

THE CORPORATION OF THE MUNICIPALITY OF POWASSAN
BY-LAW NO. 2022-05

This Bylaw contains the rules and regulations that govern the Powassan Union Cemetery, St. Joseph's Cemetery, the Trout Creek Union Cemetery and the Holiness Cemetery, and have been approved by the Registrar, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Bereavement Authority of Ontario (BAO)

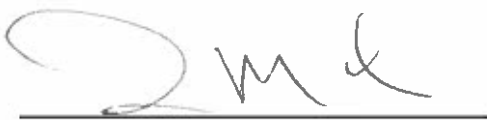
The Council of the Corporation of the Municipality of Powassan enacts as follows:

1. The provisions of any and all By-Laws of the Municipality of Powassan and all amendments thereto pertaining to the Powassan Union Cemetery, St. Joseph's Cemetery, the Trout Creek Union Cemetery and the Holiness Cemetery are hereby repealed.
2. This By-Law shall be composed of nine (9) sections, attached hereto.

Section A:	Definitions
Section B:	General Information
Section C:	Sale and Transfer of Interment Rights
Section D:	Interment and Disinterment of Casketed and Cremated Remains
Section E:	Memorialisation's (Monuments and Markers)
Section F:	Care and Maintenance Fund
Section G:	Items that are Prohibited and Permitted on Plots
Section H:	Tariffs
Section I:	Forms

3. That by-law no. 2017-17 be hereby rescinded

Read a **FIRST** and **SECOND** time on the 5th of April 2022, and considered Read a **THIRD** and **FINAL** time and passed as such in open Council on the 19th day of April, 2022.



Mayor



CAO Clerk

SECTION A: DEFINITIONS

**"BURIAL/INTERMENT"
or cremated human**

will consist of a grave

The opening of a plot and then the placing of human remains remains in the plot, followed by closing of the plot. The plot in the ground.

**"BY-LAW"
Cemetery is operated.**

Shall mean the rules and regulations under which the

**"CARE AND MAINTENANCE
FUND"**

It is a requirement under the Funeral, Burial and Cremations Services Act 2002 (FBCS) and Ontario Regulation 30/11 and 184/12 (O. Reg. 30/11 and 184/12) that a prescribed amount or a percentage of the purchase price (excluding tax) of all

Interment Rights sold, transferred, assigned or permitted, and prescribed amounts for monuments and markers, is contributed into the Care and Maintenance fund. Interest earned from this fund is used to provide care and maintenance of plots, markers and monuments at the Cemetery.

"CEMETERY"

Shall mean the land set aside, as follows:

Powassan Union Cemetery – Lot 20, Concession 13, Parcel 17380 NS, District of Parry Sound, Province of Ontario

St. Joseph's Cemetery – Part Lot 21, Concession 12, District of Parry Sound, Province of Ontario

Trout Creek Union Cemetery - Lot 28, Concession 3, District of Parry Sound, Province of Ontario

Holiness Cemetery – Part Lot 4, Concession 7, District of Parry Sound, Province of Ontario

to be used for the interment of Human Remains.

"CEMETERY SERVICES"

Shall mean the following services in respect of a Plot:

- i. Opening and closing of a Plot;
- ii. Interring or disinterring Human Remains;
- iii. Providing temporary storage in a receiving vault;
- iv. Construction of a foundation for a Marker or Monument.

**“CERTIFICATE OF
INTERMENT RIGHTS”**

The document issued by the Cemetery operator to the Purchaser once the Interment Rights to a specific plot have been paid in full, identifying ownership and authority over those specific Interment Rights.

“CONTRACT”

For the purposes of this by-law, all Purchasers of Interment Rights or other Cemetery supplies and services must receive a copy of the contract that they and the Cemetery operator sign, detailing the obligations of both parties, and acknowledging receipt and acceptance of the Cemetery By-law, a copy of the Consumer Information Guide and the Price List.

“COUNCIL”

Shall mean the Municipal Council of the Corporation of the Municipality of Powassan.

“CREMATION PLOT”

Shall mean any burial space of sufficient area for the interment of the cremated remains of one (1) person, and having a minimum size of two (2) feet (.61 meters) by two (2) feet (.61 metres) (Old Cremation sections) or two (2) feet (.61 meters) by four (4) feet (1.22 meters) (New Cremation sections)

**“INTERMENT RIGHTS
HOLDER”**

The person authorized or entitled to inter human remains in a specified plot. They may be the person named in the Interment Rights Certificate or such other person to whom the rights have been assigned.

“MARKER/MONUMENT”

Shall mean permanent memorial structure – monument, headstone or other structure placed or intended to be placed on a burial plot, and is to be used to indicate the location of a burial.

“PLOT”

For the purposes of this by-law, a plot is a single grave space intended for the interment of a child or adult’s remains or cremated remains.

SECTION B: GENERAL INFORMATION

1. Hours of Operation:

Visitation Hours – The Cemeteries are open for visitation during daylight hours from Spring to Fall. Access to the Cemeteries is limited during the Winter months.

Office Hours – 8:30 am to 4:30 pm (Monday to Friday / excluding statutory holidays)

Burial Hours – Burials are carried out from May 1st to November 30th (weather permitting) weekdays from 9:00 am to 3 pm and weekends from 9:00 am to noon.

2. General Conduct:

The Municipality of Powassan 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 Cemeteries. All visitors should conduct themselves in a quiet manner that shall not disturb any service being held and shall behave with due order and decorum and with respect to the dead.

No person shall have in their possession any firearm or ammunition/casings within the Cemeteries, except in the case of military or police funeral;

No animals/pets shall be allowed entry into the Cemeteries without the approval of the Municipality.

Conveyance heavily loaded shall not be permitted to enter the Cemetery without the approval and supervision of the Municipality.

Vehicles within the Cemeteries shall be driven at a speed not exceeding 15 Kilometres per hour and shall not be permitted to drive on sod. All drivers of any vehicle shall respect all plots as if they were their own. Vehicle owners and drivers shall be held responsible for any damage done by them. Recreational vehicles are not permitted within the Cemeteries.

No person under the age of fourteen (14) years of age shall be admitted within the Cemeteries unless attended by an adult who shall be responsible for their conduct.

Any person violating any provision of this By-Law shall be deemed to be a trespasser and subject to immediate summary eviction from the Cemeteries, in addition to any and all other penalties provided by law.

The Cemetery operator has the right at any time to re-survey, enlarge, diminish, re-plot, 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 the approval of the appropriate authorities.

Complaints or suggestions by Interment Right Holders and Visitors shall be made in writing to the Municipality and controversies in the Cemetery are to be avoided.

3. By-law Amendments:

The Cemeteries shall be governed by these by-laws, and all procedures will comply with the FMSCA and O.Reg. 30/11 and 184/12, which may be amended periodically. All by-laws 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(ies); 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, FBCSA and BAO.

4. Liability:

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

5. Public Register:

Provincial legislation – Section 110 of O.Reg. 30/11 requires all Cemeteries to maintain a public register that is available to the public during regular office hours.

The Municipality shall keep such registers, records, books, maps and electronic files as are necessary for properly recording all transactions, information and matters pertaining to the Cemeteries as come within its' jurisdiction, and as may be prescribed. A public register will be available to the public during regular office hours, as prescribed in Section 110 of Ontario Regulation 30/11. A public register will also be available for viewing on the Municipality of Powassan's website – www.powassan.net/content/municipal-services/location-Cemeteries

6. Pets or other Animals:

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

SECTION C: SALE AND TRANSFER OF INTERMENT RIGHTS

Purchasers of Interment Rights acquire only the right to direct the burial of human remains, and the installation of monuments and markers, subject to the conditions set out in the Cemetery Bylaws. In accordance with Cemetery by-laws, no burial or installation of any monument or marker 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 is made in full. The purchase of Interment Rights is not a purchase of real estate or real property.

At the time of purchase of Interment Rights, a Purchaser must receive:

- a) A copy of the Consumer Information Guide
- b) A copy of the Operator's Price List
- c) A copy of the Cemetery Bylaw
- d) A copy of the completed/signed Contract and a copy of the Interment Rights Certificate

The Interment Rights Certificate shall specify the Purchaser of the Interment Rights, the name of the person for whom the plot is purchased, the type of the plot, the location of the plot and the date purchased.

The Interment Rights Holder may designate in writing, upon the Interment Permission Form, if another person is to be buried in his/her Plot.

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 Purchase contract, by providing written notice of the cancellation to the Cemetery operator. The Cemetery operator 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 operator will cancel the contract and will issue a refund to the Purchaser for the amount paid for the Interment Rights less the appropriate amount that is required to be deposited in 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 operator along with the written notice of cancellation. If any portion of the Interment Rights have been exercised, the Purchaser, or the Interment Rights holder(s), are not entitled to cancel the contract.

Care and Maintenance Fund Contributions:

If is a requirement under the FBSCA and O.Reg. 30/11 and 184/12 that a prescribed amount or a percentage of the purchase price (excluding tax) of all Interment Rights sold; and prescribed amounts for monuments and markers is contributed into the Care and Maintenance fund. Interest earned from this fund is used to provide care and maintenance of plots, markers and monuments at the Cemeteries. Contributions to the care and maintenance fund are not refundable, except when Interment Rights are cancelled within the 30-day cooling off period.

Prohibit of Resale of Interment Rights

The Cemetery operator prohibits the resale of Interment Rights to a third party and will repurchase these rights from the Interment Rights holder or such other person to whom the Interment Rights have been assigned, at the price listed on the current price list less any care and maintenance contribution amount previously made. 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 re-purchase of the rights must return the Interment Rights certificate to the Cemetery operator and the rights holder(s) must endorse the Interment Rights certificate, transferring all rights, title and interest back to the Cemetery operator. The appropriate paperwork must be completed before the Cemetery operator reimburses the Interment Rights holder(s).

Transfers

1. For the purpose of this subsection, "Transfer" means a gift, a bequest or any other transfer made with consideration. If an Interment Rights Holder wishes to transfer their Interment Rights, notice must be given to the Municipality and the original Certificate of Interment Rights must be returned. The Municipality shall issue a new Certificate of Interment Rights to the transferee. The transfer of ownership of Interment Rights is not binding on the Municipality until a duly executed transfer document has been deposited with the Municipality.
2. Upon receipt of a request in writing from the Interment Rights Holder specifying the name and address of the transferor and the transferee, and the location of the plot, the Municipality will perform the transfer.
3. In the case of succession, the following will be required in addition to clause 2 above, unless otherwise ordered by the Municipality:
 - a. With a Last Will and Testament:
 - i. In case of specific bequest of the Plot, a Notarial Copy or Court Certificated Copy of the Will or Probate;
 - ii. If no Specific bequest, a request in writing from the Executor (s) with consent of all or a majority of the beneficiaries;
 - b. Intestate:
A request in writing from the administrator with the consent of all or a majority of the heirs-at-law

SECTION D: INTERMENT AND DISINTERMENT OF CASKETED AND CREMATED REMAINS

Interment right 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 in keeping with the Succession Law Reform Act, 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 operator prior to the burial taking place. A Certificate of Cremation must be submitted to the Cemetery operator prior to the burial of cremation remains taking place.

In accordance with the FBCSA and O.Reg. 30/11 and 184/12, the purchaser of Interment Rights must enter into a Cemetery contract, providing such information as may be required by the Cemetery operator for the completion of the contract and the public register prior to each burial of human remains.

Payment must be made to the Cemetery operator before a burial can take place.

The opening and closing of graves may only be conducted by Cemetery staff or those designated to do work on behalf of the Cemetery operator.

One (1) casket containing human remains may be interred in each regular plot. Additionally, up to two (2) cremated remains may also be interred where an interment of casketed remains has already

taken place, on a regular plot. Where no casketed remains will be interred in a regular plot, up to four (4) cremated remains may be interred on a regular plot

Cremation plots will be used only for the interment of one (1) cremated remains.

Human remains may be disinterred from a lot provided that a written consent (authorization) of the Interment Rights holder has been received by the Cemetery operator and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received at the Cemetery operator's office before the removal of casketed human remains from a Cemetery may take place. A certificate from the local medical officer of health is not required for the disinterment of cremated remains from a lot.

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.

SECTION E: MEMORIALIZATION (MONUMENTS AND MARKERS)

The Cemetery operator will provide a foundation for all monuments being placed on plots within the Cemeteries. Foundations will be constructed by Cemetery staff at the expense of the Interment Rights holder. The Municipality requires order forms from Monument Dealers showing Monument size, base size, Plot owner's information and the total fee, including the Marker Care and Maintenance portion, before foundations for monuments are constructed, and before monuments are placed on a plot.

Foundations for upright monuments will normally be comprised of stone dust. Stone dust foundations have been determined to ensure minimal upheaval because of Spring frost and allow Cemetery staff to easily re-level monuments. Foundations for flat or pillow monuments will consist of a poured cement pad, with the monument either placed in the cement or placed on top of it once cured.

No more than one (1) upright Monument/Marker shall be erected on any one Plot. One (1) flat marker may also be installed adjacent and in line with the upright marker, on a single plot. If there is sufficient space available, up to two (2) flat markers could be installed adjacent and in line with the upright marker, on a double plot.

Monuments located on a regular plot shall not exceed 36 inches (90 centimetres) in width, 16 inches (40 centimetres) in depth and 48 inches (120 centimetres) in height, including the base. The minimum width of an upright Monument/ Marker shall be 6 inches (20 centimetres) at its narrowest point.

Monuments to be centred on two (2) regular plots shall not exceed 48 inches (120 centimetres) in width and 16 inches (40 centimetres) in depth and 48 inches (120 centimetres) in height.

Pillow/flat markers on a single Cremation Plot shall not exceed 16 inches (40 centimetres) in width and 12 inches (30 centimetres) in depth.

Pillow/flat markers to be centre on two (2) cremation plots shall not exceed 30 inches (75 centimeters) in width and 16 inches (40 centimeters) in depth.

Monuments/markers to be placed on cremation Plots must be pillow markers – installed either ‘flat’ or slightly angled. There will be no upright monuments/markers on any cremation plot.

All Markers and Monuments shall be made of granite, marble or bronze, or other permanent material approved by the Municipality.

The Municipality reserves the right to enter onto the Plot and remove any monument, marker or other structure, or any inscription placed in or any Plot which is not in keeping with the dignity and decorum of the Cemeteries.

The Municipality shall have the right to remove or lay down monuments or parts of monuments where the monument/ marker represents a risk to public safety.

Memorials (monuments and markers) are owned by the Interment Rights holder and the Cemetery operator is not responsible for their loss or deterioration. These memorials should be protected by the Interment Rights holder’s own insurance coverage.

The Cemetery operator 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. Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered normal wear and tear.

Cemetery staff will endeavour to ensure that an annual clean-up at all Cemeteries is commenced every spring prior to Mother’s Day, with any wreaths or other items which are considered to be in poor condition removed and disposed of at that time.

SECTION F: CARE AND MAINTENANCE FUND

A portion of the price of interment or scattering rights is trusted into the Care and Maintenance Fund. The income (interest) generated from this fund is used only to maintain, secure and preserve the Cemetery grounds and provide basic maintenance to markers. Services that can be provided through this include:

- Re-levelling of monuments and sodding or seeding of plots,
- Maintenance of Cemetery landscaping (grass cutting, etc.),
- Repairs and general upkeep of Cemetery vault and equipment,

SECTION G: ITEMS THAT ARE PROHIBITED AND PERMITTED ON PLOTS

Prohibited Items:

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

Items which are prohibited and should not be placed on plots include (but are not limited to) the following:

- Chairs or benches / trellises or arches / fences or enclosures / loose stones or sharp objects / bullets or ammunition or ammunition casings / plants/flowers planted ON the plot

It is recommended that personal items NOT be placed on plots as the municipality assumes no liability for such items, in the case of damage or theft.

Permitted Items:

- Flower or plant containers or decoration must be placed in a holder which is attached to the top of a monument, so that it does not interfere with the normal maintenance operations of the Cemeteries.
- Fresh flowers and smaller pots, or other suitable containers, may be placed on a monument base to commemorate special occasions, however, the Municipality assumes no responsibility and will remove these and the containers when they become unsightly.
- Stakes used to hang flowers or solar lights should be constructed of metal, and should be situated immediately adjacent to the monument base.
- Memorial wreaths, etc. may be placed in the Cemetery beginning May 1st of each year, with removal of all wreaths, etc. expected to take place before November 1st.

SECTION I: TARIFFS

Tariffs are listed in the Municipal User Fee Bylaw which is in force and may be amended from time to time.

SECTION J: FORMS

1. Contract – for Purchase of Interment Rights
2. Certificate of Interment Rights
3. Service Request
4. Request to Transfer Interment Rights