



**MUNICIPALITY OF SOUTHWEST MIDDLESEX  
BY-LAW NO. 2019/025**

**Being a by-law to establish the rules and regulations that govern Simpson Cemetery and have been approved by the Registrar of Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Bereavement Authority Ontario (BAO)**

**WHEREAS** the Corporation of the Municipality of Southwest Middlesex owns and operates the municipal cemetery known as the Simpson Cemetery, located at 21563 Pratt Siding Road, Wardsville, ON;

**AND WHEREAS** the Funeral, Burial, Cremation Services Act, 2002, S.O. 2001, c.33 regulates the operations of cemeteries in Ontario;

**AND WHEREAS** the Council of the Corporation of the Municipality of Southwest Middlesex deems it desirable to enact a By-law to regulate the operation of Simpson Cemetery;

**AND WHEREAS** the rules and regulations as set out below govern the Simpson Cemetery and have been approved by the Registrar, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Bereavement Authority of Ontario (BAO);

**NOW THEREFORE** the Council of the Corporation of the Municipality of Southwest Middlesex **HEREBY ENACTS AS FOLLOWS:**

## **1. DEFINITIONS**

- 1.1 ACT and FBCSA means the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33 and all other amendments thereto together with all Regulations prescribed thereunder.
- 1.2 Body: Means the body of a deceased person.
- 1.3 Burial/Interment: The opening of a lot and then the placing of dead human remains or cremated human remains in that lot, followed by closing the lot. The lot may be a grave in the ground, a crypt in a mausoleum or a niche in a columbarium.
- 1.4 Burial Permit: The permit for the burial of human remains issued by the Division Registrar.

- 1.5 By-laws: The rules and regulations under which the Cemetery operates.
- 1.6 Care and Maintenance Fund: It is a requirement under the FBCSA 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, 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, lots, markers and monuments at the Cemetery.
- 1.7 Cemetery: The Simpson Cemetery located at 21563 Pratt Siding Road, Wardsville, ON
- 1.8 Cemetery Manager: The Clerk or his/her designate appointed to oversee the Operations of the Cemetery.
- 1.9 Cemetery Operator: The Corporation of the Municipality of Southwest Middlesex who is the owner of the Simpson Cemetery. The municipal offices are located at 153 McKellar Street, Glencoe, ON. The operator is also who maintains the cemetery grounds, opens and closes the graves and represents the municipality for all interments.
- 1.10 Cemetery Price List: Shall mean a list of the rates for the supplies and services of the Cemetery as described in the Municipality's most current Tariff of Fees By-law.
- 1.11 Certificate of Interment Rights: The certificate issued to the purchaser of interment rights in either a lot, plot or niche.
- 1.12 Contract: For purposes of these by-laws all purchasers of interment rights must receive a copy of the contract they and the cemetery operator have signed detailing the obligations of both parties and acknowledging receipt and acceptance of the cemetery by-laws, a copy of the Consumer Information Guide and the Price List. Note – see section 2.8
- 1.13 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.
- 1.14 Cremation Lot: Shall mean any burial space intended to receive not more than 4 (four) cremated remains and having a minimum size of 3 feet by 4 feet.

- 1.15 Cremated Remains: The residue after cremation of the body and of the casket or container in which it was received.
- 1.16 Foundation: The below-ground concrete structure upon which rests the base stone of a monument.
- 1.17 Grave: (Also known as a Lot) means any in-ground burial space intended for the interment of a child, adult or cremated human remains having a size of 4 feet by 12 feet.
- 1.18 Human Remains: Means a dead human body or the remains of a cremated human body.
- 1.19 Interment: A burial of human remains and includes the placing of human remains in a lot.
- 1.20 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 to authorize the installation of a monument or marker.
- 1.21 Interment Rights Certificate: The document issued by the Cemetery 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.
- 1.22 Interment Rights Holder: The person(s) authorized or entitled to inter human remains in a specified lot. They may be the person named in the Interment Rights Certificate or such other person to whom the rights have been assigned.
- 1.23 Lot: For the purposes of these By-laws a lot is a single grave space.
- 1.24 Marker: Shall mean any permanent memorial structure – monument, plaque, headstone, cornerstone or other structure or ornament affixed or intended to be affixed to a burial lot, mausoleum crypt, columbarium, niche or other structure or place intended for the deposit of human remains and may be used to indicate the location of a burial.
- 1.25 Monument: Any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial or lot.
- 1.26 Niche: An individual compartment in a columbarium for the entombment of cremated human remains.
- 1.27 Plot: For the purposes of these by-laws a plot means two or more lots in respect of which the rights to inter have been sold as a unit.

- 1.28 Regulations: The regulations made pursuant to the *Funeral, Burial and Cremation Services Act, 2002*
- 1.29 Transferee: A person wherein the interment rights with respect to a lot(s) have been transferred to such person.
- 1.30 Urn: Any container used to hold cremated human remains.
- 1.31 Vault: A burial chamber (underground).

## **2. GENERAL INFORMATION**

### 2.1 Hours of Operation:

- Visitation Hours: Daylight hours all year long except where access is difficult due to weather or other unexpected natural causes
- Municipal Office Hours: Monday to Friday between 8:30 a.m. & 4:30 p.m.
- Burial Hours: Weekdays from 9:00 a.m. to 2:00 p.m., Weekends as individually arranged with the cemetery manager

2.2 General Conduct: The cemetery 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.

### 2.3 By-law Amendments:

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

### 2.4 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, FBCSA, BAO.

#### 2.4 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 lot, plot, columbarium, niche, mausoleum crypt, monument, marker or other article that has been placed in relation to an interment save and except for direct loss or damage caused by gross negligence of the cemetery.

#### 2.5 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 during regular office hours.

#### 2.6 Pets or Other Animals

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

#### 2.7 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.

#### 2.8 Status of Simpson Cemetery

At the time of transfer of the Simpson Cemetery to the Municipality of Southwest Middlesex from the board of trustees, it had been determined by the trustees that the Simpson Cemetery is at its limit for burials. The trustees were only honoring interment rights to those already holding certificates paid in full. The fee at that time for interment rights was set at \$400.00 per individual grave, with \$160.00 of that amount going into the Care and Maintenance fund.

At the time of transfer of ownership of Simpson Cemetery to the Municipality of Southwest Middlesex, all interment rights certificates were issued to the interment rights holder(s) with all payments having been received in full.

### **3. RESALE AND TRANSFER 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 in Section 2.8 above less any care and maintenance contribution amount previously made. Transfers of interment rights cannot be prohibited so long as the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws.

The cemetery operator 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.

### **4. CANCELLATION OR RESALE OF INTERMENT RIGHTS**

Purchasers of interment rights holders acquire only the right to direct the burial of human remains and of cremated human remains and the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws. In accordance with cemetery by-laws, no burial, entombment, or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. The purchase of interment rights is not a purchase of Real Estate or real property. An interment rights holder wishing to terminate their interment rights must advise the cemetery operator of their intention.

#### **4.1 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 operator. The cemetery operator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

#### **4.2 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 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 operator 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.

#### 4.3 Care and Maintenance Fund Contributions:

- It is a requirement under the FBCSA 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 the lots, plots, markers and monuments at 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.

#### 4.4 Southwest Middlesex prohibits the re-sale of interment rights to a third party and will repurchase the rights themselves:

NOTE - ALL RESALES OF INTERMENT RIGHTS MUST BE CARRIED OUT THROUGH THE CEMETERY OPERATOR.

#### 4.5 The cemetery operator may charge an administration fee for the issuance of a duplicate certificate in accordance with the price listed on the cemetery operators current price list.

#### 4.6 The cemetery operator prohibits the resale of an interment rights and may repurchase the interment rights from the rights holder(s) if the cemetery operator so desires and may negotiate a purchase price so long as the seller acknowledges being aware of the cemetery operators current price list amounts for interment rights (see Section 2.8).

#### 4.7 Requirements if resale is prohibited within cemetery by-laws:

4.7.1 If a right holder(s) wishes to re-sell the interment rights and the cemetery operator's by-laws prohibit the third party resale of interment rights the rights holder(s) must make the request to the cemetery operator in writing. The cemetery operator will repurchase the interment right at the price listed in Section 2.8 less the Care & Maintenance Fund contribution made at the time of purchase. The re-purchase and payment to the rights holder(s) requesting the sale must be completed within 30 days of the request.

4.7.2 The interment rights holder(s) requesting the resale 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 rights holder(s).

## 5 BURIAL OF CREMATED REMAINS

- 1.1 Interment rights holder(s) must provide written authorization prior to a burial or an entombment taking place. Should the interment rights holder(s) 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.
- 1.2 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 office prior to a burial or entombment taking place. A Certificate of Cremation must be submitted to the cemetery office prior to the burial of cremated remains taking place.
- 1.3 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 or entombment of human remains.
- 1.4 Payment must be made to the cemetery before a burial can take place.
- 1.5 The cemetery shall be given 24 business hours of notice for each burial of human remains or of cremated human remains.
- 1.6 The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- 1.7 Cremated remains are not permitted to be scattered on a grave containing human remains in keeping with these by-laws.



## **2. DISINTERMENTS**

- 2.1 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 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 office 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.
- 2.2 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)

## **3. MEMORIALIZATION**

- 3.1 No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full and/or a permit is obtained from the cemetery operator.
- 3.2 No monument, footstone, marker or memorial of any description shall be placed, moved, altered or removed without permission from the cemetery operator.
- 3.3 Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear and tear.
- 3.4 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, or other structure or part thereof.
- 3.5 Memorials – monuments, markers, plaques, etc. 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.
- 3.6 The cemetery operator 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.

- 3.7 All foundations for monuments and markers shall be contracted by the interment rights holder in coordination with the cemetery operator (see Section 3.10) and are to be built for the cemetery operator at the expense of the interment rights holder(s).
- 3.8 Should any monument or marker present a risk to public safety because it has become unstable, the cemetery operator shall do whatever it deems necessary by way of repairing, resetting or laying down the monument or marker or any other remedy to remove the risk.
- 3.9 The cemetery operator 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 Municipality.
- 3.10 A monument, private mausoleum or other structure shall be erected only after the specific design plans have been approved by the cemetery operator including: dimensions, material of structure, construction details and proposed location.
- 3.11 In keeping with the cemetery by-laws only one monument shall be erected within the designated space on any plot regardless of the number of graves within the plot.
- 3.12 Only one footstone with a flat level surface set flush with the ground may be placed at each grave in addition to the monument. This footstone shall be placed at the end of the grave farthest from the monument.
- 3.13 The minimum thickness for flat markers including footstones is 4 inches or 10 cm
- 3.14 All monuments and markers shall be constructed of bronze or natural stone (i.e. granite).
- 3.15 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 operator.
- 3.16 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.

### 3.17 Markers are flush with ground:

- Flat marker flush with ground no wider than 36" (apron included)
- Flat monuments must be at least 4 inches thick and have concrete apron around the marker to a depth of four inches to prevent the monument cracking

### 3.18 Monuments are upright and not flush with ground:

- Monuments taller than one foot shall have a 4-foot deep foundation at the owner's expense
- Monuments up to 32 inches high must be at least 6 inches in depth
- Monuments from 32 inches to 40 inches high must be at least 7 inches in depth
- No monuments over 40 inches high will be allowed for practical reasons

## **4. CARE AND PLANTING**

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 and markers. Services that can be provided through this fund include:

- Re-levelling and sodding or seeding of Lots
- Maintenance of cemetery roads, sewers and water systems
- Maintenance of perimeter walls and fences
- Maintenance of cemetery landscaping
- Maintenance of mausoleum and columbarium
- Repairs and general upkeep of cemetery maintenance buildings and equipment
- No person other than cemetery staff 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 staff after a reasonable time to protect the sod and maintain the tidy appearance of the cemetery.

## **5. ITEMS THAT ARE PROHIBITED AND PERMITTED**

The cemetery 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, prevent 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.

Examples of prohibited articles include articles made of hazardous materials such as non-heat resistant glass (excludes glass attached to monuments), ceramics or corrosive materials, loose stones or sharp objects, trellises or arches, chairs or benches

- 5.1 The cemetery reserves the right to disallow or removed quantities of memorial wreaths or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.
- 5.2 Memorial wreaths may be placed in the cemetery only between November 1<sup>st</sup> and November 14<sup>th</sup> each year. In order to prepare the grounds for spring, wreaths must be removed prior to April 15<sup>th</sup>. Wreaths not removed by April 15<sup>th</sup> will be removed and disposed of by the cemetery without notification.

## **6. CONTRACTOR/MONUMENT DEALER DETAILS**

Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the cemetery operator 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 office 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 & Safety compliance standards
- Environmental Protection
- WHMIS

- Evidence of liability insurance of not less than \$2,000,000.00
- 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 operator.
- 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 meters of a funeral until the conclusion of the service. The cemetery 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.
- 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.

Read a first and second time this 20<sup>th</sup> day of February, 2019.

X *[Signature]*  
Mayor

X *[Signature]*  
Clerk

Read a third time and finally adopted this 17<sup>th</sup> day of April, 2019.

X *[Signature]*  
Mayor

X *[Signature]*  
Clerk

<b>BAO</b>		<b>BEREAVEMENT AUTHORITY OF ONTARIO</b>	
L'AUTORITÉ DES SERVICES FUNÉRAIRES ET CEMÉTÉRIAS DE L'ONTARIO			
<b>APPROVED</b>		<b>APPROUVÉ</b>	
In accordance with the Funeral, Burial and Cremation Services Act, 2002		Conformément à la Loi de 2002 sur les services funéraires et les services d'enterrement et de crémation	
Date of Approval/ Date de l'approbation	June 5, 2019		
File/Licence No. Numéro de Fiche/Permis	4694748 02378		
By/ Par	<i>[Signature]</i>		

By-law No. 2019/025