

THE PAKENHAM UNION CEMETERY

2585 County Road 29
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Pakenham, Ontario
K0A 2X0

These by-laws are the rules and regulations that govern THE PAKENHAM UNION CEMETERY and have been approved by the Registrar of Cemeteries, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Cemeteries Regulations Unit, Ministry of Consumer Services.

All the By-Laws shown hereunder apply to the Pakenham Union Cemetery located at Lot 11, Conc. 11, Pakenham Township, Mississippi Mills, Lanark County.

A. Definitions

Burial: The opening and closing of an in ground lot or plot for the disposition of human remains or cremated human remains.

By-laws: The rules and regulations under which the Cemetery (and/or Crematorium) operates.

Care and Maintenance Fund: It is a requirement under the FBCSA that a percentage of the purchase price of all Interment Rights, and set amounts for marker and monument installations is contributed into the Care and Maintenance Fund. Interest earned from this fund is used to provide care and maintenance of plots, lots, markers and monuments at the Cemetery.

Contract: For purposes of these by-laws, all purchasers of interment rights must sign a contract with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-laws.

Corner Posts: Shall mean any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.

Grave: (Also known as Lot) means any in ground burial space intended for the interment of a child, adult or cremated human remains.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and direct the associated memorialization.

Interment Rights Certificate: The document issued by the Cemetery to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.

Interment Rights Holder: Any person designated to hold the right to inter human remains in a specified lot.

Lot: For the purposes of these By-Laws a lot is a single grave space.

Marker: Shall mean any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot.

Monument: Any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial or lot.

Plot: For the purposes of these by-laws, a plot is a parcel of land, sold as a single unit, containing multiple lots.

Scattering: Shall mean the act of spreading cremated remains.

B. Bylaws Pertaining To General Information

The management of the Pakenham Union Cemetery shall be conducted by the Pakenham Union Cemetery Trustees, herein after called the Cemetery Trustees, consisting of at least 5 members elected annually by the congregational meetings of St. Andrews United, Pakenham.

The Cemetery Trustees shall elect a chairman from among its members and shall also appoint a Manager and a Secretary-Treasurer who shall hold office during the Trustee`s pleasure.

Hours of Operation:

Visitation Hours: Dawn to Dusk

Office Hours: By Appointment Only

Burial Hours: By Appointment Only

General Conduct:

The Cemetery Trustees reserves full control over the Cemetery operations and management of land within the cemetery grounds.

No person may damage, destroy, remove or deface any property within the Cemetery.

All visitors should conduct themselves in a quiet manner that shall not disturb any service being held.

Public vehicular access to the cemetery will be from 09:00 a.m. to sunset. If access is required at other times, then permission must be obtained from the Manager at least 24 hours in advance.

Children under the age of twelve years are not to be admitted to the grounds unless in the care of an adult.

By Law Amendments:

The Cemetery shall be governed by these bylaws, and all procedures will comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, which may be amended periodically.

All by-law amendments must be:

- a) published once in a newspaper with general circulation in the locality in which the Cemetery is located;
- b) conspicuously posted on a sign at the entrance of the Cemetery; and

c) delivered to each supplier of markers who has delivered a marker to the Cemetery during the previous year, if the by-law or by-law amendment pertains to markers or their installation.

All by-laws and by-law amendments are subject to the approval of the Registrar, Cemeteries Regulation Unit, Ministry of Consumer Services.

Changes to By-Laws of Pakenham Union Cemetery must be made at a duly constituted meeting of the Pakenham Union Cemetery Trustees and approved at the Official Board of the St. Andrew's United Church, and according to the Cemeteries Act (Revised).

Liability:

The Cemetery Manager will not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to, any lot, plot, columbarium niche, mausoleum crypt, monument, marker, or other article that has been placed in relation to an interment or scattering right save and except for direct loss or damage caused by gross negligence of the Cemetery.

Public Register:

Provincial legislation – Section 110 of Ontario Regulation 30/11 requires all Cemeteries and crematoriums to maintain a public register that is available to the public upon request.

Pets or Other Animals:

Pets or other lower animals, including cremated animal remains, are not allowed to be buried on Cemetery grounds

Right to Re-Survey:

The Cemetery 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 the cemetery, subject to approval of the appropriate authorities.

Notice of Resale and Transfer of Interment:

Transfers of interment cannot be prohibited as long as the purchaser meets the qualifications and requirements as outlined in the Cemetery Trustee's by-laws.

The Cemetery Trustees prohibits the resale of interment rights to a third party and is not required to repurchase unused interment rights in a plot (more than one lot) if one of the interment rights in the plot has been exercised.

C. By-laws for the Sale of Interment Rights

Purchasers of interment rights holders acquire only the right to direct the burial of human remains and cremated human remains, and the installation of monuments, markers and inscriptions, subject to the conditions set out in the Cemetery Trustees by-laws. In accordance with Cemetery Trustees by-laws, no burial, entombment, scattering, or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. An interment rights certificate will be issued to the interment rights holder(s) when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or real property. An interment rights holder wishing to resell their interment rights must advise the Cemetery Manager of their intention.

Interment rights will only be sold to members and adherents of Pakenham's St. Andrew's United Church, members of the Presbyterian Church in Kinburn, members of the community of Pakenham, and anyone who has a family member already buried at Pakenham Union Cemetery. All other applications or disputes must be submitted in writing and ruled on by a majority vote of the Pakenham Union Cemetery Trustees.

The Cemetery Trustees shall provide each Rights (lot) Owner at the time of sale with:

- a copy of the contract
- a copy of the Cemetery By-Laws
- upon payment in full, a Certificate of Interment Rights
- Ministry brochure

Interment Rights (lots) may only be sold by the Cemetery Trustees.

- Lots measuring 10 feet in length and 4 feet in width are available for sale. A lot of this size may be used for one in-ground burial and four cremated remains or the burial of up to six cremated remains.
- Lots measuring 3 feet by 2 feet are available for sale. A lot of this size may be used for the burial of up to two cremated remains.

Charges Incurred Persons ordering lots/plots will be held responsible for charges.

All prices for cemetery lots and services shall be as set out in the most recent tariff of rates. Prices for lots shall include the applicable portion for deposit to the Cemetery 'Care and Maintenance Fund'.

Rights Holders are required to provide timely written notice to the Cemetery Trustees of any change of mailing address.

The transfer of Ownership of Interment Rights are not binding upon the Cemetery until a duly executed transfer has been made and a new Certificate of Interment Rights has been issued by the Cemetery Trustees.

D. By-laws for the Cancellation or Resale of Interment Rights

Cancellation of Interment Rights within 30 Day Cooling-Off Period:

- A purchaser 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 Cemetery Manager. The Cemetery Manager will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

Cancellation of Interment Rights after the 30 Day Cooling-Off Period:

- Upon receiving written notice from the purchaser of the interment rights, the Cemetery Manager will cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund. This refund will be made within thirty (30) days of receiving said notice. If the interment rights certificate has been issued to the interment rights holder(s), the certificate must be returned to the Cemetery Manager along with the written notice of cancellation.
- If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment rights.

Resale of Interment Rights after 30 Day Cooling-Off Period:

- Unless the interment rights have been exercised the purchaser retains the right to cancel the contract or re-sell the interment rights. Once payment for the interment rights has been made in full, and an interment rights certificate has been issued, the interment rights holder(s), as recorded on the Cemetery records, has right to re-sell the interment rights. Any resale of the interment right shall be in accordance with the requirements of the Cemetery by-laws and in keeping with the FBCSA.
- If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to re-sell the interment rights.

Prohibit resale of interment rights to a third party:

Note: All resales of interment rights must be carried out through the Cemetery Manager.

A Cemetery Manager may choose to either permit the interment rights holder(s) to:

a) prohibit the resale to a third party and repurchase the rights themselves

Requirements if resale is prohibited within cemetery by-laws:

- If a rights holder(s) wishes to re-sell the interment rights and the Cemetery Trustee's by-laws prohibit the third party resale of interment rights, the rights holder(s) must make the request to the Cemetery Manager in writing. The Cemetery Trustees will repurchase the interment rights at the price listed on the Cemetery Trustee's current price list less the Care & Maintenance Fund contribution made at the time of purchase. The re-purchase and payment to the rights holder requesting the sale must be completed within 30 days of the request.
- The interment rights holder requesting the resale of the rights must return the interment rights certificate to the Cemetery Manager and the rights holder(s) must endorse the

interment rights certificate, transferring all rights, title and interest back to the Cemetery Trustees. The appropriate paperwork must be completed before the Cemetery Manager reimburses the rights holder(s).

E. Care and Maintenance Fund Contributions

- As required by sections 166 and 168 of Regulation 30/11, a percentage of the purchase price of all interment rights and a prescribed amount of \$25.00 where there was no scattering rights sold, and a prescribed amount for monuments and markers is contributed into the care and maintenance fund. Income from this fund is used to provide only general care and maintenance of the Cemetery. Contributions to the care and maintenance fund are not refundable except when interment rights are cancelled within the 30 day cooling off period.

The deposit to the 'Care and Maintenance Fund' shall be as specified in the Regulations made under the Cemeteries Act (Revised).

- In the case of an in-ground grave for the burial of an adult, the greater of 40% of the selling price or \$150.00.
- In the case of an in-ground grave for the burial of a child or of cremated remains, 40% of the selling price.

F. Bylaws Pertaining to Burials, Interments and Dis-Interments

- Interment rights holder(s) must provide written authorization prior to a burial taking place. Should the interment rights holder be deceased, authorization must be provided in writing by the person authorized to act on behalf of the interment rights holder i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province must be provided to the Cemetery Manager prior to a burial taking place. A Certificate of Cremation must be submitted to the cemetery office prior to the burial of cremated remains.
- In accordance with the FBCSA the purchaser of interment rights must enter into a Cemetery contract, providing such information as may be required by the Cemetery Manager for the completion of the contract and the public register prior to each burial of human remains, or cremated human remains.
- Payment must be made to the Cemetery Trustees before a burial can take place.

- The Cemetery shall be given 48 business hours of notice for each burial of human remains or of cremated human remains.
- The opening and closing of graves, or of cremated remains may only be conducted by Cemetery staff or those designated to do work on behalf of the Cemetery Trustees.
- Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the Cemetery Manager and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received by the Cemetery Manager before the removal of casketed human remains may take place. A certificate from the local medical officer of health is not required for the removal of cremated remains.
- In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder and/or next of kin(s).

G. Bylaws Pertaining to Memorialization

- Written notice that a marker is to be installed on a lot or plot shall be provided to the Cemetery Manager before installation. The name of the Interment Rights Holder, the lot or plot number, the size of the base in square centimeters or square inches, the size of the marker in square centimeters or square inches, and the proposed installation date must be included. The amount to be paid into the 'Care and Maintenance Fund', as stipulated in By-Law 9 above, shall accompany this notice.
- No markers or monuments can be placed on a lot until the Certificate of Interment Rights has been issued, and the location of installation has been determined by the Cemetery Manager.
- No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Cemetery Manager.
- All markers installed in the Cemetery shall have the proper amount of money deposited in the 'Care and Maintenance Fund' as regulated in the Cemeteries Act.
 - a) In the case of installing a flat marker measuring less than 439.42 square centimeters (173 square inches) - \$0.00
 - b) In the case of installing a flat marker measuring at least 439.42 square centimeters (173 square inches) - \$50.00
 - c) In the case of installing an upright marker measuring 1.22 metres (4 feet) or less in height or length, including the base - \$100.00
 - d) In the case of installing an upright marker measuring more than 1.22 metres (4 feet) in either height or length, including the base - \$200.00
- Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.

- The Cemetery Trustees will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- Marker/Monuments Specifications
 - Single Width Lot – Only flat markers flush with the ground and no wider than 36 inches (apron included) or upright markers (monuments) no wider than 36 inches (base excluded), are allowed on single grave width lots.
 - Double Width Plots – Upright markers (monuments) no wider than 48 inches (base excluded) are allowed on double grave width plots.
 - Triple Width Plots – Upright markers (monuments) no wider than 60 inches (base excluded) are allowed on triple or more grave width plots.

**The above specifications are to allow mowers and trimmers to pass in between adjacent markers/monuments and to keep appropriate spacing for aesthetic reasons.

- The number of upright markers installed on an individual lot or plot shall be limited to one. It is understood and agreed that once an upright marker has been installed on a lot, or a part thereof, the lot or plot will be considered to be used and not subject to repurchase by the Cemetery Trustees. The number of flat markers permitted per lot shall be two.
- The Cemetery Manager reserves the right to determine the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments.
All foundations for monuments and markers shall be built by, or contracted to be built for, the Cemetery Manager at the expense of the interment rights holder.
- Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Manager shall do whatever it deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- The Cemetery Manager reserves the right to remove at its sole discretion any marker, monument, or inscription which is not in keeping with the dignity and decorum of the Cemetery as determined by the Cemetery Trustees.
- No inscription shall be placed on any marker which is not in keeping with the dignity and decorum of the Cemetery. All inscriptions other than names and dates must be submitted in writing to the Cemetery Trustees for approval before installation.
- The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
- All monuments and markers shall be constructed of bronze or natural stone (i.e. granite).
- No monument shall be delivered to the cemetery for installation until the monument foundation has been completed, and the interment rights holder(s) and/or marker retailer have been notified by the Cemetery Manager.
- All foundations for upright markers must be constructed in accordance with the specifications indicated in these By-Laws, and shall not exceed the width of the lot.

- Markers and footstones of bronze or granite are permitted with size and quantity restrictions according to cemetery by-laws and the placement of such memorials shall not interfere with future interments.
- No burial shall take place unless so authorized by the Cemetery Manager.

H. Bylaws Pertaining to Care, Planting and Ornamentation

A portion of the price of interment rights is trusted into the Care and Maintenance Fund. The income generated from this fund is used to maintain, secure and preserve the Cemetery grounds. Services that can be provided through this fund include:

- Re-levelling and sodding or seeding of Lots or scattering grounds
- Maintenance of Cemetery roads and water systems
- Maintenance of perimeter walls and fences
- Maintenance of Cemetery landscaping
- Repairs and general upkeep of cemetery maintenance buildings and equipment
- No person other than Cemetery Manager shall remove any sod or in any other way change the surface of the burial lot in the Cemetery.
- No person shall plant trees, flower beds or shrubs in the Cemetery except with the approval of the Cemetery.
- Flowers placed on a grave for a funeral shall be removed by the Cemetery Manager after a reasonable time to protect the sod and maintain the tidy appearance of the Cemetery.
- The Cemetery Trustees reserves the right to remove existing shrubs and trees which have deteriorated, become overgrown, or have died.
- The Cemetery Trustees will not be responsible for loss or damage to any portable object left in the Cemetery.

I. Bylaws Outlining Items That Are Prohibited And Permitted

The Cemetery Trustees reserves the right to regulate the articles placed on lots or plots that pose a threat to the safety of all interment rights holders, visitors to the Cemetery and Cemetery employees, prevents the Cemetery from performing general Cemetery operations, or are not in keeping with the respect and dignity of the Cemetery. Prohibited articles will be removed and disposed of without notification.

- The Cemetery Trustees reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the Cemetery.

J. Contractor/Monument Dealer Bylaws

Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the Cemetery Manager before the work may begin. Pre-approval

includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plans and detailed specifications relating to the work, proof of all applicable government approvals and permits, the location of the work to be performed. It is the responsibility of all contractors to report to the Cemetery Manager and provide the necessary approvals before commencing work at any location on the Cemetery property.

Prior to the start of any said work, contractors must provide proof of:

WSIB coverage

Occupational Health and Safety compliance standards

Environmental Protection

WHMIS

Evidence of liability insurance of not less than \$2 million

- All Cemetery by-laws apply to all contractors and all work carried out by contractors within the Cemetery grounds.
- Contractors, monument dealers and suppliers shall not enter the Cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the Cemetery Manager.
- No work will be performed at the cemetery except during the regular business hours of the Cemetery.
- Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The Cemetery Trustees reserves the right to temporarily cease contractor operations at their sole discretion if the noise of the work being performed by the contractor is deemed to be a disturbance to any funeral or public gathering within the Cemetery.
- Reasonable care shall be taken not to damage the property of other Interment Rights holders, all access shall be by roadways and pathways where these exist, and the work area shall be restored and left clean upon completion of the work.
- Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved in order to protect the surface from damage.

K. By-Laws Specific to the Cremation Garden

- a) Each plot measures 3 feet by 2 feet (see Section 1b)
 - b) Each plot may be used for the interment of up to two cremated remains (see Section 1b)
 - c) The marker for each plot is to measure 12 inches by 20 inches (240 square inches) and is subject to a Care and Maintenance Fee of \$50.00.
- The type of stone to be used for the plot marker is to be any standard colour used by Monument Companies.