

**The Corporation of the Municipality of Leamington
By-law 68-24**

By-law to Regulate the Operation of Municipal Cemeteries

Content	Page
Part 1 – General	5
Definitions	5
Interpretation	9
Responsibility and Authority	10
Clerk’s Authority	10
Correction of Typographical, Calculation or Recording Error	10
Correction of Interment Errors	11
Part 2 - Care and Maintenance Fund	11
Care and Maintenance Fund	11
Income Generated	11
Part 3 – Interment Rights	12
Contract Required	12
Limitation of Rights	12
Cancellation of Interment Rights <u>within</u> the 30-day Cooling Off Period	12
Cancellation of Interment Rights <u>after</u> the 30-day Cooling Off Period	12
Transfer, Resale or Exchange of Interment Rights	13
Financial Gain Not Permitted	13
Endorse Certificate – Required	13
Consent of All Rights Holders Required	14
Return Original Certificate	14

Exchange of Interment Rights	15
Abandonment of Interment Rights	15
Part 4 – Interments	15
Reference to Master Records	15
Interment of Remains	15
Requirements for an Interment	15
Purchase Price	16
Notice of Proposed Interment	16
Interment Dates and Times	16
Inclement Weather or other Conditions	17
Opening and Closing of Graves	17
Temporary Measures	17
Part 5 – Vaults and Containers	17
Vaults	17
Containers	17
Containers in Lots, other than Cremation Lots	18
Containers in Cremation Lots	18
Authority of the Clerk	18
Part 6 – Disinterment and Reinterment	18
Disinterment	18
Other Costs Related to Disinterment	19
Limiting Attendance During a Disinterment	20
Re-interment	20
Part 7 - Refusal of Interment or Disinterment	20
Part 8 - Memorials Generally	20

Authorization Required	20
Relocation and Removal of Risk	21
War Memorials	21
Part 9 – Monuments	21
Number and Location on a Lot	21
Number and Location on a Plot	22
Monument Foundations	22
Monument Bases	22
Monument Diestones	23
Attachments to Monuments	23
Part 10 – Markers and Cornerstones	23
Marker Specifications	23
Attachments to Markers	24
Cornerstones	24
Part 11 – Articles in Cemetery	24
Permitted Articles	24
Prohibited Articles	24
Removal by Manager	25
Part 12 – Contractors	25
Approval of Manager Required	25
Obligations of Contractors	26
Part 13 – Activity Prohibited in a Cemetery	26
Part 14 – Limitation of Liability	28
Loss or Damage	28
Part 15 – Notice	28
Notice	28
Part 16 – Effective Date and Repeal	29

Effective Date	29
Repeal/Transition	29
Schedule A - Cemeteries	31
Schedule B – Location of Cemeteries	32

**The Corporation of the Municipality of Leamington
By-law 68-24**

By-law to Regulate the Operation of Municipal Cemeteries

Whereas the Municipality is the owner and operator of certain cemeteries within the boundaries of the Municipality, which cemeteries are listed in Schedule "A" attached hereto and the locations of which cemeteries are more specifically indicated on a map attached hereto as Schedule "B".

And Whereas section 150(1) of the Regulations provides that a Municipality may make by-laws governing the operation of a cemetery and, in particular, governing rights, entitlements, and restrictions with respect to interment rights.

And Whereas section 150(4) of the Regulations indicates that a cemetery's by-laws shall specify the documentation required in order to carry out an interment or the installation of a marker.

And Whereas section 15(1) of the Regulations provides that no cemetery by-law is effective until the municipality has filed it with the Registrar in an approved form and manner; provided notice of the filing in accordance with subsection 151(3) of the Regulations, and the Registrar has approved it.

And Whereas it is deemed expedient to regulate the operations of the Municipality's cemeteries and set out the rights, entitlements and restrictions with respect to interment rights.

Therefore the Council of the Municipality hereby enacts as follows:

PART 1 - GENERAL

Definitions

1. For the purpose of this by-law and attached Schedules:
 - a) "Act" shall mean the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33.
 - b) "Burial" shall have the same meaning as "Interment".
 - c) "Business Day" shall mean any day excluding Saturday, Sunday or a Holiday – Municipal Staff.
 - d) "By-laws" shall mean the rules under which the Cemetery operates.

- e) "Care and Maintenance Fund" shall mean sections, O. Reg. 30/11 and O. Reg. 184/12 of the Act require that a prescribed amount or a percentage of the purchase price (excluding tax) of all Interment Rights sold, Transferred or assigned; and prescribed amounts for Monuments and Markers, is contributed into the Cemetery operator's care and maintenance trust fund. Interest earned from this fund is used to provide Care and Maintenance of the Cemetery, including Markers and Monuments, in perpetuity.
- f) "Cemetery" shall mean any one or all the cemeteries owned and operated by the Municipality as listed in Schedule "A" herein and "Cemeteries" shall have a corresponding meaning.
- g) "Cemetery Service(s)" shall mean a service, or services provided by the Municipality in respect of Interments or any other service as prescribed in the Regulations.
- h) "Certificate of Interment Rights" shall mean the document issued by the Clerk certifying the Interment Rights Holder's rights to Interment within in a given Lot.
- i) "Clerk" shall mean the Clerk of the Municipality or their delegate.
- j) "Container" shall mean a container used to hold Remains and includes an urn or casket.
- k) "Contract" shall mean a written contract between the Municipality and the Purchaser of Interment Rights or other cemetery supplies and services. Purchasers shall receive a copy of the signed Contract detailing the obligations of both parties, and acknowledging receipt of the Cemetery by-laws, a copy of the BAO's publication *A Guide to Death Care in Ontario* ("Consumer Information Guide") and the Municipality's price list.
- l) "Contractor" shall mean a Person authorized by the Municipality to provide goods or services within the Cemetery, including but not limited to, funeral services, the delivery and installation of Monuments, Markers, and Vaults, but does not include a Person who has entered into a contract with the Municipality for the provision of goods or services to the Municipality.
- m) "Cornerstone" shall mean a Memorial used to indicate the corners of a Plot or Lot.
- n) "Cremated Remains" shall mean the cremated remains of a deceased human body.
- o) "Cremation Lot" shall mean a Lot designated for the Interment of Cremated Remains.

- p) "Disinterment" shall mean the removal of Remains from a Lot and "Disinter" shall have a corresponding meaning.
- q) "Full Remains" shall mean the remains of a deceased human body.
- r) "Grave" shall mean an inground burial space intended for the Interment of Remains.
- s) "Head of Lot" shall mean the end of the Lot designated as the head of Lot by the Master Records or by the Manager.
- t) "Holiday – Municipal Staff" shall mean any holiday recognized as a holiday for municipal office staff.
- u) "Holiday - Public Works" shall mean any holiday recognized as a holiday for employees represented by Teamsters Local 879.
- v) "Interment" shall mean the burial of Remains in a Cemetery and includes the placing of Remains in a Lot and "Inter" and "Interred" shall have corresponding meanings.
- w) "Interment Rights" shall mean the right to require or direct the Interment of Remains in a Lot.
- x) "Interment Rights Certificate" shall mean the document issued by the Municipality to the purchaser once the Interment Rights to a specific Lot have been paid in full, identifying ownership and authority over those specific Interment Rights.
- y) "Interment Rights Holder" shall mean the Person designated to hold the Interment Rights to a specified Lot, as registered in the Cemetery records or as evidenced by a Certificate of Interment Rights or predecessor document.
- z) "Lot" shall mean a single Grave space in a Cemetery.
- aa) "Manager" shall mean the Manager of Public Works or their delegate.
- bb) "Marker" shall mean a Memorial set flush and level with the ground used to mark the location or intended location of an Interment.
- cc) "Master Records" in respect of each Cemetery shall mean the applicable plan, map or records in the Municipality's possession or are which are available to the Municipality showing the division of the Cemetery into Lots and describing the restrictions on use, if any, which relate to the Lots.

- dd) "Memorial" shall mean a Marker or Monument or Cornerstones.
- ee) "Monument" shall mean an above ground, upright Memorial used to mark the location or intended location of an Interment and includes the Monument Foundation, Monument Base and Monument Diestone.
- ff) "Monument Base" shall mean the portion of the Monument set on the Monument Foundation to provide stability and protection for the Monument Diestone.
- gg) "Monument Diestone" shall mean that portion of the Monument set on the Monument Base.
- hh) "Monument Foundation" shall mean the in-ground foundation upon which the Monument Base is set.
- ii) "Municipality" shall mean The Corporation of the Municipality of Leamington.
- jj) "Person" shall mean an individual, a partnership, or a corporation and the heirs, executors, administrators, or other legal representatives of a person, as the case may be.
- kk) "Personal Representative" shall mean an executor, executrix, administrator, or administrator with will be annexed of the estate of a deceased Interment Rights Holder.
- ll) "Plot" shall mean two (2) or more Lots in respect of which Interment Rights have been sold as a unit.
- mm) "Purchaser" shall mean the Person purchasing Cemetery Services.
- nn) "Purchase Price" shall mean the purchase price for each Cemetery Service as set out in the Municipality's Fees and Charges By-law passed pursuant to Part XII of the Municipal Act, 2001, S.O. 2001, c. 25, as amended from time to time.
- oo) "Remains" shall mean Full Remains and/or Cremated Remains.
- pp) "Registrar" shall mean the registrar appointed under section 3 of the Act.
- qq) "Regulations" shall mean Regulation 30/11 made under the Act.
- rr) "Procedures" shall mean the procedures made by the Clerk pursuant to section 14.

- ss) "Transfer" shall mean the Transfer of Interment Rights from the Interment Rights Holder to a Transferee which is made as a gift without consideration paid to the Interment Rights Holder.
- tt) "Transferee" shall mean the recipient of a Transfer.
- uu) "Vault" shall mean a shell to be placed in a Plot entirely below the surface of the ground for the purpose of holding a Container.

Interpretation

2. The following Schedules are attached hereto and form part of this by-law:

Schedule "A" – Cemeteries Owned or Operated by the Municipality
Schedule "B" – Location of Cemeteries

3. If any section, subsection, schedule, or part of parts of this by-law are declared by any court of law to be bad, illegal, or ultra vires, such section, subsection or part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.
4. Where any provision of this by-law conflicts with any section of the Act or Regulation, the section of the Act or Regulation shall prevail.
5. Unless otherwise defined, the words and phrases used in this by-law have their normal and ordinary meaning.
6. Unless a contrary intention appears herein, the provisions of this by-law are intended to be gender neutral and gender inclusive and the singular to include the plural.
7. Headings are inserted for convenience for reference purposes only, form no part of this by-law and shall not affect in any way the meaning or interpretation of the provisions of this by-law.
8. For the purposes of clarity, when there is reference to the consent, authorization, notice or request of an Interment Rights Holder:
 - a) if the Interment Rights are jointly held by more than one Person, the consent, authorization, notice or request of all Interment Rights Holders is required; and
 - b) if the Interment Rights Holder is deceased, the consent, authorization, notice or request of the Personal Representative is required.

Responsibility and Authority

9. Council may, from time to time, amend this by-law in order to best serve the interests of the Cemeteries and Interment Rights Holders. Public notice indicating that pending changes to the by-law have been submitted to the Registrar shall be provided in accordance with the Act.
10. Subject to the requirements of the Act and Regulations, the Municipality has the right to re-survey, enlarge, diminish, change or remove plantings, grade, close pathways, or roads, alter in shape or size, or otherwise change all or any part of a Cemetery.
11. The Municipality shall have control of and shall manage all lands, buildings, plantings, roads, utilities, books and records of the Cemeteries.
12. Unless otherwise indicated, the Manager is responsible for the day-to-day operations of the Cemeteries and shall supervise:
 - a) the care and maintenance of the Cemetery, including but not limited to, the pruning of trees and shrubs and the removal of overgrown plant material; and
 - b) all Interments.
13. The Manager may delegate all or part of any authority given to the Manager by this by-law to any municipal employee who is supervised by the Manager.

Clerk's Authority

14. Unless otherwise indicated, the Clerk has the authority to:
 - a) make Procedures related to any Cemetery Service;
 - b) make final and binding decisions in connection with any Cemetery Service in accordance the Act and Regulations, this by-law and the Procedures;
15. The Clerk may delegate all or part of any authority given to the Clerk by this by-law to any municipal employee who is supervised by the Clerk.

Correction of Typographical, Calculation or Recording Error

16. After inspection of a Cemetery if, in their sole discretion, there is sufficient evidence that there has been a typographical error, error of calculation or error in the recording of information; correct such typographical error; error of calculation or error in the recording of information in the Master Records;

Correction of Interment Errors

17. Upon notice to the Interment Rights Holder or Personal Representative, the Clerk may, in consultation with the Interment Rights Holder or Personal Representative, correct any such error made in the sale, Transfer, resale or exchange of Interment Rights and in correcting such error, the Clerk may substitute a Lot of equivalent value and similar quality or cancel the transaction and refund all payments.
18. In the event that any such error may involve the Interment or Disinterment or removal of the Remains in any Lot or Plot, the Clerk, pending notification of the Medical Officer of Health, as necessary, and approval of the Interment Rights Holder or Personal Representative, may Disinter and Re-inter the Remains in such other Lot or Plot of equal or greater value and similar location as may be substituted and granted in lieu thereof.

PART 2 – CARE AND MAINTENANCE FUND

Care and Maintenance Fund

19. If Interment Rights were sold or a Marker or Monument installed prior to 1955 and no money was collected and deposited to the Care and Maintenance Fund as contemplated in section 95(2) of the Regulation, such amount as required by the Regulation to be paid to the Care and Maintenance Fund shall be paid at the time of any Transfer, resale, or exchange of the Interment Right.
20. For the purposes of section 19, the Clerk may deem, in their sole discretion that no money was collected and deposited to the Care and Maintenance Fund in connection with the Interment Rights or the installation of a Marker or Monument, if the Municipality's records do not indicate that money was collected and deposited to the Care and Maintenance Fund and if the Interment Rights Holder cannot provide evidence that such money was collected.

Income Generated

21. The income generated from the Care and Maintenance Fund is used to maintain, secure and preserve the Cemetery grounds and Markers in perpetuity. Cemetery Services that can be provided through the Care and Maintenance Fund include:
 - lawn care, re-leveling and sodding or seeding of Lots or scattering grounds
 - maintenance of Cemetery roads, sewers and water systems
 - maintenance of perimeter walls and fences
 - maintenance of Cemetery landscaping
 - maintenance of mausolea and columbaria
 - repairs and general upkeep of Cemetery maintenance buildings and equipment

- to the extent that income from the Care and Maintenance Fund permits, the Municipality will stabilize and secure Markers and Monuments within the Cemetery

PART 3 – INTERMENT RIGHTS

22. Interment Rights may be purchased from the Municipality at the price set out in the Municipality's current Fees and Charges By-law.

Contract Required

23. All Persons purchasing Interment Rights shall be required to sign a Contract with the Municipality agreeing to follow all obligations of an Interment Rights Holder and all policies, rules, and regulations of the Cemetery.

Limitation of Rights

24. The rights of an Interment Rights Holder include only the right to direct the Interment of Remains and the installation of Monuments and Markers, subject to the provisions of the Act, Regulations and this by-law, and the ownership of all Cemetery lands shall remain vested with the Municipality.

Cancellation of Interment Rights within the 30-day Cooling Off Period

25. In accordance with the Act, a Purchaser has the right to cancel an Interment Rights Contract within thirty (30) days of signing the Contract, by providing written notice of the cancellation to the Clerk. The Clerk will refund all monies paid by the Purchaser within thirty (30) days from the date of the request for cancellation.
26. An Interment Rights Holder requesting the cancellation of the Contract shall return the Interment Rights Certificate to the Clerk and the Interment Rights Holder shall endorse the Interment Rights Certificate, transferring all rights, title and interest back to the Municipality. All appropriate paperwork must be completed before the Municipality will refund any amount to the Interment Rights Holder.
27. If any portion of the Interment Rights has been exercised within the thirty (30) days, the Interment Rights Holder/Purchaser is not entitled to cancel the Contract or re-sell the Interment Rights.

Cancellation of Interment Rights after 30-day Cooling-Off Period

28. Upon receiving written notice from the Purchaser/Interment Rights Holder of cancellation of the Interment Rights (after the 30-day cooling off period), the Clerk will cancel the Contract and issue a refund within thirty (30) days of receiving said notice 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.

29. If the Interment Rights Certificate has been issued to the Purchaser/Interment Rights Holder, the Interment Rights Certificate must be returned to the Clerk along with the written notice of cancellation.
30. If any portion of the Interment Rights has been exercised, the Interment Rights Holder/Purchaser is not entitled to cancel the Contract.

Transfer, Resale or Exchange of Interment Rights

31. An Interment Rights Holder may Transfer or resell Interment Rights to a third party subject to the terms and conditions of the Act and the Regulations and in accordance with the Municipality's Cemetery policies and procedures and this by-law.
32. The Interment Rights Holder agrees that the Interment Rights may be sold to a third party providing no Interment Rights have been exercised on the Lot and only after the Interment Rights have been paid in full and any arrears associated with them are paid in full.
33. The Interment Rights Holder may not sell rights to a third party for more than the purchase price set out in the current Fees and Charges By-law enacted by the Municipality.
34. The resale or Transfer of Interment Rights must be carried out through the Clerk and are subject to Fees as set out in the current Fees and Charges By-law enacted by the Municipality.

Financial Gain Not Permitted

35. No Person shall purchase Interment Rights for the sole or primary purpose of reselling the Interment Rights with a view of making a financial gain.

Endorse Certificate – Required

36. The Interment Rights Holder agrees that if the Interment Rights are sold or Transferred to a third party, the Interment Rights Holder will endorse the Interment Rights Certificate to include:
 - a) a statement acknowledging the sale or Transfer to the third-party Purchaser;

- b) the signature of the Clerk confirming that the Person selling or Transferring the Interment Rights has the authority to do so;
- c) the date on which the Interment Rights were sold or Transferred;
- d) the name, address, and phone number of the third-party Purchase or Transferee; and
- e) provide a copy of the current Cemetery By-law to the third-party Purchaser or Transferee;
- f) provide a written statement that no Interment Rights have been exercised for that Lot.

Consent of All Rights Holders Required

37. Where there is more than one Interment Rights Holder, the consent of all Interment Rights Holders shall be required to sell or Transfer Interment Rights. If an Interment Rights Holder is deceased, a copy of their Will and Certificate of Death, and any other documentation as requested by the Clerk shall be required in order to sell or Transfer the Interment Rights.

Return Original Certificate

38. The original Interment Rights Certificate that was issued to the Interment Rights Holder must be returned to the Clerk. The Municipality will issue a new Interment Rights Certificate to the third-party Purchaser or Transferee upon receiving the Fee and required documentation.
39. In the case of a resale or Transfer of rights, an administration fee applies for the Municipality to issue a new Interment Rights Certificate to the third-party Purchaser or Transferee, as applicable. The fee, which is set out on the cemetery price list, is also charged for replacement of lost or damaged Interment Rights Certificates.
40. Upon completion of the above listed procedures, and upon the issuance of the new Interment Rights Certificate, the third-party purchaser or Transferee shall be considered the current Interment Rights Holder of the Interment Rights, and the resale or Transfer of the Interment Rights shall be considered final in accordance with the cemetery by-laws and the Act.

Exchange of Interment Rights

41. An Interment Rights Holder may request an exchange of Interment Rights within a Cemetery. Such request shall be made to the Clerk in writing and may be approved by the Clerk in their sole discretion.
42. Prior to any Transfer, resale or exchange of Interment Rights, any Memorial erected upon the subject Plot or Lot shall be removed unless the Purchaser or the Transferee confirms in writing to the Clerk that the existing Memorial(s) may remain. The removal of any Memorial shall be at the sole cost and expense of the Interment Rights Holder.

Abandonment of Interment Rights

43. In accordance with section 49 of the Act, if Interment Rights have not been used after a twenty (20) year period, the Municipality may apply to the Registrar for a declaration that the Interment Rights are abandoned in accordance with the Act.

PART 4 - INTERMENTS

Reference to Master Records

44. The Master Records shall be used to determine the location of Plots and Lots and the size of each.
45. As required by the Act, the Municipality shall maintain a public register that is available to the public for review during regular office hours or by appointment, and without charge.

Interment of Remains

46. In accordance with the Act, only Remains may be Interred or placed in the Cemeteries.
47. Full body or cremated pet remains are not allowed to be interred or scattered anywhere on Cemetery grounds.

Requirements for an Interment

48. Except as otherwise permitted by the Act, the following shall be provided to the Municipality prior to the Municipality carrying out an Interment:
 - a) A Contract for the Interment.
 - b) A burial permit issued by the Registrar General for Full Remains or a certificate of cremation for Cremated Remains.

- c) Payment of the Purchase Price for the Interment.
- d) Consent, in writing, to the Interment in a form as required by the Clerk and:
 - i) if the Remains to be Interred are those of an Interment Rights Holder, executed by the Personal Representative; or
 - ii) if the Remains to be Interred are not those of the Interment Rights Holder, executed by the Interment Rights Holder.
- e) In the case of an Interment assisted by a Social Services Agency, written instruction from a social services administrator.

Purchase Price

- 49. The Purchase Price of an Interment shall be subject to the time of day; day, including in the event of a Holiday – Public Works; or time of year.
- 50. In the event that one (1) Container contains more than one (1) Cremated Remains, the Purchase Price shall be payable for the Interment of each of the Cremated Remains.

Notice of Proposed Interment

- 51. Except in exceptional circumstances including a requirement set out in a certificate of a medical practitioner as a matter of the control of a communicable disease within the meaning of the Health Protection and Promotion Act, R.S.O. 1990, c. H.7, or in the case of the Interment of a member of a religious faith which requires that Interment be completed as soon as possible after death, at least two (2) Business Days advance notice of a proposed Interment shall be provided to the Clerk.

Interment Dates and Times

- 52. Except in exceptional circumstances including those noted in section 51, Interments shall be scheduled Monday to Saturday between the hours of 8:30 a.m. to 2:00 p.m. excluding any Holiday – Public Works.
- 53. In the event that a communicable disease has been confirmed in connection with the death of a person to be Interred, the Clerk may designate the hour and manner of Interment.

Inclement Weather or other Conditions

54. If, due to inclement weather conditions, health and safety concerns, or conditions beyond the Manager's control, an Interment cannot occur at the scheduled time, the Manager may make interim arrangements and the Interment shall be completed as soon conditions permit.

Opening and Closing of Graves

55. Graves shall be opened and closed only by the Manager.
56. To ensure safe conditions are maintained at all times, persons wishing to observe the closing of a Grave shall remain a minimum of thirty (30) feet from the Grave, or such other distance as designated by the Manager.

Temporary Measures

57. The opening of a Grave for Interment may necessitate the temporary mounding of earth on adjacent Lots. The Manager may determine the location for the temporary mounding and will make reasonable efforts to restore adjacent Lots to their original condition as soon as possible following the closing of the Grave.

PART 5 - VAULTS AND CONTAINERS**Vaults**

58. Containers containing Full Remains may be required to be Interred within a Vault.
59. Containers containing Cremated Remains may be Interred within a Vault.
60. A Vault shall:
- a) be made of concrete;
 - b) have a lid that may be sealed securely; and
 - c) be of a size to permit Burial within the dimensions of the Lot.

Containers

61. A Container containing Cremated Remains, or a Vault and Container containing Cremated Remains, as the case may be, must be of a size to permit Burial within the dimensions of the Cremation Lot.

62. Remains shall be delivered to the Cemetery for Burial contained within a closed Container and the Container shall not be opened or closed by an employee of the Municipality.
63. Cremated Remains will be Interred in the Container within which they are received.

Containers in Lots (other than Cremation Lots)

64. A Lot, other than a Cremation Lot may contain:
 - a) one (1) Container containing Full Remains; and on top of said Container five (5) Containers containing Cremated Remains; or
 - b) six (6) Containers containing Cremated Remains.

Containers in Cremation Lots

65. A Cremation Lot may contain two (2) Containers containing Cremated Remains.

Authority of the Clerk

66. The Clerk has the authority to permit an Interment, notwithstanding that such Interment may not comply with sections 64 and 65.

PART 6 - DISINTERMENT AND REINTERMENT

Disinterment

67. In addition to the requirements of the Act, the following shall be provided to the Municipality prior to a Disinterment:
 - a) A Contract for the Disinterment.
 - b) Payment of the Purchase Price for the Disinterment.
 - c) If the Remains to be Disinterred are of a person who died from a communicable disease, the consent or direction, in writing, of the medical officer of health or other public official having authority.
 - d) Except as otherwise permitted by the Act or required by law, consent, in writing, to the Disinterment in a form as required by the Clerk and:
 - i) if the Remains to be Disinterred are those of an Interment Rights Holder, executed by the Personal Representative; or

- ii) if the Remains to be Disinterred are not those of the Interment Rights Holder, executed by the Interment Rights Holder.
68. In some circumstances, the Disinterment of Remains may be ordered by one or more public officials (e.g., Coroner's Office) and will take place without the consent of the Interment Rights Holder(s) and/or Personal Representative.
69. The Municipality is not responsible for damage to any Casket, Urn, Container, or Vault which may occur during a Disinterment. Additionally, due to the length of time that a Casket, Urn, Container or Vault has been interred and the conditions to which it has been exposed, the Municipality cannot guarantee that it can retrieve the complete Casket, Urn, Container or Vault interred in the Cemetery.
70. The Municipality has the right to request that a licensed funeral director be present for the Disinterment at the expense of the party authorizing the Disinterment.
71. Once a Disinterment has been completed, the Lot space shall be considered available to the Interment Rights Holder for a new Interment, Transfer or resale in accordance with the Municipality's by-laws. If the Grave space from which a Disinterment has occurred, is Transferred or resold, the new Interment Rights Holder must be made aware of the previous Disinterment and agree in writing to such knowledge as part of the Transfer or resale agreement.
72. The raising and lowering of remains from standard depth to extra depth is considered a Disinterment.
73. Disinterment will be completed on the day and time designated by the Clerk and may be limited by weather and soil conditions.

Other Costs Related to Disinterment

74. The following costs related to Disinterment shall be borne by the Purchaser:
- a) the funeral service provider;
 - b) in the event that there is damage to the Container during Disinterment, the cost of a new Container for the purpose of properly and safely transferring the Remains;
 - c) the transporting of the Remains within and outside of the Cemetery; and/or
 - d) the cost of removal of any Memorial.

Limiting Attendance During a Disinterment

75. During a Disinterment, the Manager may.
- a) close the Cemetery;
 - b) limit attendance to only those persons required or permitted by the Act to be in attendance at a Disinterment;
 - c) limit the number of persons in attendance at the Disinterment if the health or safety of anyone present may be at risk; or if the attendance would significantly impact upon Cemetery operations or the dignity and decorum of the Cemetery; and/or
 - d) require those in attendance to remain a minimum of thirty (30) feet from the Grave or such other distance as designated by the Manager.

Re-Interment

76. The Interment of Disinterred Remains into a Cemetery shall comply with section 48 of this by-law.

PART 7 - REFUSAL OF INTERMENT OR DISINTERMENT

77. The Clerk may refuse an Interment or Disinterment if:
- a) the Interment or Disinterment violates any applicable legislation, this by-law or the Contract for the applicable Lot;
 - b) insufficient resources are available for the Interment or Disinterment to take place at the requested time and place; or
 - c) the medical officer of health or other public official having authority refuses to, or does not, provide consent or sufficient direction.

PART 8 – MEMORIALS GENERALLY**Authorization Required**

78. Memorials including any inscriptions, engravings, inserts and emblems and photographs affixed thereon shall be in keeping with the dignity and decorum of a Cemetery.
79. No Memorial shall be installed, removed, replaced, altered, nor shall any engraving or inscription or any additional engraving or inscription be placed upon any Memorial without written authorization by the Clerk.

80. The Municipality may require such documents as design drawings, plans and detailed specifications relating to the work, proof of all applicable government approvals and permits, and the location of the work to be performed.
81. The following shall be provided to the Clerk prior to the installation, removal, replacement or alteration of a Memorial, or any engraving or inscription or any additional engraving or inscription be placed upon any Memorial:
- a) Consent, in writing, of the Interment Rights Holder.
 - b) Payment of the Purchase Price.
 - c) Payment of any unpaid Purchase Price for any Cemetery Service related to the subject Lot.

Relocation and Removal of Risk

82. The Manager may:
- a) temporarily relocate a Memorial during the opening and closing of a Grave; during an Interment or for the purposes of efficient Cemetery operations; and
 - b) in the event a Memorial becomes unstable and presents a risk to the public or Cemetery operations, take the steps necessary to remove such risk, including, but not limited to repairing, resetting or laying down the Memorial.

War Memorials

83. Notwithstanding any provision of this by-law, war memorials placed on veteran graves in a form approved by Veterans Affairs Canada are permitted in a Cemetery.

PART 9 - MONUMENTS

Number and Location on a Lot

84. One (1) Monument may be erected on a Lot unless otherwise authorized by the Clerk
85. A Monument erected on a Lot shall be:
- a) erected at the Head of Lot; and
 - b) centered at the center point of the Head of Lot unless otherwise authorized by the Clerk. such that the edge of the Monument Foundation is at least three (3) inches from the edge of the Lot and any Marker.

Number and Location on a Plot

86. One (1) Monument may be erected on a Plot, if no Lot upon which the Monument is proposed to be erected already has a Monument or part of a Monument erected thereon.
87. A Monument erected on a Plot shall be:
- a) erected at the Head of Lot;
 - b) centered at the center point of the Plot or as close thereto as possible; and
 - c) erected such that the edge of the Monument Foundation is at least:
 - i) six (6) inches from the edge of any adjacent Monument Foundation or any Marker; and
 - ii) three (3) inches from the edge of any adjacent Plot or Lot.

Monument Foundations

88. A Monument shall have a Monument Foundation to maintain the stability of the Monument.
89. A Monument Foundation shall:
- a) be made of concrete or geogrid;
 - b) be at least two (2) inches longer and wider than the Monument Base;
 - c) be placed entirely below the surface of the ground at a depth of one (1) inch per every twelve (12) inches of the combined height of the Monument Base and Monument Diestone and at a minimum of two (2) inches; and
 - d) be placed on a compacted granular A crushed gravel base of a depth equivalent to or greater than that of the Monument Foundation.

Monument Bases

90. A Monument Base shall:
- a) be made of granite or concrete;
 - b) have a smooth bottom;

- c) be a minimum of six (6) inches to a maximum of twelve (12) inches in height; and
- d) be at least two (2) inches longer and two (2) inches wider than the Monument Diestone.

Monument Diestones

91. A Monument Diestone shall:

- a) be made of granite, concrete, non-corrosive metal or non-corrosive metal alloy; and
- b) be a maximum of (24) inches in height; and
- c) be a maximum of twelve (12) inches in width.

Attachments to Monuments

92. The following items may be attached or affixed to a Monument:

- a) candle holders and flower vases mounted on the top of the Monument Base at each end of the Monument Diestone.
- b) inserts, emblems, pictures or photographs attached or affixed to the front or back of the Monument Diestone by means of pins or clips.

93. In no case shall any item listed in section 92 be made from plastic or glass but shall be made from permanent, weather resistant materials, such as granite, bronze, non-corrosive metal or non-corrosive metal alloy.

PART 10 - MARKERS AND CORNERSTONES

Marker Specifications

94. A Marker shall:

- a) be made of granite or concrete;
- b) be set flush with the ground;
- c) be of a width and a length that provides a minimum space of three (3) inches to:

- i) the edge of the Lot upon which it is to be installed;
- ii) any other Marker; and
- iii) the edge of any Monument Foundation.

Attachments to Markers

95. No item may be attached or affixed to a Marker, except a Marker may have a flat bronze plate affixed to its surface.

Cornerstones

96. A Cornerstone shall:
- a) be made of granite or concrete material;
 - b) be set flush with the ground;
 - c) be placed only at the corners of a Plot or Lot; and
 - d) be of a maximum size of six (6) inches long and six (6) inches wide.

PART 11 – ARTICLES IN CEMETERY

Permitted Articles

97. Fresh cut flowers, monument saddles and potted plants are permitted to be placed on a Plot of Lot until such time as they become withered or unsightly.
98. Artificial wreaths are permitted to be placed on a Plot of Lot from November 1st until March 31st of the next calendar year.

Prohibited Articles

99. The following articles are prohibited from being placed on a Plot or Lot:
- a) articles made of hazardous materials, including but not limited to, non-heat resistant glass or glass containers, ceramics, or corrosive metals;
 - b) loose stones or sharp objects of any material;
 - c) solar lights;
 - d) Shepherd's Hooks and hanging plants or baskets;

- e) items not consistent with the dignity and decorum of a Cemetery including, but not limited to novelty and memorabilia, such as action figures, garden figurines, garden nostalgia stones, toys, flags, light posts, balloons, sports memorabilia and equipment, trophies, lawn ornaments, party decorations, wind chimes, bird houses, themed seasonal house decorations;
- f) articles that degrade under weather conditions and deteriorate to become unsightly, dangerous, or hazardous such as wood, pottery, plastic, metal, and fabrics; and
- g) statues, borders, fences, railing, walls, cut stone coping.

Removal by Manager

100. The Manager, in their sole discretion, may remove from the Cemetery or any Plot or Lot:

- a) anything that is not permitted or prohibited under this by-law;
- b) any article if that article may not be left on a Lot after a certain date or point in time if that date or point in time has passed;
- c) any article that is not cared for or maintained;
- d) any trees or shrubs situated in any Lot that have become, by means of their roots or branches or in any other way detrimental to the adjacent Lot, drains, roads or walks, or the general appearance of the grounds or is inconvenient to the public; and
- e) anything which prevents the performance of general Cemetery operations; is detrimental to efficient maintenance; or constitutes a hazard to machinery, employees or visitors.

PART 12 - CONTRACTORS

Approval of Manager Required

101. A Contractor shall, in a form as required by the Manager, submit a request to the Manager to provide goods and services in a Cemetery and shall obtain the written approval of the Manager prior to providing such goods or services.

Obligations of Contractors

102. A Contractor shall:

- a) ensure that all goods and services are provided in accordance with all applicable acts, regulations, codes, standards, and health and safety legislation both general and specific to any goods and service provided in a Cemetery;
- b) Evidence of liability insurance of not less than \$5,000,000.00
- c) conduct themselves in keeping with the dignity and decorum of a Cemetery, including wearing shirts with sleeves and long pants;
- d) take all necessary steps to prevent damage to any grounds, turf, shrubs, trees, flowerbeds, Memorial or any article or natural feature in the Cemetery. The Municipality shall lay wooden planks on the burial Lots and paths over which heavy materials are to be moved to protect the grounds from surface damage.
- e) following the provision of goods or services, remove all materials, equipment or apparatus used from the Cemetery;
- f) not provide goods or services during evenings, on a Sunday, or a statutory holiday and provide goods or services only during the following hours:

Monday through Saturday, 8:00 a.m. to 5:00 p.m.
- g) temporarily cease all operations if providing goods or services within three hundred (300) feet of a funeral until the conclusion of the service.

PART 13 - ACTIVITY PROHIBITED IN A CEMETERY

103. Children under the age of twelve (12) shall not enter a Cemetery unless supervised by an adult.

104. Unless authorized by the Manager, while in a Cemetery, no Person shall:

- a) enter or remain in a Cemetery between dusk and dawn;
- b) enter or remain in an area of a Cemetery where admission is prohibited or restricted;
- c) enter or access through a Cemetery for the purpose of conducting any work on private property;

- d) climb any building, structure, or equipment;
- e) light or build a fire including the lighting of candles, unless such candles are battery powered;
- f) engage in a picnic or barbeque;
- g) discharge a firearm;
- h) ride a skateboard or use rollerblades or inline skates;
- i) camp, erect or place a tent for shelter or temporary abode of any kind;
- j) ski, toboggan, snowboard, skibob, or sled;
- k) operate any powered models of aircraft or drones;
- l) dump, deposit, drain or otherwise dispose of any material into any soil;
- m) remove any flowers, plants or other materials whether planted or placed on a Grave without the Interment Right Holder's permission;
- n) sell, offer to sell, or display for sale any goods or services;
- o) practice, carry on, conduct, or solicit for any trade, occupation, business, profession, or charity;
- p) film or make television broadcast;
- q) photograph or videotape for commercial use;
- r) distribute or display any handbill, notice, or any other type of circulars, bills, advertisements, or any form of promotional item or samples; or
- s) erect, display, alter or allow the erection, display, or alteration of any sign.

105. In a Cemetery, no Person shall:

- a) consume alcohol;
- b) damage or deface any building, structure, equipment, or Memorial;
- c) damage or disturb, in any manner, grounds prepared for burial, the erection of Memorials, or any other Cemetery Services;
- d) disobey an authorized sign;

- e) fire or set off any fireworks; or
- f) march in a parade, other than a funeral procession.

PART 14 – LIMITATION OF LIABILITY

Loss or Damage

106. The Municipality, its members of Council, officers, employees, agents and contractors shall not be held liable either directly or indirectly for any loss or damage resulting from any action taken in any way whatsoever whether pursuant to the authority of this by-law or not, including but not limited to the following:

- a) loss or damage to a Plot, Lot, Memorial or any article that has been placed in the Cemetery or on a Plot or Lot, for any reason whatsoever, including but not limited to loss or damage by the elements, Acts of God, or vandalism;
- b) loss or damage to a Container or Vault, before, during or after an Interment or Disinterment;
- c) the repairing, resetting or laying down of a Memorial which has become unstable;
- d) the removal of an article from a Cemetery, Plot or Lot
- e) pursuant to this by-law or otherwise; and/or
- f) the denying of any approval of a Contractor to provide goods or services within a Cemetery.

PART 15 - NOTICE

Notice

107. An Interment Rights Holder shall notify the Clerk of any change of address.

108. Any notice required by this By-law shall be in writing, and may be delivered by way of:

- a) hand delivery in which case the notice shall be deemed received on the date of delivery;
- b) e-mail in which case the notice shall be deemed received on the date of sending;

- c) by pre-paid mail in which case the notice shall be deemed received on the fifth (5th) day following the date of mailing:

if to the Interment Rights Holder: To the address or email address included on the Certificate of Interment Rights or the address identified in the notice of change of address received by the Clerk under section 108.

if to the Clerk: Municipality of Leamington
Attn: Cemetery Services
111 Erie Street North
Leamington, Ontario
N8H 2Z9
clerks@leamington.ca

PART 16 - EFFECTIVE DATE AND REPEAL

Effective Date

109. This by-law shall take effect on the day that it receives approval from the Registrar.

Repeal/Transition

110. Town of Leamington By-laws 3099, 4085-93, 4239-95 and Municipality of Leamington By-laws 405-03, and any amendments thereto are hereby repealed on the date this by-law comes into force and effect.

111. Notwithstanding section 110:

- a) A Certificate of Interment Rights issued under any by-law listed in section 110, shall be deemed to be a Certificate of Interment Rights under this by-law and shall be subject to all provisions of this by-law.
- b) If an act has been validly commenced pursuant to a by-law listed in section 110, and whether or not the authority for such act exists pursuant to this by-law, such act may be continued to its conclusion and, if necessary, the portions of the predecessor to this by-law necessary to permit such act to be concluded shall be deemed to remain in effect for the purposes of bringing such act to a conclusion.

Read a first, second and third time and finally enacted this day of January 14, 2025.

Signature on File

Hilda MacDonald, Mayor

Signature on File

Brenda M. Percy, Clerk

APPROVED	APPROUVÉ
By the Registrar, <i>Funeral, Burial and Cremation Services Act,</i> 2002, Bereavement Authority of Ontario	Par le Registrateur, <i>Loi de 2002 sur les services funéraires et les services d'enterrement et de crémation,</i> l'Autorité des services funéraires et cimetières de l'Ontario
Date: <u>December 9, 2024</u>	

SCHEDULE A

List of cemeteries under the care and control of the Municipality of Leamington.


Cemetery	Location	Status
Lakeview Cemetery	233 Erie Street South	Active
Bayview Cemetery	435 Bevel Line	Active
Albuna Cemetery	120 County Road 14	Active
Fairview Cemetery	515 Kent Road 1	Active
Kimball Cemetery	707 Talbot Road East	Inactive
Point Pelee (Indian) Cemetery	407 Monarch Lane	Inactive
Irwin Cemetery	334 Mersea Road 8	Inactive
Hope Lane Cemetery	Hope Lane (Lot 2, Concession 5)	Inactive
Wesley United Church Cemetery	555 Talbot Road East	Inactive
James White & Phoebe White Grave Sites Cemetery	407 Talbot Road East (Part Lot 236)	Inactive
Wigfield Bartel Cemetery	1821 Deer Run Road	Inactive
Roach Family Cemetery	417 Talbot Road East	Inactive



SCHEDULE B

Map of cemeteries under the care and control of the Municipality of Leamington



Legend

 Cemetery Location

COPYRIGHT
 This document is not a Legal Plan of Survey and the user of this map assumes all risks associated with it. All efforts have been made to ensure completeness and accuracy, however no guarantees can be made.

Title: Leamington Cemeteries

Scale: 1:100,000 0 500,000 2,000 Meters

Date: January 02, 2024

Notes: This map is the property of the Corporation of the Municipality of Leamington and may not be reproduced without expressed permission and authorization.
 111 Erie Street North, Leamington, Ontario N8H 2Z9
 TEL: (519) 326-5761 FAX: (519) 326-2481