



**PORT COLBORNE**

• CEMETERIES •

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## **CEMETERY BY-LAWS**

(updated June 2024)

### **BEING A BY-LAW TO ESTABLISH RULES, REGULATIONS AND PROVISIONS FOR THE CEMETERY MANAGEMENT OF CEMETERIES OF THE CITY OF PORT COLBORNE**

**WHEREAS**, effective August 1, 2012, the Cemetery known as Overholt Cemetery in the Hamlet of Bethel on the Third Concession Road came under the jurisdiction of the Council of The Corporation of the City of Port Colborne pursuant to the provisions of the *Funeral, Burial and Cremation Services Act, 2002*,

**AND WHEREAS** it is deemed necessary and expedient to provide for rules, regulations, provisions for maintenance, and provide management and administration of the Overholt Cemetery in accordance with the *Funeral, Burial and Services Act, 2002*,

**AND WHEREAS** it is deemed necessary and expedient to establish rules, regulations and provide for the quiet enjoyment of and for public use of all cemeteries under the jurisdiction of the Council.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF PORT COLBORNE HEREBY ENACTS AS FOLLOWS:**

#### **GENERAL INFORMATION:**

##### **Hours of Operation:**

Visitation Hours: 8:00am-7:00pm October 1 to March 31

6:00am-9:00pm April 1 to September 30

(Emergency Services and Authorized City Staff are exempt)

Office Hours: Monday to Friday 7:00am to 3:00pm

Burial Hours: Monday to Saturday 9:00am to 3:00pm

Sunday and Holidays – Arrangements are to be made in advance during regular business hours, additional charges will apply.

1. It is hereby acknowledged that the Overholt Cemetery has become the responsibility and within the jurisdiction of the Council of the City of Port Colborne effective August 1, 2012.
2. The following rules, regulation, provisions shall apply to Overholt Cemetery and to other cemeteries under the jurisdiction of the City of Port Colborne.
3. It is hereby acknowledged that the Emmanuel Lutheran Cemetery has become the responsibility and within the jurisdiction of the Council of the City of Port Colborne effective May 1, 2024.
4. To temporarily suspend a By-law for 3 months a contract can be created and signed by both the City and the rights holder of the plot. This must be agreed upon by both the City and the rights holder for temporary dismissal of a by-law to occur.
5. For the purpose of this By-law a lot or plot is a single grave.
6. A Baby grave shall mean a lot for interment of a baby, size dependent on requirement.
7. Interment rights and referred to in this By-law as “rights” to a lot shall be sold at prices set from time to time by the Council of the City of Port Colborne.

8. All purchasers of Interment Rights must sign a contract with the City as adopted by the Council of the City of Port Colborne detailing obligation of both parties and acceptance of the by-laws.
9. Interment Rights shall be conveyed by such form of Interment Rights Certificates as adopted by the Council of the City of Port Colborne.
10. The Interment Rights Certificate shall be issued to only one of the Rights Holder(s) and only after all fees and charges including the perpetual care, corner stones or markers connected with the lot have been paid in full.
11. The Interment Rights belong only to the persons named on the Certificate and there is no transmission or conveyance of interest implied or otherwise through death of the same subject to the limitations and restrictions established by this By-law.
12. If Interment Rights are transferred, the Rights Holder(s) must return the Interment Rights Certificate to the City which may then issue a new Certificate to the transferee once the applicable fees have been paid.
13. The Rights Holder(s) may at any time cancel the contract and have the Cemetery repurchase the Interment Rights on the following conditions:
  - a. The repurchase price shall be calculated as the current sale price minus the portion deposited into the Trust for Perpetual Care and Maintenance, and
  - b. No rights have been exercised (lots have not been used).
14. Any change to an interment rights holder, must have an archaeological assessment in order to ensure that all interment options are available to the new rights holder. A charge will apply.
15. Notice of at least 48 hours must be given to the City of a funeral or burial.
16. Winter burials shall take place weather permitting.
17. Scatterings of deceased ashes are not permitting within any Cemetery.
18. All Interments must have concrete liners (excluding cremations).
19. A burial permit issued by the Division Registrar showing that the death has been registered or in the case of cremation a Certificate of Cremation must be deposited with the Cemetery attendant before an interment may take place.
20. Written permission must be submitted to the City for any interment other than the Interment Rights Holder for each lot.
21. Persons ordering graves will be held responsible for any charges or cost associated with the administration or preparation of documents for the sale of rights.
22. Cremations may be interred in lots other than cremation lots.
23. Cremated remains of not more than four (4) persons may be interred on top of a regular burial. The regular burial shall occur prior to the interment of cremated remains. No disinterment of cremated remains shall be permitted to accommodate a regular burial. Opening and closing charges apply for each cremation interment.
24. A maximum of four (4) Cremations are permitted on one regular lot or single grave plot. Opening and closing charges apply for each cremation burial.
25. The City shall not assume any responsibility for errors in the location of graves when improper instructions have been given by the interment rights holder or designate. All costs resulting from improper instructions received will be charged to the consumer who signed the contract.
26. Bodies of any lower animals shall not be placed in the cemetery.
27. Any disinterment shall be conducted in accordance with the Funeral, Burial and Cremation Services Act, 2002.
28. No interment is permitted on Sunday except on the order of the Medical Officer of Health.
29. No interment or other services or supplies will be provided for a lot until all arrears are paid in full.
30. For the purpose of this By-law a marker or monument shall mean any permanent memorial that has one or more parts above the grade of the lot or adjoining lots and hewn from rock, stone, granite or other non-putrescible natural hard substance made or intended to be used as a long-term permanent grave marker.
31. Poured concrete markers are not permitted.

32. Solid, poured, fabricated, natural stone or non-putrescible natural material borders surrounding a lot or demarking a planting area or encircling a marker or monument are not permitted.
33. Only one marker or monument shall be permitted on a lot or plot, regardless of the number of graves in that lot or plot (maximum for cremation burials but only one marker or monument permitted).
34. All upright monuments or markers must be able to withstand a force of 35 kilograms, when such force is applied at any point of the memorial. Such markers must withstand this force when set in a dry mode (i.e. without the assistance of any adhesive material). Dowels (300 series stainless or equivalent) may be used to assist an upright marker in achieving the 35 kilograms minimum standard. The intended positioning of such dowels must be shown/ stated on the contract requesting the installation of the marker. All portions of an upright marker must be sealed together with an appropriate sealing material and shall be sealed together in such a way as to provide an adequate level of stability.
35. Foundations having depth of at least two (2) feet are required for all markers or monuments that are greater than one (1) foot above grade.
36. All markers or monuments or foundations may only be installed in the presence of a representative or agent of the City of Port Colborne.
37. Every lot or plot shall be sold with four (4) markers. Markers are priced separately (not included in the price of lot) and the installation of corner markers shall be included in the price. With an additional charge of perpetual care as outlined in the price list.
38. Cremation lots shall be sold with two (2) corner markers.
39. Cremation lots shall only be permitted to have flat markers with no upright markers being permitted.
40. All markers or monuments installed in the Cemetery shall contribute an amount of money to the Perpetual Care and Maintenance Fund.
41. Any Monument higher than fifty-five (55) inches must have plans submitted for City approval and may be denied for practical reasons in the sole discretion of the City.
42. Fresh flowers and small pots may be placed on a grave to commemorate special occasions; however, the City assumes no responsibility and will remove these and the containers without notification when they become unsightly in the sole discretion of the City.
43. Any and all glass containers, glass decorations, glass markers or commemoration are prohibited.
44. Flower beds are permitted to be planted upon (p)lots, however, are not permitted in cremation sections of any cemetery managed by the City.
45. No flower bed shall extend more than eighteen (18) inches from base of a stone or marker and shall not exceed the width of the lot or plot.
46. The City shall not take any care or responsibility for maintenance of any flower bed or commemorative decorative plantings.
47. In the sole opinion of the City, if flower beds or commemorative or decorative plantings are not tended regularly and are not maintained in a neat and pristine condition, such flowers or commemorative or decorative plantings shall be cleared and removed by the City. Any rights holder or person who has planted flowers or commemorative or decorative plantings shall have no claim whatsoever against the City. The City will not provide notice of unacceptable condition nor of the City's decision to remove flowers or plantings to the interment rights holder and the interment rights holder shall have no claim against the city for exercising its rights to remove plantings or flowers.
48. All Christmas wreaths must be picked up by April 1<sup>st</sup> following Christmas, or they will be disposed of by the City without notification.
49. Any flower bed area or commemorative or decorative plantings not attended to after two (2) years will be returned to grass and sod. The City will not provide any notice of unacceptable condition nor of the City's decision to remove flowers or plantings to the interment rights holder and the interment rights holder shall have no claim against the city for exercising its rights to remove plantings or flowers.

50. No bushes over five (5) feet high and three (3) feet in diameter are allowed; planting exceeding these limitations shall be removed or pruned by the rights holder or alternatively will be removed at the owner's expense. The City will not provide notice of unacceptable condition nor of the City's decision to remove flowers or plantings to the internment rights holder and the interment rights holder shall have no claim against the city for exercising its rights to remove plantings or flowers.
51. Ornamental bushes may be planted only on ends of markers or monuments and must not encroach on adjoining lots or plots and not exceed height limitations as set out in the By-law.
52. The City shall not be responsible for any loss of or damage to any portable article left in the Cemetery.
53. The City shall not be responsible for any missing, damaged, or broken stones, markers. Monuments, flowers, commemorative or decorative plantings, shrubs, or trees not any accidents, injury, mishaps, supply of water, lot service (other than as required for perpetual care maintenance) whatsoever and no person having rights shall have any claim whatsoever against the City for any reason.
54. Markers or monuments, commemorative plantings, flowers, or decorations may not be installed on a lot until all arrears or outstanding costs connected with that lot have been paid in full. The City shall remove any markers, monuments, commemorative plantings, flowers, or decorations found in contravention of these regulations.
55. No trees of large species shall be permitted.
56. No Pets shall be permitted in the Cemetery.
57. No chair or bench, wooden or wire trellis, arch or iron rods or similar articles shall be left upon the lots.
58. No person shall enter the cemeteries except through designated entrance(s), nor shall they enter or be within any cemetery after 7 pm and before 8 am October 1 – March 31, or after 9 pm and before 6 am April 1 – September 30. Police constables and authorized City staff are exempt.
59. Dumping or otherwise disposing of garbage, lot clearings, used plant material, dead or removed shrubs or trees, markers on Cemetery property or on adjoining property is prohibited. Removal and disposal of large shrubs shall be coordinated with the City representative and must be hauled away or removed from the Cemetery.
60. No person shall litter or place any debris, cuttings, brush weeds or the like on any lot or plot or on any roadway or pathway in the Cemetery.
61. Cemeteries owned by the City are sacred and devoted to the burial of dead and the provisions and penalties of the law will be strictly enforced in all cases of disturbance, wanton injury to property and disregard for the rules, or conduct unbecoming to a cemetery.
62. All visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any services being held, by noise or other disturbance.
63. Children under twelve (12) years of age are welcome in the Cemetery when accompanied by an adult, who shall be responsible for their good conduct and shall see that they do not run over the lots or climb upon monuments.
64. The carrying of firearms or the discharging of the same while within the cemeteries, except where used for the firing of volleys at a burial, is prohibited.
65. No picnic, party, or other large assembly will be permitted on the cemeteries' grounds other than a funeral or memorial service.
66. When a society or association desires to hold a memorial service, they must make application and give notice for permission to do so, to the City of Port Colborne at least fifteen (15) days prior to the desired date. The association or society securing this permission shall assume responsibility for any damages done to the property in the cemeteries during this time.
67. Any complaints by lot owners or visitors shall be made to the City Hall and not to workmen or employees on the cemetery grounds.
68. No person shall drive a vehicle at a rate of speed greater than fifteen (15) kilometers per hour within the cemetery.
69. No person shall drive a snowmobile, all-terrain vehicle, or other recreational motorized vehicle whether for pleasure or not within the cemetery.

70. Visitors shall travel through the cemetery by roads and shall not drive over burial lots, pathways, or service paths.

71. The Cemetery roadways will be snow ploughed to be made passable during winter months within forty-eight (48) hours of the completion of snowfall. If roads are not accessible, the access except by foot is not permitted.

