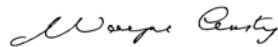


TO: Mayor Kelly and Members of Halifax Regional Council



SUBMITTED BY: _____
Dan English, Chief Administrative Officer



Wayne Anstey, Deputy Chief Administrative Officer - Operations

DATE: December 4, 2007

SUBJECT: **By-Law C-700 Respecting Municipal Cemeteries, and
Administrative Order Number 20 - Respecting Cemetery Fees**

ORIGIN

Cemetery By-Law C-700 replaces Cemetery By-Law C-200. The new By-Law sets standards for columbarium structures and mausoleums, and improves upon cemetery standards implemented in the former By-Law. Administrative Order 20 - Respecting Cemetery Fees increases the fees currently being charged for Cemetery services provided by the Municipality to bring them in line with the current market.

RECOMMENDATION

It is recommended that Halifax Regional Council approve in principle and begin the formal adoption process of By-Law C-700 and Administrative Order 20 - Respecting Cemetery Fees (as attached hereto as Schedules "A" and "B").

BACKGROUND

On October 30, 1999 Halifax Regional Council approved By-Law C-200 Respecting Municipal Cemeteries. In 2000 Regional Council approved Administrative Order Number 20 which set the pricing applicable to the various cemetery services.

There is a requirement to include columbarium structures and mausoleums in the Cemetery By-Law, as well as, improvements to wording in order to provide clarity. In addition, as a result of increased costs of operation and in an effort to move toward market rates, Administrative Order Number 20 requires updating.

Staff are recommending that Administrative Order Number 20 be updated prior to the sale of the new lots which were recently developed at the Fairview Lawn Cemetery.

DISCUSSION

Amending By-Law C-700 makes provisions to provide for columbarium structures and mausoleums. Also, improvements in wording will increase the number of cremation interments permitted in a lot; close a loophole on potential lot sale speculation (by limiting the number of burial lots that an individual may purchase; and, more clearly define the powers of the municipal cemetery office.

In addition, staff have determined that fees charged for services performed by HRM have not kept pace with increasing costs; nor are they in line with the local market. To summarize the changes being recommended, reasoning thereto, and some comparative figures, the following applies:

A Perpetual Care fee of \$150.00 will apply (per interment) for all lot sales. Schedule B shows some comparison pricing, the present fee and the proposed fee.

It is anticipated that by amending the By-Law, operating revenues will increase by approximately \$50,000 and between \$1.2 to \$1.5 million will be generated for the Trust Fund (T101), with sales of up to 1,400 lots. The Reserve Fund will also generate approximately \$40,000 to \$50,000 in additional operating revenues through interest and the one time perpetual care fee for all interments will generate approximately \$150,000 over a two year period. Cemetery staff are projecting an additional \$40,000 to \$50,000 in operating costs per year. These additional revenues will help underwrite the current costs and improvement of the cemetery operation.

BUDGET IMPLICATIONS

It is anticipated that the increase in fees will augment the funds available for the cemetery operating budget and trust fund account used for perpetual care.

FINANCIAL MANAGEMENT POLICIES / BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

ALTERNATIVES

1. Council may decide not to approve the proposed By-Law and Administrative order, however, this is not recommended by staff.

ATTACHMENTS

Schedule "A" - Proposed By-Law C-700 Respecting Municipal Cemeteries

Schedule "B"- Proposed Administrative Order 20 Respecting Cemetery Fees

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Gary Musolino, Supervisor Cemeteries and Capital District, 490-6236

Report Approved by:



Denis Huck, Manager Municipal Operations

Financial Approval by:



Catherine Sanderson, Senior Manager, Financial Services, 490-1562

Report Approved by:



Mike Labrecque, P. Eng., Director, Transportation and Public Works , 490-4855

**HALIFAX REGIONAL MUNICIPALITY
BY-LAW NUMBER C-700**

BY- LAW RESPECTING MUNICIPAL CEMETERIES

BE IT ENACTED by the Council of the Halifax Regional Municipality as follows:

Short Title

1 This by-law shall be known as by-law number C-700 and may be cited as the “Cemeteries By-law.”

Definitions

2 In this by-law

- (a) "Burial Lot" means a lot of land containing or which may contain one or more grave spaces;
- (b) “cemetery fee” means a fee for any one of the following:
 - (i) the purchase of a burial lot;
 - (ii) the purchase of a right to use a niche lot;
 - (iii) perpetual care;
 - (iv) interment;
 - (v) transfer of burial lots or niche lots;
 - (vi) foundation/marker administration fee;
 - (vii) vault rental;
 - (viii) disinterment.
- (c) “columbarium” is a niche or receptacle in a wall that serves as the resting place for cremated remains, usually within an urn.
- (d) “columbarium operator” means a company, partnership, sole proprietorship or society which has an agreement with the Municipality to operate a building or structure which contains or may contain one or more places for the permanent placement of human remains;
- (e) “Council” means the Council of the Halifax Regional Municipality;
- (f) “grave” means a space in a burial lot where human remains are buried;
- (g) “infant lot” means any space designated specifically as an infant burial lot located in an area of the cemetery designated for this purpose;

- (h) “Interment” means the traditional burial or cremation of human remains.
- (i) “lot owner” means a person who purchases a lot of land containing or which may contain one or more graves, without acquiring any ownership interest in the land, and includes the heirs, successors and assigns and the personal representative of the lot owner and the agent of any of them;
- (j) “manager” means the Manager of Real Property and Asset Management and his/her designate;
- (k) “memorial” means a foot marker, monument, headstone, or plaque marking a grave;
- (l) “Municipality” means the Halifax Regional Municipality;
- (m) “niche” means the space where cremation remains are placed for burial,
- (n) “niche lot” means a space within a building or structure which contains or may contain one or more places for the permanent placement of human remains;
- (o) “niche owner” means the person a person who purchases the right to use a niche, and includes the heirs, successors and assigns and the personal representative of the niche owner and the agent of any of them;
- (p) “perpetual care” means the maintenance of the lawn and grass only.
- (q) “Supervisor” means the Supervisor of Cemeteries or his/her designate;
- (r) “undersized lot” means a lot of less than 27 square feet;
- (s) “vault” means any impermeable tomb located above or below ground for the purpose of interring human remains.

Application

- 3** (1) This by-law shall apply to the following cemeteries:
 - a) Camp Hill Cemetery, Halifax
 - b) Fairview Lawn Cemetery, Halifax
 - c) Saint Paul’s Cemetery (Old Burying Grounds), Halifax
 - d) Mount Hermon Cemetery, Dartmouth
 - e) Saint Paul’s Cemetery, Dartmouth
 - f) Dartmouth Common (Park Avenue) Cemetery, Dartmouth
 - g) Saint Peter’s Cemetery, Dartmouth

- (2) This by-law shall not apply to any monuments, and/or markers placed as memorials by The Last Post Fund, Department of Veterans Affairs, or Commonwealth War Graves Commission.

Requirements of Purchase

- 4** (1) Burial lots shall only be purchased from the Municipality.
- (2) The right to use a niche lot shall be purchased from the Municipality or in the case of the Last Post, a columbarium operator;
- (3) No person shall purchase more than four (4) burial lots .
- (4) No person shall purchase the right to use more than four (4) niche lots.
- (5) The municipality shall provide to a purchaser of a lot or a niche a written agreement signed by both parties or their representatives, and a copy of the agreement shall be mailed to or given to the lot or niche owner at the time of signing. Parties requesting the use of a lot shall present a copy of the agreement to the Supervisor.
- (6) The lot or niche owner shall provide the Supervisor with their current mailing address and shall notify the Supervisor of any change of address.

Rights of Cemetery Lot Owner

- 5** (1) The lot or niche owner has the right:
 - (a) to reasonable access to the lot;
 - (b) to use the lot for human burial; and
 - (c) to erect a memorial or plaque on the lot subject to any specifications provided herein.

Burial Records

- 6** Burial records shall be held by the Municipality and such records shall be conclusive evidence as to burial rights on a lot.

Lot Transfer

- 7** (1) Every transfer of the ownership of a lot from one person to another shall be the responsibility of the Supervisor.
- (2) No change in the ownership of a lot shall become effective until written notice of the requested change has been given to the Supervisor and the transfer fee has been paid. The Supervisor shall at his/her discretion approve of a transfer.

- (3) The owner of a lot shall not permit interments to be made in the lot in return for remuneration from any person.
- (4) Where the owner of 8 or more lots transfers lots to persons other than family members, the Municipality may request proof of familial relationship from a lot owner to ensure that the lots are being used for the burial of family members of the lot owner.
- (5) Lot sales are subject to the following:
 - (i) All lots sold shall be placed in the purchaser's name.
 - (ii) A lot owner has the option of selling a lot back to the Municipality.
 - (iii) A lot that is sold back to the Municipality will remain with the Municipality for 60 days and cannot be used. On the expiry of the 60 days, the Municipality may sell the lot.
 - (iv) All lots sold back to the Municipality will be purchased at the price paid at the time of sale, regardless of time elapsed.
- (6) Upon the death of a lot or niche owner, any subsequent owner shall file satisfactory proof of ownership with the Municipality, and the Municipality shall have the right to prohibit interments until such proof is provided.
- (7) Where a lot is found to be unsuitable for burial, the Supervisor shall exchange the location of the lot at his discretion.

More than One Lot Owner

- 8** (1) Where a lot is acquired by more than one person, only one memorial shall be erected on the lot.
- (2) The Municipality is not bound by any personal lot agreements.
- (3) The Supervisor shall approve interments having regard to the capacity of the lot.

Lot Maintenance

- 9** (1) The erecting or placing of borders, fences, railings, walls, cut stone copings or hedges in or around lots is prohibited, and the Municipality may remove any prohibited items at the expense of the lot owner.
- (2) No owner shall change a lot in any manner which interferes with the grading of the area, and the Municipality shall have the right to regrade any area so affected at the expense of the owner.

(3) No person shall modify a cemetery lot including walkways, sod removal, or the removal of corner posts or grave memorials.

(4) No chair, wooden or wire trellis, arch or iron rods of any description shall be permitted on a lot.

Flowers, Trees and Shrubs

10 (1) Trees, shrubs, flowers and plants may be cultivated on a lot with the approval of the Supervisor, but only those varieties that will not expand onto an adjacent lot.

(2) The Municipality may remove, cut, or trim any tree, shrub, flower, or plant within a cemetery.

Monument Placement

11 (1) All stones are to be installed by a monument dealer or their agent.

(2) Flat markers must be used as a foot marker only.

(3) All costs of stone maintenance and stone levelling are the responsibility of the lot owner.

(4) Marking of the site for stone placement and interments will be done by municipal staff.

Memorials

12 (1) One monument only shall be permitted on each grave space. No person shall erect a monument which does not conform to the requirements of this by-law.

(2) All monuments shall be constructed of granite, cut stone or marble.

(3) No monument less than five inches in thickness shall be erected.

(4) Monuments of five inches in thickness shall not exceed two feet two inches in height, including the base.

(5) Monuments of six inches in thickness shall not exceed two feet six inches in height, including the base.

(6) Monuments erected on single grave lots shall have a maximum base size of 32 inches x 12 inches and shall have a maximum height of 28 inches including the base.

- (7) Monuments erected on two grave lots shall have a maximum base size of 5 inches x 14 inches and shall have a maximum height of 32" including the base.
- (8) Only upright or slant monuments shall be placed at the head of a grave.
- (9) The placing of lettered boards or wooden crosses is prohibited.

Slant Marker Dimensions

13 Slant markers or wedges shall not exceed the following dimensions:

- a) Single Grave Lot - 30" long x 18" wide x 12" high including base;
- b) Two Grave Lot - 48" long x 20" wide x 14" high including base.

Flat Marker Dimensions

- 14** (1) Individual graves may be marked by flat markers installed as foot markers which shall be set in-ground, flush to ground level without foundations, and must be not more than six (6) inches nor less than four (4) inches in thickness; and a maximum size of 22 inches long x 12 inches wide.
- (2) Single grave lots that do not have monuments shall be permitted to have a flat marker at the head of the grave with maximum dimensions of 30 inches long x 18 inches wide.
- (3) Double grave lots that do not have monuments shall be permitted to have a flat marker at the head of the grave with maximum dimensions of 30 inches long x 18 inches wide.
- (6) All markers shall be constructed of granite, cut stone, or marble.

Monuments on Lots with Two or More Graves

15 Monuments or flat markers for lots containing more than two grave spaces shall not be of a size or situated in a manner which would interfere with the maintenance of a lot.

Monuments on Undersized Lots

16 The size of monuments or flat markers on undersized lots shall not be of a size or situated in a manner which would interfere with the maintenance of a lot or with existing monuments on adjoining lots.

Lettering and Markings

17 (1) Lettering is permitted on the side of any monument placed at the boundary of any lot, and family names only are permitted on the back of any monument placed at the head of any lot.

(2) If a memorial has an inscription which in the opinion of the Supervisor is offensive to the public, such offensive or improper markings may be removed by the Supervisor.

Foundations

18 (1) The foundations of all monuments shall be of a type and size deemed appropriate by the Supervisor based upon the soil conditions of each lot.

(2) The cost of foundations and the cost of setting markers shall be paid by the lot owner.

(3) The costs shall be as from time to time prescribed by Council by policy and shall be paid in advance of any work being undertaken.

Repair

19 (1) The owner of a lot shall keep in proper repair, at the owner's own cost, and to the satisfaction of the Supervisor, all stones, monuments and plantings upon such lot, and shall remove all rubbish occasioned by putting up or repairing stones, monuments or plantings, to such place of deposit as provided by the Cemetery for that purpose.

(2) If a memorial is found to be in need of repair, as determined by the Supervisor, the Municipality shall give notice of such findings to the owner at the last known address of the owner supplied to the Municipality.

(3) The lot owner shall repair the memorial to the satisfaction of the Supervisor.

(4) If three months expires after the notice to the owner pursuant to subsection (2) and the owner has not repaired the memorial that is the subject of the notice, the Municipality shall perform the necessary repairs or remove the memorial at the expense of the owner.

(5) Implements or materials placed temporarily on any lot or adjacent ground in performing any work within the cemetery, shall be removed without delay; otherwise, the same shall be removed by the Supervisor at the expense of the person doing the work.

Permitted Uses of Grave

20 (1) Each grave may be used for more than one burial, in accordance with this by-law, unless otherwise indicated by the lot owner.

(2) Where a single grave space is to be used more than once, the following criteria must be observed:

- (a) A second full length interment shall be permitted in the same grave space at any time following the double depth interment of the first remains, should such double depth interment be possible.
- (b) A second full length interment shall be permitted in the same grave space at any time following the passage of forty years since the interment of the first remains, unless the first interment was in a vault or steel casket.
- (c) A single grave space designed for a full length burial may be used for a maximum of six cremation interments, subject to the grave space not being used for a full length burial at any time.
- (d) A single grave space designed for a full length burial can be used for a maximum of three cremation interments at any time following the full length interment of the first remains. The forty year rule does not apply to the full length interment.
- (e) A single grave space that has been used for two full length interments shall be considered full. With the approval of the Supervisor, two cremations can be added if space is available.
- (f) If a single grave space is to be used for more than one burial, the standard grave opening fee shall apply for each interment. Perpetual care charges will apply to each interment following the initial burial.
- (g) A maximum of two cremation urns or a companion urn may be included in one opening and closing at the same time and in the same grave space for a single opening and closing fee. However, the two urns or companion urn shall be deemed to be two cremation interments.
- (h) The size of a lot shall be 40 inches x 120 inches.
- (i) Mausoleums shall be permitted at the Fairview Cemetery and the Mount Herman Cemetery. The space size of each mausoleum shall be determined by the Supervisor.
- (j) Lots shall not be traded from one cemetery to another without the approval of the Supervisor.
- (k) A single mausoleum shall sit on three lots, and a double mausoleum shall sit on four lots.

Columbarium

- 21** (1) Family burial mementoes shall be removed 3 days after the cremation interment or whenever they become unsightly.

- (2) The municipality shall assume no responsibility for the safe keeping of any floral memorials or containers.
- (3) Floral memorials or other ornamentation shall not be permanently attached to the columbarium. The Supervisor may remove such at his discretion and at the expense of the owner.
- (4) The record owner shall not sell or transfer their right to a niche.
- (5) No cremation interments shall be permitted in any niche in the columbarium until the fee for the niche has been fully paid.
- (6) Only one urn shall be allowed per niche. At the discretion of the Supervisor, and space permitting, an additional urn may be allowed.
- (7) No cremation interment of animals shall be permitted within the cemetery.
- (8) The cremated remains shall be placed in an urn and of a size suitable for a niche.
- (9) The cremation interment fee includes one opening and closing of the columbarium.

Infant Lot

22 At the discretion of the Supervisor, section 24 shall not apply to an infant lot within an area designated for infant burials at a cemetery. An infant interment will be viewed as a traditional interment.

Fairview Cemetery Cremation Garden

23 (1) Lots in section 9A on the Fairview Cemetery Plan for the Cremation Garden shall be three feet by two feet in size and may accommodate a maximum of two cremation interments.

- (2) Each section 9A lot shall have no more than one flat marker installed level with the ground and the marker shall be
 - (a) made of granite, cut stone, marble or bronze;
 - (b) of a maximum size of twenty-two (22) inches long, twelve (12) inches wide, and between four (4) and six (6) inches thick; and
 - (c) installed by the monument dealer on a standard foundation.
- (3) Lots in section 9B and 9C of the cremation garden shall be three feet by three feet in size and may accommodate a maximum of four (4) cremation interments.

(4) Each section 9B and 9C lot shall have no more than one (1) flat marker installed level with the ground and the marker shall be

- (a) made of granite, cut stone, marble or bronze;
- (b) of a maximum size of twenty-eight (28) inches long, eighteen (18) inches wide, and between four (4) and six (6) inches thick; and
- (c) installed by the monument dealer.

(5) No trees, flowers, shrubs or other adornments shall be permitted in the Cremation Garden, except at the time of interment, or as provided by the Municipality in keeping with the overall design of the Cemetery plan.

Fees

24 The fees for cemetery services shall be prescribed from time to time by Council by Policy.

Payment

25 (1) Any person placing an order for the opening of a grave for interment or disinterment shall pay the charges incurred in respect thereof prior to the interment or disinterment.

(2) Proof of payment shall be in the form of the original receipt issued by the Municipality.

Requirements for Burial

26 (1) For each burial, application shall be made to the Supervisor containing the following information:

- (a) full name of deceased;
- (b) last known address;
- (c) age;
- (d) date of death
- (e) in the event of a child, the names of the parents;
- (f) lot in which deceased is to be interred;
- (g) name of funeral director;
- (h) name and denomination of officiating minister (if applicable);
- (i) executor or administrator of estate (if applicable).

(2) The location of the grave to be opened shall be accurately designated on an official plan of the Cemetery.

(3) No human remains shall be interred in any lot or grave space until a burial permit

has been obtained from the Province of Nova Scotia.

(4) A notice requesting preparation of interment shall be given to the Supervisor at least twenty-four hours prior to the date of proposed interment during regular business hours.

(5) The Supervisor shall not prepare a grave for a funeral unless such notice has been given.

(6) No interment or disinterment shall be undertaken unless an order permitting same has been issued by the Supervisor.

(7) In the event that any question arises as to the legitimacy of a proposed interment or disinterment, the Supervisor may refuse to allow an interment or disinterment at its discretion.

(8) All interments in a lot shall be restricted to members of the family and relatives of the lot owner, unless by written permission from the lot owner is obtained.

(9) No grave shall be opened for interment or disinterment by any person not designated by the Cemetery.

Litter

27 No person shall deposit litter or rubbish or permit or suffer litter or rubbish to be deposited in a cemetery except in receptacles provided for that purpose.

Roads

28 (1) The Supervisor may prohibit heavy loads from entering a cemetery whenever the roads in the cemetery are not fit to sustain such traffic.

(2) No person shall operate any equipment in a cemetery at a time when such equipment has been prohibited from entering the cemetery pursuant to subsection (1).

Picnics

29 No person shall hold a picnic in a cemetery.

Animals

30 No animals shall be allowed in a cemetery except dogs registered for use as and when being used as guide dogs for the blind or hearing dogs for the deaf or as permitted in signage approved by the Supervisor.

Vehicles

31 (1) No person shall operate a vehicle within a cemetery in excess of the posted speed limit.

(2) No person shall operate any public or private vehicle, other than vehicles working for the Supervisor, other than on the travelled roadways.

(3) Operators of vehicles shall not turn their vehicles on the roadways but shall proceed around the various roadways to a point of exit.

General Provisions

32 (1) No person shall remove flowers or plants from any grave without the permission of the Supervisor.

(2) No person shall pick any flowers, whether wild or cultivated, break or injure any tree, shrub or plant, or write upon, deface or injure any monument fence or other structure in a cemetery.

(3) Any person disturbing the quiet and good order of a cemetery may be expelled from the cemetery under the provisions of the Protection of Property Act.

(4) The Supervisor may close the gates of any cemetery and otherwise restrict access at any time.

(5) The cemetery known as “The Old Burying Ground” is an historical site and no burials are permitted in this cemetery.

(6) The Supervisor shall have final discretion regarding the interment of human remains not addressed in this by-law.

Offence and Penalty

33 Any person who violates this by-law is guilty of an offence and shall, on summary conviction, be liable to a fine of not less than one hundred dollars (\$100.00) and not more than ten thousand dollars (\$10, 000) or imprisonment for a period of not more than one year or both, including the imposition of a minimum fine.

Payment in Lieu of Prosecution

34 A person who is alleged to have violated this by-law and is given notice of the alleged violation may pay a penalty in the amount of \$100 to an official designated by the Chief Administrative Officer, which official and place of payment shall be designated on the notice, provided that said payment is made within a period of fourteen (14) days following the day on which the alleged violation was committed and where the said notice so provides for payment in this manner, and such payment shall be in full satisfaction, releasing and discharging all penalties and imprisonments incurred by the person for said violation.

Repeal of By-laws, Regulations and Ordinances

35 By-law Number C-200 Respecting Cemeteries and any amendments thereto, are hereby repealed.

Done and passed in Council this ___th day of _____, A.D., 2007.

Mayor

Municipal Clerk

I, Julia Horncastle, Acting Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above- noted by-law was passed at a meeting of the Halifax Regional Council held on _____, 2007.

Julia Horncastle, Acting Municipal Clerk

SCHEDULE B

Halifax Regional Municipality Administrative Order Number 20 Respecting Fees for Cemetery Services

BE IT RESOLVED as an Administrative Order of the Council of the Halifax Regional Municipality as follows:

1. SHORT TITLE

The Administrative Order may be cited as Administrative Order Number 20, Fees for Cemetery Services Administrative Order.

2. CEMETERY FEES ESTABLISHMENT

Whereas By-Law C-700 provides for the sale of burial rights and the provision of other services related to municipal cemeteries, the schedule of fees is as follows:

Schedule of Fees - HRM Cemeteries	Old Price	New Price
1. <u>Lot Fees</u>		
A. Single grave lot	\$750.	\$1,100.
B. Cremation lots (holds up to 4 cremations)	\$450.	\$500.
C. Infant lots (in special infant sections)	\$100.	\$200.
D. Half lots (lot size 40" x 36")	\$350.	\$600.

An additional fee for perpetual care in the amount of \$150. will be added to each of the lots mentioned above.

2. Interment Fees

A. Standard interment	\$550.	\$785.
B. Double depth/vault/oversize (where site conditions permit)	\$700.	\$1,000.
C. Cremation interment	\$250.	\$400.

3. Additional Fees

A. Transfer fees (no tax payable)	\$60.	\$100.
B. Research fee (per hour)	\$40.	\$50.
C. Foundation/ mark administration fee	\$40.	\$75.
D. Vault rental (handling fee)	\$100.	\$200.
E. Rental fee (per month)	\$50.	\$50.
F. Perpetual care for all interments (per interment, flat rate)	\$100.	\$150.
G. Standard disinterment	\$550.	\$800.
H. Cremation disinterment	\$225.	\$400.
I. Weekend / Holiday rate (additional \$500. flat rate added to price)		
J. Burials after 4:00 pm Mon- Fri (additional \$150. flat rate added to price)		

Tax is payable on all fees.