

THE CORPORATION OF THE CITY OF PORT COLBORNE

BY-LAW NO. 5840/94/12

BEING A BY-LAW TO ESTABLISH RULES,
REGULATIONS AND PROVISIONS FOR THE 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 for management and administration of the Overholt Cemetery in accordance with the *Funeral, Burial and Cremation 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:

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, regulations, provisions shall apply to Overholt Cemetery and to other cemeteries under the jurisdiction of the City of Port Colborne.
3. For the purpose of this By-law a lot or plot is a single grave space measuring 3 ½ feet wide and 9 feet long.
4. A Baby grave shall mean a lot for interment of a baby size dependent on requirement.
5. 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.
6. All purchasers of Interment Rights must sign a contract with the City as adopted by the Council of the City of Port Colborne detailing obligations of both parties and acceptance of the by-laws.
7. If Interments 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.

8. Interment Rights shall be conveyed by such form of Interment Rights Certificates as adopted by the Council of the City of Port Colborne.
9. The Interment Rights Certificate shall be issued to only one of the Rights Holder(s) and only after all fees and charges including perpetual care, corner stones or markers connected with the lot have been paid in full.
10. 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 same subject to the limitations or restrictions established by this By-law.
11. 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 original price paid minus the portion deposited into the Trust for Perpetual Care and Maintenance, and
 - b. no Rights have yet been exercised (lots have not been used).
12. Notice of at least 48 hours must be given to the City of a funeral or burial.
13. Cremation opening and closing will not be performed during the months of December, January, February and March.
14. Columbarium opening and closing will not be performed during the months of December, January, February and March.
15. Scatterings of deceased ashes are not permitted within any Cemetery.
16. 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.
17. Poured concrete markers are not permitted.
18. Solid, poured, fabricated, natural stone or other non-putrescible natural material borders surrounding a lot or demarking a planting area or encircling a marker or monument are not permitted.
19. Only one marker or monument shall be permitted on a lot or plot, which is 3 ½ feet wide, regardless of the number of graves in that lot or plot (maximum four cremation burials but only one marker or monument permitted).
20. No person shall cause or permit the installation of any marker or monument in excess of 60 inches in height. Markers or monuments greater than 42 inches in height (not including base) will require an additional fee to be paid to the City.

21. Foundations having depth of at least four (4) feet are required for all markers or monuments that are greater than one (1) foot above grade.
22. All markers or monuments may only be installed in the presence of a representative or agent of the City of Port Colborne.
23. It is required that the installation of any marker or monument must contribute to the perpetual care and maintenance fund.
24. Every lot shall be sold with four (4) markers. Markers are priced separately (not included in price of lot) and the installation of corner markers shall be included in the price.
25. Cremation lots shall be sold with four (4) corner markers.
26. No rights shall be exercised, transferred or services provided unless all arrears or fees or charges connected with the lots have been paid in full.
27. All Interments must have concrete liners (excluding Cremations).
28. A burial permit issued by the Division Registrar showing that the death has been registered or in case of cremation a Certificate of Cremation must be deposited with the Cemetery attendant before an interment may take place.
29. Written permission must be submitted to the City for any interment other than the Interment's Rights Holder for each lot.
30. Persons ordering graves will be held responsible for any charges or cost associated with the administration or preparation of documents in preparation for the sale of rights.
31. Cremations may be interred in lots other than cremation lots including plots.
32. When purchasing a regular lot or plot for Cremations, the first Cremation burial within the lot is included in the purchase price of the plot. The remaining Cremations have a cremation plot usage charge plus opening and closing charges as set in the by-law to adopt fees and charges.
33. 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.
34. Bodies of any lower animals shall not be placed in the cemetery.
35. Any disinterment shall be conducted in accordance with the *Funeral, Burial and Cremation Services Act, 2002*.
36. No interment is permitted on Sunday except on the order of the Medical Officer of Health.

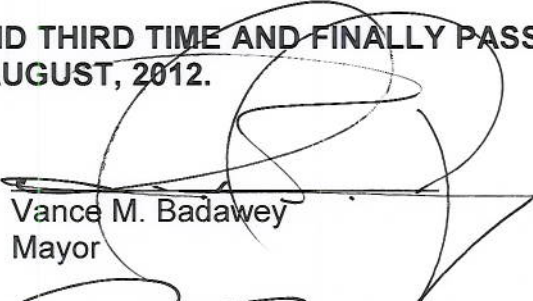
37. No interment or other services or supplies will be provided for a lot until all arrears are paid in full.
38. All markers or monuments installed in the Cemetery shall contribute an amount of money to the Perpetual Care and Maintenance Fund.
39. Any monument higher than 55" must have plans submitted for City approval and may be denied for practical reasons in the sole discretion of the City.
40. Fresh flower 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 when they become unsightly in the sole discretion of the City.
41. Any and all glass containers, glass decorations, glass markers or commemoration are prohibited.
42. No flower bed areas shall extend more than 18" from base of a stone or marker and shall not exceed the width of the lot or plot (maximum 3.5 feet).
43. The City shall not take any care or responsibility for maintenance of any flower beds or commemorative or decorative plantings.
44. 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.
45. All Christmas wreaths must be picked up by May 1st following Christmas, or they will be disposed of by the City.
46. Any flower bed area or commemorative or decorative plantings not attended after two (2) years will be returned to grass and sod. 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.
47. No bushes over five (5) feet high and three (3) feet in diameter are allowed; plantings 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 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. 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 this By-law.
49. No trees of large species shall be permitted.
50. No animals shall be permitted in the Cemetery.
51. No chair or bench, wooden or wire trellis, arch or iron rods or similar articles shall be brought to or left upon the lots.
52. The City shall not be responsible for 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 nor for any accidents, injury, mishaps, supply of water, lot service (other than as required for perpetual 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. The Cemetery shall be closed to all public access outside of daylight hours. No person shall trespass on the grounds of the cemetery during darkness. Any person found on the cemetery grounds during the dark hours shall be charged with trespass.
56. Dumping or otherwise disposing of garbage, lot clearings, used plant material, dead or removed shrubs or trees, markers on Cemetery property or on adjoining private 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.
57. 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.
58. Cemeteries owned by the City are sacred and devoted to the burial of the 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.
59. All visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any service being held, by noise or other disturbance.

60. Visitors shall travel through the cemetery by roads and shall not drive over burial lots, pathways, or service paths.
61. Children under twelve (12) years of age must be accompanied by an adult, who shall maintain close contact with them and be responsible for their actions.
62. 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.
63. No picnic, party, or other large assembly will be permitted on the cemeteries' grounds other than a funeral or memorial service.
64. 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.
65. Any complaints by lot owners or visitors shall be made to the City Hall and not to workmen or employees on the cemetery grounds.
66. No person shall drive a vehicle at a rate of speed greater than 15 kilometres per hour within the cemetery.
67. No person shall drive a snowmobile, all-terrain vehicle or other recreational motorized vehicle whether for pleasure or not within the cemetery.
68. The Cemetery roadways and pathways will not be snow ploughed or made passable for the public during winter months. If roads are not accessible, then access except by foot is not permitted.
69. The provisions, rules, regulations, fees and charges set out herein are effective at the date of assumption of the Overholt Cemetery being August 1, 2012.
70. This By-law is subject to the provisions of the *Funeral, Burial and Cremation Services Act, 2002* and associated Ontario Regulations.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED
BY COUNCIL THIS 13TH DAY OF AUGUST, 2012.**


Vance M. Badawey
Mayor


Ashley Grigg
City Clerk

Index to By-law No. 5840/94/12

48 hours notice	2	marker.....	2, 3, 4, 5
animal remains prohibited.....	3	maximum four cremation	2
animals	5	Medical Officer of Health.....	3
arrears	3, 5	memorial service.....	6
assembly	6	monument.....	2, 3, 4, 5
boarders	2	night entry prohibited	5
burial permit.....	3	noise	5
bush plant height	4	notice of interment	2
certificate	1, 2	party prohibited	6
Certificate of cremation.....	3	penalties	5
charges.....	2, 3	permit required to inter.....	3
claim for damage	5	perpetual care and maintenance	2, 3, 4
complaint	6	plot.....	1, 2, 3, 4, 5
concrete.....	2	prohibited entry	5
concrete liners	3	purchase price	3
contract.....	1, 2	rights.....	1, 2, 3, 4, 5
conveyance of interest.....	2	roads.....	5
corner marker	3	scatterings	2
cremation.....	3	shrub remove.....	5
daylight only.....	5	shrub, tree.....	5
decorative plantings.....	4	shrubs	5
discharging firearms	6	snow plow	6
disturbance	5	snowmobile prohibited	6
dumping.....	5	speed limit.....	6
fees.....	2, 3	Sunday.....	3
fence, rail, trellis.....	5	transfer.....	1
flower beds	4	trees.....	5
foundations	2	trellis	5
garbage	5	trespassing	5
height.....	2	winter columbarium.....	2
interment rights.....	1	winter cremation	2
litter, debris	5	wreaths	4
lot.....	1, 2, 3, 4, 5		