

**THE CORPORATION OF THE
TOWNSHIP OF ASPHODEL-NORWOOD
BY-LAW No. TBD**

A By-law to provide for Rules and Regulations for the care and control of
Cemeteries owned by the Township of Asphodel-Norwood

WHEREAS the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c.33 (the "Act"), which comes into effect July 1, 2012, regulates the operation of cemeteries in Ontario;

AND WHEREAS The Corporation of the Township of Asphodel-Norwood owns and operates a Municipal Cemetery known as the Norwood-Asphodel Cemetery, located at 40 Wellington Street, Norwood;

AND WHEREAS the Council of the Corporation of the Township of Asphodel-Norwood deems it desirable to enact a By-law to regulate the operation, care and control of the Norwood-Asphodel Cemetery and any other cemetery subsequently owned and operated by the Corporation of the Township of Asphodel-Norwood;

AND WHEREAS public notice of Council's intention to pass this By-law was provided in accordance with the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ASPHODEL-NORWOOD HEREBY ENACTS AS FOLLOWS:

1. **THAT** Schedule 'A' to this By-law, Regulations for the Operation of the Norwood-Asphodel Cemetery and All Municipally Owned Cemeteries, attached hereto forms part of this By-law.
2. **THAT** By-law 2020-14 and any other By-laws or resolutions or parts of By-laws or resolutions relating to the rules and regulations for the operation, care, and control of municipality owned cemeteries inconsistent with this By-law are hereby repealed.
3. **THAT** this By-law shall come into force and take effect on the date of approval of the Registrar appointed under the Act.

BY-LAW READ A FIRST, SECOND, AND THIRD TIME AND FINALLY PASSED THIS
___ day of _____, 20__.

THE CORPORATION OF THE TOWNSHIP OF ASPHODEL- NORWOOD

Patrick Wilford, Mayor

Melanie Hudson, Clerk

Approval Date of Bereavement Authority of Ontario (BAO):
TBD

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Regulations for the Operation of the Norwood-Asphodel Cemetery
and All Municipally Owned Cemeteries

Schedule "A" to By-law No. TBD

This By-law forms the rules and regulations that govern the Norwood-Asphodel Cemetery (and any other Cemetery subsequently owned and operated by the Corporation of the Township of Asphodel-Norwood) and have been approved by Council, the Registrar, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), and Bereavement Authority of Ontario (BAO).

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A. DEFINITIONS

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 (full or cremation size), or a niche in a columbarium.

By-laws: The rules and regulations under which the Cemetery operates.

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 and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. If no scattering rights are sold but scattering is permitted a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.

Cemetery Caretaker: Cemetery Caretaker as appointed from time to time by the Corporation of the Township of Asphodel-Norwood.

Cemetery Location: The Norwood-Asphodel Cemetery is located at 40 Wellington Street, Norwood, Ontario.

Cemetery Operator: The Cemetery Operator is the Corporation of the Township of Asphodel-Norwood.

Contract: For purposes of this By-law, all purchasers of interment rights, or other cemetery supplies and services 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-law(s), a copy of the Consumer Information Guide, and the Price List.

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.

Corporation: The Corporation of the Township of Asphodel-Norwood.

Council: means the Council of the Corporation of the Township of Asphodel-Norwood.

Fees & Charges: The list of Cemetery Fees & Charges as established by the Corporation from time to time.

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

Interment Right(s): The right to require or direct the interment of human remains or cremated human remains in a grave, lot, or niche and to authorize the installation of a monument or marker.

Interment Rights Certificate: The document issued by the Cemetery Operator 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.

Interment Rights Holder: A person, firm, or corporation authorized or entitled to direct the interment or disinterment of human remains and associated memorialization is an interment right as registered in the cemetery records.

Lot: For the purposes of this By-law, a lot is a single grave space having a size of 4ft x 8ft (32 square feet).

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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, 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.

Niche: An individual compartment in a columbarium for the entombment of cremated human remains.

Owner: The Corporation of the Township of Asphodel-Norwood.

Plot: For the purposes of these By-laws, a plot means two (2) or more lots in respect of which the rights to inter have been sold as a unit.

Township: The Corporation of the Township of Asphodel-Norwood.

Transfer of Interment Rights: An *inter vivos* (during lifetime) or *post mortem* (after death) transfer made without any consideration or receipt of funds for such transfer.

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B. GENERAL INFORMATION

Hours of Operation:

Office Hours: By appointment
Monday to Friday: 9:00 a.m. – 4:30 p.m.

Cemetery Visitation Hours: Open all year

General Conduct:

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

No person may (or cause to) damage, destroy, remove or deface any property within the Cemetery. No person may play any sport, commit a nuisance, discharge firearms except at a military funeral, and bring any dog or other animal, other than a working/service animal.

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

Children under the age of 12 must be accompanied by an adult who will be responsible for their conduct.

By-law Amendments:

The Cemetery shall be governed by this By-law, and all procedures will comply with the *Funeral Burial & Cremation Services Act, 2002* and Ontario Regulation 30/11 and 184/12, which may be amended periodically.

All By-law amendments must be:

- a) Published once in a newspaper with general circulation in the locality in which the cemetery is located;
- b) Conspicuously posted on a sign at the entrance of the cemetery; and
- c) Delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the By-law or By-law amendment pertains to markers of their installation.

All By-laws and By-law amendments are subject to the approval of the Registrar, FBCSA, and BAO.

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, 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.

Public Register:

Provincial legislation – Section 110 of Ontario Regulation 30/11 requires all cemeteries to maintain a Public Register that is available to the public during regular office hours.

Right to Re-Survey:

The Cemetery Owner 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

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otherwise change all or any part of the cemetery, subject to approval of the appropriate authorities.

Interments:

If any Interment Rights have not been used after a ninety-nine-year period has passed, they may be considered abandoned. The Cemetery Operator may apply to the Registrar for a declaration that the Interment Rights are abandoned after making inquiries and giving reasonable notices to find the Interment Rights Holder or beneficiaries. Upon being satisfied that the rights are abandoned, the Registrar shall issue a declaration to that effect. If there is no appeal by the end of the appeal period, as stipulated by the Registrar or otherwise within 30 days, the Cemetery Operator may resell the interment rights in question.

Cemetery Service fees are due the day of the any interment taking place. Payment may be made by Cash or Cheque (cheque made payable to the Township of Asphodel-Norwood).

Memorialization:

- Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear, and repair of some shall not be the responsibility of the Cemetery Operator.
- 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.

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C. SALE OF INTERMENT RIGHTS

Interment Rights to a lot, plot, or niche may be purchased from the cemetery at the rate as set out in the Cemetery Fees & Charges and in accordance with approved plans. The prices for Interment Rights include the applicable portion for deposit to the Cemetery's Care and Maintenance Fund.

Corner stones: One (1) set includes four (4) corner stones must be purchased in addition to the interment rights fees to mark out the location of the interment rights sold.

The purchase of supplies or services will be made directly through the Cemetery Operator.

Under certain circumstances and by written agreement only, a Funeral Director may, on behalf of a cemetery customer, make full payment for cemetery services and may accept full payment to the Norwood-Asphodel Cemetery for services.

A monument company may submit and or accept and submit payment payable to the Norwood-Asphodel Cemetery for monument/marker care and maintenance.

All payments for Interment Rights shall be arranged through the office of the Cemetery Operator.

The Cemetery Operator shall provide the following to the Interment Rights Holder upon full payment:

- a) Interment Rights Certificate
- b) Invoice marked paid
- c) Copy of the Norwood-Asphodel Cemetery By-law
- d) Price List
- e) Consumer Information Guide

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D. CANCELLATION OR RESALE OF INTERMENT RIGHTS

Re-Sale of Interment Rights:

The Interment Rights Holder may sell and transfer unused Interment Rights for a lot or columbarium niche to a third party before the interment rights are exercised, subject to these By-laws respecting the change of ownership, provided they are not sold or transferred to another for a value greater than the price listed on the current price list.

Transfer of Interment Rights:

Change of ownership must be registered with the cemetery to ensure the correctness of the records. This must be done at the office where a transfer form must be completed by the Interment Rights holder and the original Interment Rights certificate must be returned.

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

- A purchaser has the right to cancel an interment rights contract within thirty 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 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 issue a refund to the purchaser for the amount paid for the interment, 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 written notice. If the Interment Rights Certificate has been issued to the interment rights holder, the certificate must be returned to the Cemetery Operator along with the written notice of cancellation.

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E. BURIAL OF HUMAN REMAINS AND CREMATED REMAINS

- Interment rights holder must provide written authorization prior to a burial taking place. Should the interment rights holder be deceased, authorization to the satisfaction of the Operator 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 the death has been registered with the province must be provided to the Cemetery Operator prior to a burial taking place. A Certificate of Cremation must be submitted to the Cemetery Operator prior to the burial of cremated 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 the day of the Interment.
- December 15 - May 1 inclusive are considered the winter months.
- Saturday and Sunday are considered the weekend.
- The Cemetery Operator shall be given 48 business hours of notice for each burial of human remains.
- The opening and closing of graves and niches may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- Cremated remains are not permitted to be scattered on a grave.
- If two (2) cremated remains are to be buried at the same time in the same hole a full interment fee will be charged plus half the interment fee (+ the BAO fee and HST) in addition.
- 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 from the 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 or the removal of cremated remains from the cemetery.
- 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).
- No more than one (1) burial shall be interred in a single grave except; the cremated remains of four (4) persons may be placed in a single grave or one (1) full interment followed by three (3) cremation interments.
- If cremated remains are buried prior to the casket burial, the cremated remains must be concealed in a vault prior to placement. At the time of the casket burial, a disinterment fee for the disturbance of the cremated remains shall be incurred.

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**F. MEMORIALIZATION
Monuments & Markers**

- No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Cemetery Operator.
- The Cemetery Operator will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss or, or damage to, any monument, marker or other structure, or part thereof.
- All concrete foundations for monuments shall be built by, or contracted to be built for, the Cemetery Operator at the expense of the interment rights holder.
- Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Operator shall do whatever it deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- The Cemetery 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 Council.
- A monument 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.
- The minimum thickness for flat markers is 4 inches or 10 cm.
- The minimum thickness for an upright monument is 6 inches or 12 cm.
- All monuments and markers shall be constructed of bronze or natural stone (i.e. granite, marble) and permitted only in specific designated areas.
- Minimum thickness of the dies shall be 6 inches (15.24 cm) and able to withstand the 200lbs of horizontal force applied anywhere on the monument without toppling.
- All monuments will include a 20.32 cm (8") thick base with no less than 10.16cm (4") of rocked finish from ground level. The top surface of the base must be both wider and longer than the die in order to provide a minimum border of 7.62cm (3") on the surface of the base exposed on all sides. No part of the die shall exceed the width of the base at any point.
- **Single Grave:** A single grave may have either one (1) flat marker located at the head of the grave and one (1) flat marker located at the foot of the grave. The maximum size of either flat marker shall not exceed 30"x12" (76.2cmx30.48 cm) **OR** One (1) upright monument located at the head of the grave with a maximum base width of 30"x14" (75cmx35.56cm) and a maximum overall height of 38" (96.5cm) with an 8" (20.32cm) tablet and one (1) flat marker located at the foot of the grave with a maximum size of 30"x12" (76.2cmx30.48 cm). Monument bases must be a minimum of 8" in height. Monument tablets cannot exceed 24" in width. Monuments below 36" (90cm) in overall height may have a 6" (15cm) tablet.
- **Double Plot:** Each grave in the double plot may have one (1) flat marker located at the head of the grave and one (1) flat marker located at the foot of the grave. The maximum size of either flat marker shall not exceed 30"x12" (76.2cmx30.48 cm) **OR** one (1) upright monument located at the head of the grave with a maximum

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base width of 54"x14" (137.16cmx35.56cm) and an maximum overall height of 48"(102cm) with an 8" (20.32cm) tablet, and one (1) flat marker located at the foot of each grave with a maximum size of 30"x12" (76.2cmx30.48 cm). Monument bases must be a minimum of 8" in height. Monument tablets cannot exceed 48" in width. Monuments below 36" (90cm) in overall height may have a 6" (15cm) tablet.

- The maximum width of a base is controlled by the width of the plot or lot where it will be installed. No base shall be closer than 3 inches (7.6cm) to the lot width side lines on which it is to be installed.
- Any flat marker that exceeds the standard depth of 14" (35.56cm) can only be installed after a full interment has taken place.

The size of one (1) monument allowed on a single lot, including a 20.32 cm (8") thick base, is:

Height:	96.5 cm (38") overall height – maximum
Width:	55.9 cm (24") maximum
Thickness of die:	15.2 cm (6") minimum
Base:	76.2 cm (30") maximum x 35.56 cm (12") minimum

The size of one (1) monument allowed on a double plot, including a 20.32 cm (8") thick base, is:

Height:	102 cm (48") overall height – maximum
Width:	121.9 cm (48") maximum
Thickness of die:	15.2 cm (6") minimum
Base:	137.16 cm (54") maximum x 35.56 cm (12") minimum

The size of one (1) monument allowed on a triple plot, including a 20.32 cm (8") thick base, is:

Height:	147.3 cm (58") overall height – maximum
Width:	182.9 cm (72") maximum
Thickness of die:	15.2 cm (6") minimum
Base:	203.2 cm (80") maximum x 40.6 cm (12") minimum

- 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 monument/marker retailer have been notified by the Cemetery Operator.
- Bronze or natural stone markers are permitted with size and quantity restrictions according to this By-law and the placement of such memorials shall not interfere with future interments.

Single lot:	maximum one (1) marker - 24" x 18" (60.92 cm x 45.72 cm)
Double lot:	maximum one (1) marker - 42" x 18" (106.68 cm x 45.72 cm)
Triple lot:	maximum one (1) marker - 60" x 18" (152.4 cm x 45.72 cm)

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G. 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. Services that may be provided through this fund include:

- Re-levelling and sodding or seeding of lots
- Maintenance of cemetery roads and water system
- Maintenance of perimeter walls and fences
- Maintenance of cemetery landscaping
- Maintenance of 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 Operator
- Flowers placed on a grave for a funeral shall be removed by the cemetery staff after a reasonable time to protect the sod/seed and maintain the tidy appearance of the cemetery.

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H. ITEMS THAT ARE PROHIBITED AND PERMITTED

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

The Cemetery Operator reserves the right to disallow or remove quantities of memorial wreaths or flowers considered by the Cemetery Operator to be excessive or that diminishes the otherwise tidy appearance of the cemetery.

Prohibited items include, but are not limited to:

- Articles made of hazardous materials such as non-heat resistant glass (excludes glass attached to monuments);
- Ceramics;
- Chairs or benches;
- Corrosive metals;
- Cultivated gardens;
- Glass vases
- Loose stones;
- Planted shrubbery, trees, perennials;
- Sharp objects;
- Solar lights;
- Trellises or arches.

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I. COLUMBARIUM

- Payment must be made to the Cemetery Operator before an interment may take place.
- Only the Cemetery Operator may open and seal niches for interments. This applies to the inside sealer and the niche front.
- To ensure quality control, desired uniformity and standard of workmanship, the cemetery reserves the right to inscribe all niche fronts or install all lettering.
- No person other than cemetery staff shall remove or alter niche fronts.
- The cremated remains of not more than two (2) persons shall be entombed in any niche.
- The cremated remains must be placed within a suitable container that will fit into the niche space assigned. The Cemetery Operator may refuse to place any unsuitable and/or oversized container into a niche space.

Niche Inscription:

The engraving of the niche door shall be uniform and supplied and installed by the Cemetery Operator, and the cost is included in the selling price of the niche, minus the year of death is not an at-need situation.

The inscription will consist of the names of the deceased, the year of birth and year of death, plus descriptions lines. The cemetery reserves the right to limit the number of lines and number of characters per line, based on the size of the niche plate. All description lines are to be pre-approved at the sole discretion of the Cemetery Operator.

No external decoration will be allowed on the wall of or near the Columbarium and no photograph cases will be allowed to be attached to the niche.

The Niches inside dimensions are according to the diagram provided at time of purchase.

The Niches will be sold according to the numbering system shown on the diagram provided at time of purchase.

The opening and closing charge shall be as shown on the Cemetery Fees & Charges.

15% of the selling price shall be placed in the Care and Maintenance Fund of the cemetery.

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J. CONTRACT/MONUMENT DEALERS

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 specification 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 Operator and provide the necessary approvals before commencing work at any location on the cemetery property.

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

- WSIB coverage
- Occupational Health and Safety compliance standards
- Evidence of liability insurance 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 after 6:00 p.m., weekends, or statutory holidays, unless approval has been granted by the Cemetery Operator.

Contractors shall temporarily cease all operations if they are working within 100 meters of a funeral until the conclusion of the service. The Cemetery Operator 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.