Corporation of the Town of Fort Erie

BY-LAW NO. 25-13

BEING A BY-LAW TO REGULATE AND CONTROL THE OPERATIONS AND CARE OF MUNICIPAL CEMETERIES AND TO REPEAL BY-LAW NOS. 57-93, 79-07, 105-2001, 252-2002, 81-09 AND 43-11

WHEREAS The Corporation of the Town of Fort Erie owns and operates cemeteries within the Town of Fort Erie, more particularly identified in Schedule “A” attached hereto, and

WHEREAS By-law No. 57-93, as amended, was passed by the Municipal Council of The Corporation of the Town of Fort Erie on March 29, 1993, pursuant to the *Cemeteries Act (Revised)*, R.S.O. 1990, c.4, and

WHEREAS By-law No. 43-11 was passed by the Municipal Council of The Corporation of the Town of Fort Erie on April 26, 2011, adopting the Cemetery By-law of McAfee Cemetery Inc. until such time as it is replaced, and

WHEREAS Section 150(1) of Ontario Regulation 30/11 to the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c.33 (the “*Act*”) provides that a cemetery operator may make by-laws governing the operation of a cemetery, and in particular, governing rights, entitlements and restrictions with respect to interment and scattering rights, and

WHEREAS no such by-law comes into force and effect until it is filed with the Registrar under the *Act*, notice of the filing is given in accordance with the regulations under the *Act*, and the by-law is approved by the Registrar, and

WHEREAS it is deemed desirable and expedient to enact this by-law to regulate the operation of municipal cemeteries, in compliance with the *Act* and regulations thereto, and to repeal By-law Nos. 57-93, 79-07, 105-2001, 252-2002, 81-09 and 43-11 effective upon approval of this by-law by the Registrar;

NOW THEREFORE the Municipal Council of the Town of Fort Erie hereby enacts as follows:

PART 1

1.0 DEFINITIONS

1.1 In this by-law:

- a) “*Act*” means the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c.33 and regulations thereunder, as amended or replaced from time to time.
- b) “Adult Grave” means an interment space intended for the interment of adult human remains.
- c) “burial” means the opening and closing of an in-ground lot or plot for the interment of human remains.

- d) “Burial Permit” means a Permit for the burial of human remains, in the form approved by the Registrar General under the *Vital Statistics Act*, R.S.O. 1990, c.V.4, and regulations thereto, as amended or replaced, issued by the Division Registrar or such other permit as accepted by, and provided to, the Cemetery Supervisor prior to an interment.
- e) “Care and Maintenance Fund” means the fund established pursuant to the *Act* in which all monies received by the Corporation as a percentage of the purchase price of all Interment Rights, and set amounts for marker and monument installations is deposited as a trust to generate income for the care and maintenance of a Cemetery and used for the purposes permitted under the *Act*.
- f) “Cemetery” or “Cemeteries” means all active and inactive cemeteries under the jurisdiction of the Corporation, listed in Schedule “A” attached hereto and forming part of this by-law.
- g) “Cemetery Supervisor” means the Corporation’s Supervisor, Parks and Cemetery Services from time to time or the holder of the office exercising the functions presently performed by the said Supervisor and includes his or her designate.
- h) “Certificate of Interment Rights” means the Certificate issued by the Corporation to a purchaser once the interment rights have been paid in full, identifying ownership of interment rights, or a new certificate issued to a new holder of the rights once the Corporation has received the endorsed certificate.
- i) “Children’s Grave” means an interment space intended for the interment of child human remains.
- j) “columbarium” means a structure, other than a mausoleum, designed for the purpose of interring cremated human remains in niches or compartments.
- k) “Committee” means the Cemetery Advisory Committee established and appointed by the Municipal Council of the Corporation, from time to time, to provide advice and make recommendations to the Municipal Council of the Corporation.
- l) “corner posts” means any granite, stone, metal or other marker set flush with the surface of the ground and used to indicate the location of a lot or plot.
- m) “Corporation” means The Corporation of the Town of Fort Erie.
- n) “Cremation Lot” means any interment space intended to receive urns containing cremated human remains.
- o) “crypt” means a chamber for the interment of human remains.
- p) “Division Registrar” means the person who is, by virtue of office, or who is appointed as a division registrar under the *Vital Statistics Act*, R.S.O. 1990, c.V.4, and regulations thereto, as amended or replaced, for the Corporation.
- q) “flat marker” means a grave marker measuring at least 11.16 square m (173 square inches) that does not project above ground level.

- r) “human remains” means a dead human body or the remains of a cremated human body.
- s) “Infant Grave” means any interment space intended for the interment of infant human remains.
- t) “interment” means the placing of a casket or urn, containing human remains, in a grave, lot, plot, niche or crypt.
- u) “Interment Rights” means the right to require or direct the interment of human remains in a lot, plot, niche or crypt.
- v) “Interment Rights Holder” means a person who holds the Interment Rights with respect to a specific lot whether the person be the purchaser of the Interment Rights, the person named in the Certificate of Interment, or such other person to whom the Interment Rights have been assigned.
- w) “lot” means an area of land in a 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, and any other similar facility or receptacle.
- x) “lot decorations” means artificial flowers, wreaths, saddle wreaths, baskets, clay pots, candles, keepsakes, all potted plant material, tripods or other stands and vases.
- y) “lot plantings” means all in-ground plant material, including shrubs, and annual and perennial flowers.
- z) “marker” means any monument, plaque, flat marker, headstone or footstone, or other structure affixed to or intended to be affixed to a lot or plot, mausoleum, crypt, columbarium, niche or other structure or place intended for the deposit of human remains.
- aa) “mausoleum” means a structure other than a columbarium, used as a place for the interment of human remains, in sealed crypts or compartments.
- bb) “Ministry” means the Ministry of Consumer Services.
- cc) “monument” means any permanent marker projecting above ground level.
- dd) “niche” means a compartment in a columbarium into which urns containing cremated human remains are interred.
- ee) “Plan” means a plan showing the layout of a Cemetery and the location of existing or proposed plots, lots, structures and fixtures, approved by the Registrar.
- ff) “plot” means two or more lots in which Interment Rights have been sold as a unit.
- gg) “Price List” means the list of fees and charges for every licensed supply and service provided by the Corporation in the operation of its Cemeteries, as established in the Schedule of Rates, and in the form prescribed by the regulations under the *Act*.
- hh) “Register” means records, documents and information kept by the Corporation in accordance with the *Act*.

- ii) “Registrar” means the person or persons appointed under the *Act* to exercise the powers and perform the duties imposed under the *Act*.
- jj) “Schedule of Rates” means the fees and charges for licensed supplies and services provided by the Corporation, as approved and established by the Municipal Council of the Corporation in Schedule “IS-D of By-law No. 40-09, as amended from time to time.
- kk) “Tribunal” means the Licence Appeal Tribunal established under the *Licence Appeal Tribunal Act, 1999* or such other tribunal as may be prescribed under the *Act*.
- ll) “urn” means a container designed to contain cremated human remains.
- mm) “vault” means a container designed to be placed into the ground and into which a casket containing human remains is placed.

PART 2

2.0 ADMINISTRATION

- 2.1 The Corporation has full and complete control and management of the land, buildings, planning, roads, utilities, books and records of the Cemeteries, and the Cemetery Supervisor is hereby delegated authority to administer this by-law.
- 2.2 The Corporation 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 any part of a Cemetery, subject to approval of the Registrar and any other authorities where required.
- 2.3 A Cemetery Advisory Committee may be established and members appointed by the Municipal Council of the Corporation, to provide advice and make recommendations with respect to any matter in connection with the administration of the Cemeteries, the budget, rate changes, and any major projects proposed or being undertaken in connection with the Cemeteries.
- 2.4 The Cemetery Supervisor shall have custody of the Cemeteries under the direction of the Council of the Corporation. No interment, disinterment, or removal of human remains shall take place without notice to the Cemetery Supervisor, and he/she shall require the appropriate permit or certificate required by law to be provided.
- 2.5 In the operation of its Cemeteries, the Corporation shall not be liable to any person for any loss or damage from causes beyond its control, and without limitation, loss or damage caused by the elements, Acts of God, acts of terrorism, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, accidents, invasions, insurrections, riots or order of any military or civil authority whether such damage be direct or collateral.

PART 3

3.0 SALE AND TRANSFER OF INTERMENT RIGHTS

- 3.1 Interment Rights in lots, plots, niches and crypts may be purchased from the Corporation at the rates specified in the Schedule of Rates and according to the Plans approved by the Registrar that are on file in the office of the Cemetery Supervisor. The prices for lots, plots, niches and crypts include the applicable portion for deposit to the Care and Maintenance Fund of the Cemetery.
- 3.2 The deposits to the Care and Maintenance Fund shall be as specified by the *Act*. Contributions to the Care and Maintenance Fund are not refundable except when Interment Rights are cancelled within the 30-day cooling-off period provided for in the *Act*.
- 3.3 The Corporation shall provide each Interment Rights Holder at the time of the sale, with:
- a) a copy of the Ministry's Consumer Information Guide,
 - b) a copy of the Price List,
 - c) an explanation of the cancellation rights and refund entitlements,
 - d) a copy of this by-law, and amendments thereto,
 - e) a copy of the Interment Rights Contract,
 - f) any other applicable information required by the *Act*, and
 - g) upon payment in full, a Certificate of Interment Rights.
- 3.4 Purchasers of Interment Rights acquire only the right and privilege to direct the interment of human remains and the installation of markers, monuments and inscriptions, subject to the provisions of this by-law. The purchase of Interment Rights is not a purchase of real property.
- 3.5 No interment or installation of any monument, marker or inscription shall be permitted until the Interment Rights have been paid for in full.
- 3.6 If the Corporation receives written notice within the 30-day cooling-off period provided for in the *Act* that a contract is cancelled by the purchaser or transferee, the Corporation shall refund the monies received under the contract together with the amounts that are prescribed under any regulation to the *Act*, within thirty (30) days of receiving such notice. If the Interment Rights Certificate has been issued to the Interment Rights Holder, the Certificate must be returned to the Cemetery Supervisor with the written notice of cancellation.
- 3.7 If a portion of the Interment Rights has been exercised, or if a foundation has been installed on the centre of two (2) lots with one (1) of the lots having an interment, the Interment Rights Holder is not entitled to cancel the contract or re-sell the Interment Rights.
- 3.8 Following the 30-day cooling-off period provided for in the *Act*, and provided that the Interment Rights have not been exercised as described in Subsection 3.7, the Interment Rights have been paid in full, and an Interment Rights Certificate has been issued, the Interment Rights Holder as recorded on the Cemetery records, may re-sell the Interment

Rights to a third party. Any re-sale of Interment Rights shall be in accordance with the *Act* and this by-law.

- 3.9 The Interment Rights Holder intending to sell his/her rights shall provide the following to the Cemetery Supervisor in order for the Corporation to confirm the ownership of the Interment Rights and provide the third party purchaser with a new Interment Rights Certificate:
- a) an Interment Rights Certificate endorsed by the current Interment Rights Holder,
 - b) a written statement of the number of lots that have been used in the plot and the number of lots that remain available,
 - c) a statement signed by the current Interment Rights Holder acknowledging the sale of the Interment Rights to the third party purchaser,
 - d) 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,
 - e) the date that the transfer of the Interment Rights to the third party is to be recorded,
 - f) the name and address of the third party purchaser,
 - g) a statement of any money owing to the Corporation in respect to the Interment Rights,
 - h) payment of the "Preparation of Transfer of Ownership" fee as specified in the Schedule of Rates, and
 - i) any other documentation in the Interment Rights Holder's possession relating to the Interment Rights.
- 3.10 The third party purchaser will be provided with the following documents by the Cemetery Supervisor:
- a) an Interment Rights Certificate endorsed by the current Interment Rights Holder,
 - b) a copy of this by-law and amendments thereto,
 - c) a copy of the current Price List,
 - d) a written statement of the number of lots that have been used in the plot and the number of lots that remain available, and
 - e) any other documentation provided by the Interment Rights Holder to the Cemetery Supervisor relating to the Interment Rights.
- 3.11 Upon receiving the endorsed Certificate and all information and documents required in Subsection 3.9 from the Interment Rights Holder, the Cemetery Supervisor shall issue a new Interment Rights Certificate to the third party purchaser.
- 3.12 In the case of bequest or transmission of ownership of Interment Rights by Will, the Cemetery Supervisor shall have the right to require the production of a Notarial Copy of the Will, or such other evidence he/she deems sufficient to prove the transfer of ownership.
- 3.13 Upon the issuance of the new Interment Rights Certificate, the third party purchaser, or transferee identified in Subsection 3.12, shall be the Interment Rights Holder of the Interment Rights, and the resale/transfer of the Interment Rights shall be considered final.

PART 4

4.0 INTERMENTS

- 4.1 The minimum size of Graves and Cremation Lots and the maximum number of interments in a single Grave or Cremation Lot shall be in accordance with the following table:

Type	Size (Length x Width)	Number of Interments
Adult Grave	Minimum 3.05 metres (120 inches) by 1.02 metres (40 inches) to a maximum 3.05 metres (120 inches) by 1.22 metres (48 inches)	i) Single lot - Not more than one (1) casket interment and the cremated remains of three (3) persons. ii) An infant container measuring no more than 0.61 m x 0.31 m (24 inches x 12 inches) may take the place of one (1) set of cremated remains at the head of an Adult Grave.
Children's Grave	Minimum 1.52 metres (60 inches) by 1.02 metres (40 inches)	Not more than one (1) child casket interment <u>or</u> the cremated remains of one (1) child.
Infant Grave	Minimum 1.52 metres (60 inches) by 0.51 metres (20 inches)	Not more than one (1) infant casket interment <u>or</u> the cremated remains of one (1) infant.
Cremation Lot in Greenwood & Ridgeway Memorial Cemeteries	Minimum 1.02 metres (40 inches) by 0.61 metres (24 inches)	Not more than the cremated remains of one (1) person.
Cremation Lot in McAfee Cemetery	Minimum 1.52 metres (60 inches) by 0.61 metres (24 inches)	Not more than the cremated remains of three (3) persons.
Mausoleum or crypt		Not more than one (1) casket interment or the cremated remains of three (3) persons.
Columbarium niche		Not more than the cremated remains of two (2) persons.

- 4.2 Winter interments may take place when weather permits, subject to approval by the Cemetery Supervisor.
- 4.3 Human remains to be interred in a grave must be enclosed in a container of appropriate size and strength to ensure the container remains intact during interment.
- 4.4 Double depth or extra depth interments are not permitted in any Cemetery.
- 4.5 Where the outside measurement of a vault or shell is more than 2.24 metres (88 inches) in length, and/or more than 0.84 m (33 inches) in width, the Cemetery Supervisor may refuse the interment of same where there is insufficient space available within the lot to accommodate such oversize shell or vault.

- 4.6 Where oversized shells/vault are used for interments, permission may be refused by the Cemetery Supervisor for the construction of foundations for a monument on a lot where there is insufficient room left to construct a foundation for monuments due to oversize of the vault or shell.
- 4.7 While the Corporation recommends that liners or vaults be utilized, they shall be provided by a Funeral Director and not at the expense of the Corporation. The vault supplier shall be responsible for any significant damage to the grounds or casket caused by the supplier's equipment or operator error.
- 4.8 Above ground setups for vaults are permitted only when conditions are suitable, and are subject to approval by the Cemetery Supervisor.
- 4.9 The Cemetery Supervisor may, in his/her sole discretion, request authorization in writing by the Interment Rights Holder for any interment.
- 4.10 The Cemetery Supervisor shall endeavor to be in attendance at the Cemetery during each interment.
- 4.11 The Burial Permit evidencing that the death has been registered, and the fee for the opening of the lot according to the Schedule of Rates, must be provided to the Cemetery Supervisor before interment may take place.
- 4.12 In the case of a cremation interment, the Cremation Certificate and the fee according to the Schedule of Rates, must be provided to the Cemetery Supervisor before interment may take place.
- 4.13 In accordance with the *Act*, the Interment Rights Holder must enter into a contract, providing such information as may be required by the Corporation for the completion of the contract and the public Register, prior to an interment of human remains.
- 4.14 Where Interment Rights in a lot or plot are held jointly by two (2) or more persons, a written direction will be accepted from either, or any of them, or their authorized representatives, for interment, in such part of the lot or plot as may be requested.
- 4.15 No lot shall be opened for interment by any person not in the employ of or under the direction of the Corporation, the Medical Officer of Health, or the Ministry.
- 4.16 No columbarium niche or mausoleum crypt shall be opened or sealed for interment by any person not in the employ of or under the direction of the Corporation, the Medical Officer of Health, or the Ministry. This applies to the inside sealer and niche or crypt front.
- 4.17 The Interment Fee includes the opening and closing of the lot and the registration of the interment. The scale of fees for lot openings is based on the size of the lot and the labour involved.

- 4.18 No interment shall be permitted in any lot until the Interment Rights have been paid for in full.
- 4.19 When the immediate location of an interment is deemed to be a potential health and safety hazard for the Cemetery Supervisor's staff or Cemetery visitors, the Cemetery Supervisor may order that the service be set up at an alternate location, as close to the actual interment location as is safely possible.
- 4.20 The Corporation reserves the right, at its expense, to correct any error that may be made by the Cemetery Supervisor or his/her staff during the course of interments, and without restricting the generality of the foregoing, including any error in the description of the lot, the location of the interment, or the transfer of any Interment Rights. In those circumstances, the Cemetery Supervisor may elect to:
- (a) cancel the original Interment Rights and substitute other Interment Rights in a similar location of the Cemetery as is reasonably possible or as may be chosen by the Interment Rights Holder,
 - or
 - (b) refund all money paid on account for such purchase.

Written notice of the Cemetery Supervisor's decision shall be given to the Interment Rights Holder or his/her legal representative, personally, or by pre-paid mail at the last address appearing in the records of the Corporation.

- 4.21 Pets or other lower animals, including cremated animal remains, are not permitted to be buried on or in Cemetery grounds.
- 4.22 Written notice of an interment shall be given to the Cemetery Supervisor at least twenty-four hours in advance. The Corporation shall not be held responsible for having lots prepared for a funeral unless such prior written notice is provided to the Cemetery Supervisor and he/she has confirmed interment.
- 4.23 The Corporation is not required to supply supplemental equipment such as artificial grass, tents and chairs and the like, as generally used in conjunction with interments, crypt placements or cemetery funeral services. However, if the Corporation does supply any such equipment, a fee as set out in the Schedule of Rates may be charged. The Corporation assumes no liability for the loss of, or damage to, any grave or marker resulting from the use of such equipment.
- 4.24 Interments should arrive at the Cemetery between the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday, and between the hours of 9:00 a.m. to 2:00 p.m. on Saturday and a Statutory Holiday.
- 4.25 The Cemetery Supervisor will not permit any interments on Sundays unless ordered to do so by a representative of the Ministry of Health.

- 4.26 Additional charges are included in the Schedule of Rates for:
- a) Statutory holiday interments, unless the interment is ordered by a representative of the Ministry of Health,
 - b) Saturday interments, and
 - c) Funerals reaching the Cemetery after the hour of 4:00 p.m. in the afternoon, Monday through Friday, and after the hour of 2:00 p.m. in the afternoon on Saturday or on Statutory Holidays.
- 4.27 Funeral processions within a Cemetery shall follow the route approved by the Cemetery Supervisor.
- 4.28 The Cemetery Supervisor will exercise all due care in conducting interments, but is not responsible for damage to any casket, vault, urn or other container, sustained during interment.
- 4.29 Requests for services not held in conjunction with an interment require at least three (3) days written notice and the written approval of the Cemetery Supervisor in order to avoid a possible conflict with a funeral procession. Prior to approval, the Cemetery Supervisor shall ensure that the requested service will not conflict with a funeral procession, which shall have first priority.

PART 5

5.0 DISINTERMENTS

- 5.1 No lot shall be opened for disinterment by any person not in the employ or under the direction of the Corporation, the Medical Officer of Health, or the Ministry.
- 5.2 No person shall disinter human remains, except cremated human remains, unless the prior consent of the Interment Rights Holder has been obtained or such disinterment has been consented to by the Registrar or ordered by the Tribunal, and prior notification has been given to the Medical Officer of Health.
- 5.3 No person shall remove human remains, except cremated remains, from a Cemetery unless a certificate of a Medical Officer of Health or the Cemetery Supervisor, has been obtained and affixed to the container holding the human remains, confirming that the *Act* and the regulations thereunder have been complied with.
- 5.4 A Burial Permit under the *Vital Statistics Act* is not required for the reinterment of human remains that have been disinterred in accordance with the *Act* and regulations thereunder.
- 5.5 No person shall disinter and/or remove cremated human remains unless the prior consent of the Interment Rights Holder has been obtained or such disinterment and/or removal has been consented to by the Registrar or ordered by the Tribunal. Prior notification to the Medical Officer of Health is not required.
- 5.6 Disinterments may be performed only when conditions are deemed suitable by the Cemetery Supervisor to conduct a safe removal.

- 5.7 A fee shall be charged for a disinterment, as specified in the Schedule of Rates.
- 5.8 The Corporation is not responsible for damage to any casket, vault, urn or other container sustained during disinterment.

PART 6

6.0 CARE OF LOTS – GENERAL

- 6.1 A portion of the price of Interment Rights shall be held and invested by the Corporation in a Care and Maintenance Fund in accordance with the *Act*. The income generated from this fund may be used to maintain, secure and preserve the Cemetery, including the grounds, buildings, structures, and markers, and the equipment used to maintain, secure and preserve the Cemetery, and without limiting the generality of the foregoing, may include:
- a) re-levelling and sodding or seeding of lots,
 - b) maintenance of cemetery roads, sewers and water systems,
 - c) maintenance of perimeter walls and fences,
 - d) maintenance of cemetery landscaping,
 - e) maintenance of columbaria and mausoleum, and
 - f) repairs and general upkeep of cemetery maintenance buildings and equipment.
- 6.2 Where permitted, lot plantings may be cultivated on lots provided approval is obtained from the Cemetery Supervisor. The Cemetery Supervisor shall be notified one (1) week in advance of the desired date for the planting. The request shall be accompanied by information relevant to the location of the lot, a brief description of the planting material, and the desired location of the planting.
- 6.3 No person shall do any work upon a lot other than the cultivating and maintenance of lot plantings, without the prior approval of the Cemetery Supervisor.
- 6.4 No Interment Rights Holder shall change the grading of his or her lot or plot, and in the event of any such change, the Cemetery Supervisor may have the lot or plot restored to its original grade, at the expense of the Interment Rights Holder.
- 6.5 Maintenance of lot plantings shall at all times be the responsibility of the Interment Rights Holder.
- 6.6 The Cemetery Supervisor may remove any lot plantings and lot decorations that have withered or become unsightly due to neglect or any other reason.
- 6.7 Lot plantings and lot decorations removed by the Cemetery Supervisor's staff as provided for in this by-law, will be stored by the Cemetery Supervisor for a period of thirty (30) days, unless otherwise provided herein, and where possible, the Interment Rights Holder will be notified in advance of such removal. The Corporation shall not be responsible for the condition of such lot plantings and lot decorations during storage, and if they are unclaimed by the Interment Rights Holder at the expiry of the thirty (30) days, they will be disposed of without compensation or further notice to the Interment Rights Holder.

- 6.8 If any lot plantings become detrimental to the adjacent lots, drains, roads or walkways in the Cemetery in any way, including but not limited to, by means of their roots or branches, or become prejudicial to the general appearance of the grounds, or cause inconvenience to the public, the Cemetery Supervisor may remove such lot plantings without prior notice to the Interment Rights Holder.
- 6.9 Lot plantings and lot decorations which are, in the opinion of the Cemetery Supervisor, a safety hazard to the public and/or the Cemetery Supervisor's staff, will be removed without prior notice to the Interment Rights Holder.
- 6.10 No glass containers of any kind are allowed in the Cemetery, except as specified in Subsection 10.6.
- 6.11 No lot planting or lot decoration of any kind shall be situated behind a monument.
- 6.12 Rubbish shall not be thrown on roads, walkways or any part of the grounds in a Cemetery, and shall be placed in receptacles provided at convenient points on the grounds.
- 6.13 Implements or materials used in doing any work within a Cemetery shall be removed at the end of a work session without delay, failing which, the Cemetery Supervisor's staff shall be at liberty to remove and dispose of same.
- 6.14 The Corporation shall not be responsible for any theft or vandalism to markers, lot plantings, or lot decorations, nor for any loss or damage to any other articles left upon any lot or plot.

PART 7

7.0 CARE OF LOTS – LOT PLANTINGS

- 7.1 Lot plantings are permitted on any lot or plot except in McAfee Cemetery, and any lots or plots in any other Cemetery designated "Flat Markers Only".
- 7.2 Flower beds for lot plantings shall be permitted provided that they are properly maintained, including weeding and trimming in accordance with the standards of the Corporation.
- 7.3 Flower beds shall not exceed the width of the lot and 0.38 m (15 inches) from the front of the monument. The area of a flowerbed on any lot may only be defined by means of installation of a concrete border.
- 7.4 Concrete borders enclosing a flowerbed shall be no higher than 8 cm (3 inches) aboveground level. Borders made of iron, wood, wire or plastic are not permitted in a Cemetery and will be removed by the Cemetery Supervisor's staff.
- 7.5 The Corporation assumes no responsibility or liability whatsoever for such concrete borders, nor for any costs for reinstallation or repair as may be necessitated as a result of interment operations or other maintenance. Such costs shall be the sole responsibility of the Interment Rights Holder.

- 7.6 Failure by the Interment Rights Holder to maintain concrete borders in a manner acceptable to the Cemetery Supervisor, may result in the removal of the concrete border by the Cemetery Supervisor's staff.
- 7.7 Rose bushes are a safety hazard and are not permitted on any Cemetery lot.
- 7.8 Dwarf evergreen shrubs are only permitted on a lot or plot having a monument and only one (1) shall be planted on either side of the monument.
- 7.9 The height of such dwarf evergreen shrubs shall at no time exceed 0.91 m (36 inches) above ground level.
- 7.10 The diameter of such evergreen shrubs at the widest point, including all foliage, shall at no time exceed 0.36 m (14 inches) or obstruct adjacent lots.
- 7.11 The dimensions of dwarf evergreen shrubs as specified in Subsections 7.9 and 7.10 shall be maintained, failing which, the Cemetery Supervisor may remove the dwarf evergreen shrubs.
- 7.12 Lot plantings shall not be permitted to grow to a height exceeding the height of the monument situated upon a lot or 0.91 m (36 inches), whichever is lesser. Failure to comply with this requirement may result in the Cemetery Supervisor having such lot plantings and the flowerbed removed.
- 7.13 Where annual flowers and/or lot decorations are placed within the flowerbed, they shall be removed annually not later than October 31st, and the entire area of the flowerbed is to be left in a neat appearance. Failure to do so may result in the Cemetery Supervisor's staff having the annual flowers and/or lot decorations removed, without notice or compensation to the Interment Rights Holder.
- 7.14 To preserve the orderly appearance of the Cemeteries, any flowerbed of the previous year that has not been re-planted by June 15th of any subsequent year, may result in the removal of the flowerbed at the discretion of the Cemetery Supervisor, without notice or compensation to the Interment Rights Holder.

PART 8

8.0 CARE OF LOTS – LOT DECORATIONS

- 8.1 Lot decorations may be placed on any part of a lot for a maximum period of two (2) weeks, and shall be removed immediately thereafter by the Interment Rights Holder.
- 8.2 Winter wreaths without glass or plastic covers, are only permitted to be placed on a lot or plot after the 1st day of December in any year.
- 8.3 To preserve the appearance of the grounds in a Cemetery, winter wreaths must be removed before the 1st day of April of each year; otherwise, the Cemetery Supervisor will have them removed.

- 8.4 Lot decorations which are, in the opinion of the Cemetery Supervisor, a safety hazard to the public and/or the Cemetery Supervisor's staff, will be removed without notice to the Interment Rights Holder.
- 8.5 Nails, wires, wooden crosses, articles of glass or pottery, are not permitted in any Cemetery, except as specified in Subsection 10.6.

PART 9

9.0 MONUMENTS AND MARKERS – GENERAL

- 9.1 No monument, marker, private mausoleum, or other monument-like structure shall be permitted to be erected or installed until specific design plans including dimensions, material of structure, construction details, and proposed location (where applicable), have been approved by the Cemetery Supervisor and all fees have been paid in full.
- 9.2 No monument or marker shall be moved, altered or removed without the prior approval of the Cemetery Supervisor.
- 9.3 No inscription shall be placed on any monument that is not in keeping with the dignity and decorum of the Cemetery. Any Monument Dealer, who feels that a customer's request is not appropriate for the Cemetery, shall contact the Cemetery Supervisor for prior approval of such inscription before such inscription is effected.
- 9.4 No monument or marker shall be delivered to the Cemetery without the prior provision to the Cemetery Supervisor of a "Contractor's Form for Permission to Install a Monument or Marker" which contains the following information:
- a) the name of the Interment Rights Holder,
 - b) instructions for the placement of the marker of monument,
 - c) in the case of a flat marker, the dimensions of the marker, and
 - d) in the case of a monument:
 - i. the dimensions of the die, height, width, length,
 - ii. the dimensions of the base, height, width, length, and
 - iii. the overall size of the monument.
- 9.5 Any applicable installation fees and/or contributions to the Care and Maintenance Fund in relation to the size of the marker or monument as set out in the *Act*, must accompany the "Contractor's Form for Permission to Install a Monument or Marker" referred to in Subsection 9.4.
- 9.6 If, in the opinion of the Cemetery Supervisor, a monument or marker in a Cemetery presents a safety risk due to damage and/or instability, the Cemetery Supervisor may take such steps he/she deems necessary to repair, reset or lay down the monument or marker or to remove the risk.
- 9.7 Temporary markers, as normally provided by the Funeral Homes, are permitted for a period of six (6) months from the date of the interment.

- 9.8 All photographs attached to any monuments or markers placed within a Cemetery shall be at the sole risk of the Interment Rights Holder.

PART 10

10.0 MONUMENTS

- 10.1 On each in-ground lot, there shall be no more than:
- a) One (1) monument and one (1) marker, or alternatively,
 - b) Two (2) markers.
- 10.2 Monuments may only be erected on lots designated for monuments and not in any area designated “Flat Markers Only”.
- 10.3 All monuments shall be constructed of bronze, granite or marble.
- 10.4 No monument may be erected which is composed in whole or in part of:
- (a) Wood,
 - (b) Metal,
 - (c) Marble veneer or other veneer,
 - (d) Block or cement facing or exterior, or
 - (e) Any material not of a permanent nature or durable quality.
- 10.5 Book or pillow markers are allowed in all sections of a Cemetery, except for sections designated “Flat Markers Only”.
- 10.6 Candle holders and vases may constitute part of a monument if such are made principally of bronze or stainless steel and are affixed to the monument. If a translucent section is necessary, it must be made of an unbreakable, heat-resistant glass or of a fire-resistant plastic material. In addition:
- 10.6.1 Candle holders must be included in determining the overall size of the monument.
 - 10.6.2 A maximum of two (2) candles or vases may be placed on the base of any monument.
 - 10.6.3 A candle holder must be adequately drained to prevent any collection of water.
 - 10.6.4 Candle holders must be fully enclosed on all sides by a door or lid.
- 10.7 Before placing an order for any monument, a “Contractor’s Form for Permission to Install a Monument or Marker” must be submitted to the Cemetery Supervisor, as required in Subsection 9.4.
- 10.8 Where a monument is permitted, it shall be installed centre on the width of each lot, or, in the case of a double lot with one (1) monument, shall be installed centre of the width of the two (2) lots.

10.9 Monuments, including base, shall not exceed the following dimensions:

10.9.1 Single Lot: Height 1.07 m (42 inches) above ground level
Width 0.91 m (36 inches)
Depth 0.36 m (14 inches)
Die (minimum) 0.15 m (6 inches)

10.9.2 Two-grave Plot: Height 1.07 m (42 inches) above the ground level
Width 1.22 m (48 inches)
Depth 0.36 m (14 inches)
Die (minimum) 0.15 m (6 inches)

10.9.3 Three-grave Plot: Height 1.22 m (48 inches) above ground level
Width 1.52 metres (60 inches)
Depth 0.36 m (14 inches)
Die (minimum) 0.20 m (8 inches)

10.9.4 Four-grave Plot: Height 1.22 m (48 inches) above ground level
Width 1.83 metres (72 inches)
Depth 0.36 m (14 inches)
Die (minimum) 0.20 m (8 inches)

Any monument for a lot or plot exceeding four (4) graves must be approved on an individual basis by the Cemetery Supervisor prior to installation.

10.10 Notwithstanding Subsection 10.9, the Cemetery Supervisor is authorized to determine the maximum size of monuments, their number, and location on each lot or plot.

10.11 Unless adjoining lots or plots are owned by the Interment Rights Holder, only one side of the monument may be used for inscriptions. Monuments shall not be placed “back to back” against one another, except in Sections A, B, C, D, E and F of Greenwood Cemetery.

10.12 Monument die stones shall be installed on a granite base. The height of the base shall be a minimum of 15.24 cm (6 inches). The top surface of the base shall be both wider and longer than the die in order to provide a minimum border of 7.6 cm (3 inches) of the surface of the base exposed on all sides. The bottom of the base shall be cut level and true.

10.13 There shall not be a variance of more than 1.27cm (1/2 inch) in the size of the base required as stated on the “Contractor’s Request Form for Permission to Install a Monument or Marker”, and the size of the monument delivered.

10.14 All foundations for monuments and markers shall be built by, or be contracted to be built for, the Corporation, at the expense of the Interment Rights Holder.

10.15 Where the Corporation provides continuous row foundations, monuments shall be installed on such foundations.

10.16 The fee for construction of a foundation shall be charged in accordance with the Schedule of Rates.

- 10.17 No foundation shall be constructed between November 15th and May 1st, unless otherwise ordered by the Cemetery Supervisor.
- 10.18 The foundation shall be built in the designated space and in the proper dimensions of the monument base. If incorrect dimensions have been given on the “Contractor’s Form for Permission to Install a Monument or Marker”, signed by the Interment Rights Holder and/or the monument supplier, the Corporation may direct that the foundation be immediately removed and rebuilt at the expense of the Interment Rights Holder and/or the monument supplier. Foundations shall not be set less than 1.22 m (48 inches) deep, and shall be approved by the Cemetery Supervisor.
- 10.19 The following requirements shall also apply to the installation of foundations:
- 10.19.1 The required concrete mix for foundation shall be:
 - 20.5 MPA
 - 75 mm slump
 - 20 mm aggregate
 - 5% / 1% air entraining agent
 - 10.19.2 The surface area shall have trowel finished edges, be flush with the surrounding ground level, and provide a level surface free of defects.
 - 10.19.3 Foundations must be cured for a minimum of 48 hours before placing the monument.
 - 10.19.4 Precast foundations may be used as long as they conform to all of the standards of poured foundations provided for herein.
 - 10.19.5 Contractors shall be under the supervision of the Cemetery Supervisor.
 - 10.19.6 No concrete shall be placed until the Cemetery Supervisor has approved the grades and all loose material is removed from the grade. Placement shall commence at the low point in the grade and the concrete shall be thoroughly consolidated to eliminate all air pockets and honey combs. No concrete shall be placed to overlap concrete that is partially set.
 - 10.19.7 Defective areas are to be repaired to the approval of the Cemetery Supervisor. The finished concrete shall be protected from the wind, rain or sun during curing, by covering it completely with a piece of plywood having a minimum thickness of 1.27 cm (1/2 inch). All rubbish, debris, and excavated material shall be removed from the excavation site to a location designated by the Cemetery Supervisor.
- 10.20 The Corporation will take reasonable precaution to protect the property of Interment Rights Holders, but it assumes no liability for the loss of, or damage to, any monument or part thereof, except where such damage or loss is due to negligence of the Corporation. Minor scraping and/or abrasion of the base portion of the upright monuments due to turf mowing are deemed to be normal wear and tear.

PART 11

11.0 MARKERS

- 11.1 On each in-ground lot, there shall be no more than:
- a) One (1) monument and one (1) marker, or alternatively,
 - b) Two (2) markers.
- 11.2 All markers shall have a minimum thickness of 0.10 m (4 inches) and a maximum thickness of 0.20 m (8 inches).
- 11.3 Markers of good quality bronze, granite or marble are permitted in accordance with the size and quantity restrictions applicable to the relevant section of the Cemetery. Markers shall comply with the applicable requirements relating to lot size, subject to the maximum dimensions as follows:

<u>MAXIMUM</u>	<u>WIDTH x LENGTH</u>	<u>WIDTH x LENGTH</u>
	(metres)	(inches)
Single lot	0.46 m X 0.61 m	18" X 24"
Children's Grave or Infant Grave	0.36 m X 0.46 m	14" X 18"
Double lot or larger	0.46 m X 0.91 m	18" X 36"
Cremation Lot (except McAfee)	0.36 m X 0.46 m	14" X 18"
McAfee Cremation Lot	0.41 m X 0.46 m	16" X 18"

- 11.4 Where markers have a bronze cover plate, such cover plates shall be doweled completely through the base and fastened by threaded nuts at the bottom of the base. Concrete shall not be used for markers or marker bases. The bottom shall be cut level and true.
- 11.5 Flat markers are to be flat on top and set level with the ground such that a lawnmower may pass safely over them and will be set by the Cemetery Supervisor's staff at the expense of the Interment Rights Holder, upon payment of the fee provided for in the Schedule of Rates.
- 11.6 Placement of markers shall not interfere with any future interments.
- 11.7 Markers will be accepted by the Corporation for installation during regular working hours. When weather and ground conditions permit, installations will be made within fourteen (14) days after acceptance. Markers will not be accepted from any monument dealer for winter storage.

PART 12

12.0 RULES FOR MONUMENT DEALERS, CONTRACTORS AND WORKERS

- 12.1 This by-law shall apply to all Monument Dealers, contractors and workers.

- 12.2 No monument or marker will be accepted at, nor shall be delivered to a Cemetery, unless Subsection 9.4 has been complied with, the foundation is completed, and the Monument Dealer is ready to proceed with the work of erection or installation.
- 12.3 The Corporation will provide two (2) pours for foundations per year, weather permitting, in the spring and the fall.
- 12.4 Monument Dealers must state on the “Contractor’s Form for Permission to Install a Monument or Marker” which pour they wish a foundation to be ready for.
- 12.5 All contractors who perform work in a Cemetery shall provide the following to the Cemetery Supervisor prior to commencing any works:
 - a) their Workplace Safety & Insurance Board Account Number to allow the Corporation to obtain a Certificate of Clearance to ensure that the company has complied with the requirements of the Workplace Safety & Insurance Board and is in good standing in the records of the Board, and
 - b) a Certificate of Insurance evidencing the contractor’s Commercial General Liability Policy covering Fire, Theft, Public Liability, Bodily Injury and Property Damage (inclusive limits) in a minimum amount of \$2,000,000.00. The policy shall contain a cross-liability clause or endorsement, and an endorsement certifying that the Corporation is included as an additional insured and will be notified in writing not less than thirty (30) days prior to any alteration, cancellation or termination of the policy.
- 12.6 Contractors, masons and stonecutters shall lay planks or plywood on the lots and pathways over which heavy materials are to be moved, in order to protect the turf from injury. Contractors shall be responsible for any significant damage to the grounds caused by the contractor’s equipment or operator error.
- 12.7 All persons performing work in a Cemetery shall conduct themselves in a manner in keeping with the dignity of the Cemetery and shall respect all restrictions and/or regulations which may be imposed by the Corporation from time to time, in the performance of their work. The demeanor and behaviour of all workers employed by others in a Cemetery shall be subject to the direction and control of the Cemetery Supervisor.
- 12.8 Workers shall cease work in the immediate vicinity of a funeral until the conclusion of the service.
- 12.9 All work must be conducted during regular Cemetery hours, namely, 8:00 a.m. to 4:00 p.m., Monday through Friday, and 8:00 a.m. to 2:00 p.m. on Saturday, unless otherwise given prior approval by the Cemetery Supervisor.
- 12.10 No work shall be commenced on Saturday that cannot be finished, and all litter and debris shall be removed by 2:00 p.m. the same day.

- 12.11 Heavy loads shall not be permitted in a Cemetery on roads which are susceptible to damage. Monument Dealers, or their contractors, shall be responsible for any significant damage to the roads caused by loads heavier than are appropriate for the roads.
- 12.12 All implements and materials used in the performance of any works shall be placed in a location directed by the Cemetery Supervisor. All obstructions, rubbish, debris and surplus earth shall be removed, when and to where, and in such manner, as the Cemetery Supervisor may order, failing which, such obstructions, rubbish, debris and surplus earth may be removed by the Cemetery Supervisor's staff, at the expense of the Monument Dealer, or their contractors.
- 12.13 Any Monument Dealer, or their contractor, who damages, destroys, moves or removes any trees, plants, markers, fences, structures or other things erected, planted or placed in a Cemetery is liable to the Corporation and/or to any Interment Rights Holder who incurs damages. The amount of the damages shall be the amount required to restore the Cemetery, lot or plot to the state that it was in before such damage, destruction, movement or removal occurred.
- 12.14 No Monument Dealer, their contractors or workers, shall solicit work of any kind in a Cemetery.

PART 13

13.0 RULES FOR VISITORS

- 13.1 The Cemetery is open to visitors from 8:00 a.m. until sundown. Visitors must remember to be respectful of the dead, and conduct themselves in a manner in keeping with the dignity of the Cemetery.
- 13.2 Children under the age of twelve (12) years may visit Cemetery grounds when accompanied by an adult. The accompanying adult shall be responsible for the good conduct of such children and must ensure that the children do not run over the lots or climb upon the monuments.
- 13.3 The Cemetery Supervisor and his/her staff are authorized to preserve order and decorum in the Cemeteries.
- 13.4 Except for those events or services mentioned in Subsection 4.29, no parades other than funeral processions shall be admitted to, or be organized within, a Cemetery.
- 13.5 Vehicles within a Cemetery shall be driven at a moderate rate of speed and shall not leave the Cemetery avenues or park on the grass, unless directed to do so by the Cemetery Supervisor.
- 13.6 ATVs (all-terrain vehicles), trail bikes, and snowmobiles are prohibited in any Cemetery.
- 13.7 Owners and drivers of vehicles shall be responsible for all damage caused by such vehicles in a Cemetery.

- 13.8 The discharge of firearms, other than in regular volleys at interment services, is prohibited in and around any Cemetery, notwithstanding any provision of a by-law passed by the Municipal Council of the Corporation governing the discharge of guns or other firearms.
- 13.9 Dogs and other pets are prohibited in any Cemetery, other than service animals.
- 13.10 Picnic parties and fires are prohibited in any Cemetery.
- 13.11 Alcohol is prohibited in any Cemetery.
- 13.12 Any visitor who damages, destroys, moves or removes any trees, plants, markers, fences, structures or other things erected, planted or placed in a Cemetery is liable to the Corporation and/or any Interment Rights Holder(s) who incurs damages. The amount of the damages shall be the amount required to restore the Cemetery or lot(s) or plot(s) to the state that it was in before such damage, destruction movement, or removal occurred.
- 13.13 Rubbish, debris, weeds, decayed flowers, and plants, must be placed in disposal receptacles provided at convenient locations within Cemetery grounds.
- 13.14 Any article left in a Cemetery that could be detrimental to the efficient maintenance of the Cemetery or its environs, or that constitutes a hazard to machinery, employees or visitors, or is unsightly or does not conform with the natural beauty or design of a Cemetery, may be removed by the Cemetery Supervisor's staff. Any article so removed will be stored for a period of thirty (30) days at the Cemetery for retrieval by the owner of the article or his/her designate. The Corporation shall not be responsible for the condition of any such article during storage. If such article is not claimed within thirty (30) days, it may be disposed of by the Cemetery Supervisor without compensation to the owner.
- 13.15 Any visitor who, by noise or other improper conduct disturbs the quiet and good order of a Cemetery, or who violates any provision of this by-law, may be compelled to leave.
- 13.16 All complaints of any kind shall be made to the Cemetery Supervisor at his/her office of the Corporation.

PART 14

14.0 VALIDITY

- 14.1 If any Section or Subsection of this By-law is, for any reason, held by a Court of law or other Administrative Tribunal, to be invalid, the remaining Sections and Subsections shall remain in full force and effect until repealed.
- 14.2 If a provision of this By-law conflicts with a provision of another By-law of the Corporation, the provisions that establish the higher standards to protect the health, safety and welfare of the public, shall prevail.

PART 15

15.0 ENACTMENT

- 15.1 This by-law shall come into force and effect on the day that it receives approval from the Registrar appointed under the *Act*, and By-law Nos. 57-93, 79-07, 105-2001, 252-2002, 81-09 and 43-11 shall be repealed effective upon the coming into force of this By-law.

PART 16

16.0 CORRECTIONS

- 16.1 Pursuant to the provisions of Sections 23.1 to 23.5 inclusive of the *Municipal Act, 2001*, as amended, the Clerk of the Town of Fort Erie is hereby authorized to effect any minor modifications or corrections solely of an administrative, numerical, grammatical, semantical or descriptive nature or kind to this by-law or its schedules as such may be determined to be necessary after the passage of this by-law.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 25th DAY OF FEBRUARY, 2013.

“Original Signed”

MAYOR

“Original Signed”

CLERK

I, Carolyn J. Kett, the Clerk, of The Corporation of the Town of Fort Erie hereby certifies the foregoing to be a true certified copy of By-law No. 25-13 of the said Town. Given under my hand and the seal of the said Corporation, this day of , 20

“Original Approved by the Ministry of Consumer Services May 14, 2013, File Number 02520”

SCHEDULE “A”

	Cemetery Name	Also Known As	Municipal Address	Roll Number	Location Description
Active Cemetery	Greenwood		1900 Thompson Rd	020 026 12500	East side of Thompson Road, south of the CN Railway & Bowen Road Intersection.
	McAffee		0 Thompson Rd	020 026 08000 020 026 40400	East and West sides of Thompson Road South of Niagara Boulevard.
	Ridgeway Memorial		3900 Farr Ave.	020 015 21400	Southwest corner of intersection of Ridgeway Road & Farr Avenue
Inactive Cemetery	Carver	Barnhart	4590 Fox Rd	020 031 08100	North side of Fox Road between Point Abino Road North & House Road
	Benner		3777 Nigh Rd	020 016 06800	South side of Nigh Road back in the field at 3803 Nigh Rd
	Black Creek Pioneer	Winger Tunkard Boulding	3175 College Rd.	020 028 25100	East side of Winger Road between Eagle Street and College Road on Golf Course
	Coloured	Little Cemetery around the Corner	2300 Curtis Rd	020 028 08200	North side of Curtis Road, East of Ridgemount Road
	The Friends Burying (Burial) Ground		3643 Dominion Rd	020 013 11700	South side of Dominion Road between Ridge Road & Prospect Point Road
	Fretz	Fretz Burying Ground	4980 Bertie Rd	020 031 10300	North side of Bertie Road back in the field between Pt Abino Rd North & Burger Rd
	Graham		799 Rosehill Rd.	020 023 03900	West side of Rosehill Road, between #3 and Nigh Rd (behind #1007)
	Haun		2671 Ott Rd	020 031 04500	South side of Fox Road between Ott Rd & House Rd
	Hershey	Centralia	980 Centralia Ave. N	020 023 07000	East side of Centralia Ave between Nigh Rd & Garrison Rd
	Morningstar	Old Wale	Switch Rd	Part of 040 055 06850	East side of Switch Road, midway between Netherby Road & Niagara Parkway
	Ridgeway Old	Ridgeway Old Memorial	3750 Farr Ave	020 013 00100	Northwest corner of Southmill Road and Farr Ave
	Sherk		5000 Sherk Rd	020 031 11900	North side of Sherk Road between Point Abino Road North & Burger Road
	Spear	Plato	1079 Bertie St	020 020 27800	South side of Bertie Road west of Osgoode Road
	United Brethren	Beams Mill	3680 Hayslip St	020 029 23000	North side of Hayslip Street behind business section on Stevensville Road
	Zion United Church		3310 Garrison	020 024 36900	North side of Highway #3 at the top of the hill just East of Ridge Road
Mausoleum	Memorial Ridge		3320 Garrison Rd	020 024 37000	Immediately West of Zion Cemetery
Future Cemetery	TBD		0 Centralia Ave. N.	020 023 06901	Adjacent to the east of Hershey Cemetery