

Item No. 11.1.6 (i)
Halifax Regional Council
August 7, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

Original signed by 

SUBMITTED BY:

Richard Butts, Chief Administrative Officer

Original Signed by

Mike Labrecque, Deputy Chief Administrative Officer

DATE: July 12, 2012

SUBJECT: By-Law Respecting an Amendment to the Cemeteries By-Law and
Amendments to Administrative Order Number 20 (Cemeteries)

SUPPLEMENTARY REPORT

ORIGIN

Halifax Regional Council meeting of January 10, 2012 – Item No 11.1.6 – By-law Respecting Amendment to the Cemeteries By-Law and Amendment to Administrative Order Number 20.

First Reading was given to By-Law C-702 and amendments proposed to Administrative Order Number 20. Staff was requested by Council to meet with representatives of the Last Post Fund to address issues that were brought forth by the Fund; the primary issue being the subsequent maintenance fees for opening and closing of niches for additional interments.

RECOMMENDATIONS

It is recommended that Halifax Regional Council:

- 1) Give First Reading to the proposed amendments to the By-Law Respecting an Amendment to the Cemeteries By-Law, C-702 as amended, set out in Attachment “A” of this Supplementary Report; and,
- 2) Give First Reading to the proposed amendments to Administrative Order Number 20 as amended, set out in Attachment “E” of this Supplementary Report.

BACKGROUND

Cemetery Operations met with the Nova Scotia Branch of the Last Post Fund on January 13, 2012, to discuss issues that were brought forth at the Regional Council session of January 10, 2012. As a result of the meeting with the Last Post Fund representatives, staff identified changes required to report 11.1.6 (Background section) pertaining to the history of the Last Post Fund, as well as, clarifications and corrections of items proposed in By-Law C-702 and Administrative Order Number 20. Legal Services reviewed the changes and are of the opinion that the revisions are substantial requiring this report to go back to Council for First Reading.

The January 13, 2012 meeting with the Last Post Fund was beneficial and provided an opportunity for the Last Post Fund to provide feedback and to seek updates on several related matters such as the status of the MOU and express their concern that HRM is making changes to the signed indenture agreements. HRM staff provided further detail and clarification on the required amendments to the By-Law and Administrative Order. Legal Services reviewed the matter and suggested changes be made to the signed indenture agreements. The indenture agreements are worded to recognize the rules and regulations relating to the Cemetery By-Laws that are now in effect or may from time-to-time be adopted by the Partnership in regard to the use of the niche and the regulation and government of the cemetery. In effect, the agreement anticipates that rules, regulations and by-laws are amended from time-to-time.

Staff has worked diligently and cooperatively with the Last Post Fund and recognize that the Last Post Fund is not in agreement in applying Section 3 f. of Administrative Order Number 20, which identifies the maintenance fee for subsequent interments. The initial maintenance fee of \$150 is charged at the time of the sale of the niche. A second maintenance fee is only charged at the time of a second opening/closing. Prior to August 13, 2008, the initial and any subsequent interments are charged a maintenance fee of \$100. The challenge is to find a balance that covers the financial obligations and risks of both HRM and the Last Post Fund. As reported in the Service Review – Burial Services Council Report dated April 13, 2010, The Last Post Fund charges a higher fee for the sale of a double columbarium niche. All niches can accommodate two urns and can be interred simultaneously in a single or double niche with only one opening/closing depending on the individual circumstances. It seems reasonable to conclude that a double niche may require a second opening and closing to accommodate a subsequent interment. There is no guarantee that HRM will receive a second maintenance fee as a single or double opening/closing respectively, now or in the future, is determined by the niche owner.

Once all the niches are sold, the maintenance of the Last Post Fund columbarium will become the responsibility of HRM in perpetuity. Staff anticipate the remainder of the niches will be sold over the next five (5) to seven (7) years. Although the columbarium is presently owned and maintained by the Last Post Found, HRM is still required to provide general maintenance and some repairs. Litter clean up is ongoing during the summer maintenance season and fall leaf clean up. During the winter, snow and ice is cleared off the concrete pad as a regular part of winter maintenance activities. There is maintenance care to the structure and the area immediately surrounding. For example, last fall the structure was completely power washed and

scrubbed down. HRM assumes the risk for broken granite panel/niche covers that carry a replacement cost of \$1,000 each. These panels are extremely fragile and become brittle in cold weather; two slabs have been replaced to date either because of a defect in the material or human error. Cemetery staff estimates the cost of a typical annual maintenance plan for the LPF columbarium will be \$ 3500 - \$ 4000. Where the Last Post Fund retains 100% of sales revenue, the maintenance fee will be the only source of revenue for columbarium maintenance.

The Last Post Fund also suggested a change in Section 3 (2) as the present wording could be interpreted as not being applicable to the Last Post Fund. Cemetery staff agrees that Cemetery Operations should approve of any monuments or markers that are being installed in HRM owned Cemeteries.

Cemetery staff will be proceeding with the recommendation to construct an HRM owned Columbarium. Capital funding has been approved for the construction to take place in the 2012 business cycle. This will require adding the HRM Columbarium fee to Administrative Order Number 20 under Lot Fees and clarifying that the cremation interment fee includes interments in the HRM Columbarium.

DISCUSSION

In order to ensure that the appropriate funding is available in future years to maintain the Last Post Columbarium, staff recommends that Council adopt the fee structure as outlined in the amendments as proposed in By-Law C-702 and Administrative Order Number 20. Once all the niches are sold by the Last Post Fund, the care and maintenance of the structure will become the responsibility of the Halifax Regional Municipality in perpetuity. HRM is committed to following best industry practice and minimizing the financial risk to the HRM tax payer. A scan of maintenance/perpetual care fees specific to columbarium structures shows that HRM rates are considerably on the low end of the scale even when factoring in a second maintenance fee for the subsequent opening/closing. For HRM, the total maintenance care ranges from \$100 to a maximum of \$300 (2 x \$150) with the second being deferred to the time of the second opening/closing. Local market comparables for columbarium ranges from \$200 to \$625 and are due at the time of sale of the niche.

At present, fifteen per cent (15%) of HRM's lot sales revenue goes into a trust account to ensure financial solvency in coming years. This, however, is not applicable to the sale of the of the Last Post Fund niches, as the Last Post Fund retains sale revenues. Maintenance fees, however, go into the Cemetery annual operating/maintenance account R855. Applying the second maintenance fee (where applicable) as per the Administrative Order Number 20 is necessary to ensure that HRM has the appropriate funds to maintain the Last Post Columbarium. The maintenance fee for the second opening is dependent on the decision of the owner and therefore HRM are not guaranteed of this fee. If HRM recommended only one fee for maintenance then a higher fee would be necessary to minimize the financial risk to the HRM tax payer. The proposed maintenance fee structure provides a reasonable approach to all parties and a financial model to ensure the long-term perpetual care and maintenance of the structure.

As per the Cemetery Service Review, HRM is moving forward with its own columbarium this business cycle. The plan is to have the HRM columbarium operational by the fall of 2012. The amendments to the Cemetery By-Law and Administrative Order need to be finalized in order to lay the frame work of the MOU with the Last Post Fund as well as position Cemetery Operation to move forward with the HRM columbarium. The maintenance fee structure would be the same for all parties in the future with the exception of the niches for the Last Post Columbarium prior to August 13, 2008.

A summary of changes can be found in Attachment E. Revisions have been made to Attachment B and C.

BUDGET IMPLICATIONS

The impact to the Cemetery Operating/Maintenance Account (Cost Centre R855) is anticipated to be a total of \$20,000 in projected revenue for subsequent openings and closing of niches. The revenues will be realized in the year the opening and closings occur. Current annual expense is approximately \$1,500 for cleaning of the structure. HRM also assumes the risk for broken granite panel/niche covers that carry a replacement cost of \$1,000 each. These panels are extremely fragile and become brittle in cold weather; two slabs have been replaced to date either because of a defect in the material or human error. Once all niches are sold, annual maintenance costs of \$3,500 to \$4,000 will occur.

Projected revenues from the sale of niches of the HRM Columbarium are included in the current Cemetery Operating/Maintenance account.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

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

COMMUNITY ENGAGEMENT

Cemetery Operations met with the Last Post Fund representatives on January 13, 2012 to discuss issues that were brought forth from Regional Council's meeting of January 10, 2012.

ENVIRONMENTAL IMPLICATIONS

Implications not identified.

ALTERNATIVES

1. Do not proceed with the revisions to the Cemeteries By-Law or Administrative Order Number 20 as it pertains to subsequent maintenance fees for the Last Post Fund Columbarium. This is not recommended by staff.
2. Explore waiving the maintenance fees and turning over the maintenance of the Columbarium to the Last Post Fund. HRM would continue to provide opening/closing services for the applicable fees. This is not recommended by staff, and may not be acceptable to the Last Post Fund.

ATTACHMENTS

Attachment A - By-Law C-702, By-Law respecting an Amendment to the Cemeteries By-Law; proposed amendments in bold.

Attachment B - Administrative Order Number 20 incorporating proposed amendments; proposed amendments incorporated in italics and underlined.

Attachment C - By-Law C-700, By-law Respecting Municipal Cemeteries; proposed amendments incorporated in bold, italics and underlined.

Attachment D – Administrative Order amending Administrative Order Number 20

Attachment E- Summary of changes resulting from meeting with Last Post Fund January 13, 2012

**Supplementary Report – By-Law Respecting an Amendment to the Cemeteries By-Law and
Amendments to Administrative Order Number 20
Council Report**

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August 7, 2012

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.

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Original Signed

ATTACHMENT A

HALIFAX REGIONAL MUNICIPALITY BY-LAW NUMBER C-702

BY-LAW RESPECTING AN AMENDMENT TO THE CEMETERIES BY-LAW

BE IT ENACTED by the Council of the Halifax Regional Municipality that By-Law C-700, the Cemeteries By-Law, is further amended as follows:

1. Clause 2(b)(iii) is amended by:
 - a) striking out the words “perpetual care” after the “(iii)” and before the” ;” ; and
 - b) adding the words “maintenance care” after the (iii) and before the “;”.
2. Clause 2(bb) is added after clause 2(b) and before clause 2(c) as follows:

“Chief Administrative Officer” means the Chief Administrative Officer of the Municipality;
3. Clause 2(c) is amended by:
 - a) striking out “.” after the word “urn”; and
 - b) adding a “;” after the word “urn”.
4. Clause 2(h) is amended by”
 - a) striking out the word “cremation” after the word “or” and before the word “of”;
 - b) adding the word “placement” after the word “or” and before the word “of”; and
 - c) adding the words “in a lot, niche or other structure” after the word “remains” and before the “.”.
5. Section 2 is amended by adding clause (ia), after clause (i) and before clause (j), as follows:

(ia) “maintenance care” means the maintenance of the lawn, grass, and **columbaria** only, but excludes the maintenance of monuments;
6. Clauses 2(j) and 2(p) are repealed..
7. Clause 2(o) is amended by striking out the words “the person” after the words “means” and before the words “a person”.

8. Clause 2(q) is amended by:
 - a) striking out the words “Supervisor of Cemeteries or” after the word “the” and before the word “his”;
 - b) adding the words “Cemetery Administrator and” after the word “the” and before the word “or”; and
 - c) renumbering the clause as subsection 2(p).
9. Clause 2(r) is amended by:
 - a) renumbering the clause as clause 2(q); and
 - b) adding the word “and” after the “;”.
10. Clause 2(s) is amended by renumbering the clause as 2(r).
11. Adding section 2A as follows:

Delegation of Authority to the Supervisor

2A (1) The Council hereby delegates to the Supervisor the powers and duties necessary and incidental to administer this by-law.

(2) (a) The Supervisor may appoint one or more delegates who shall assist the Supervisor in carrying out the Supervisor's powers and duties; and

(b) anyone appointed under clause (a) shall act in the place and in the stead of the Supervisor when the Supervisor is absent or at the request of the Supervisor.

12. Subsection 3(2) is amended by:
 - a) striking out the following words after “(2)” and before the “.”:

“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”; and
 - b) by adding the following words after “(2)” and before the “.”:

“Monuments or memorials placed by the Last Post Fund, Veterans Affairs Canada or Commonwealth War Graves Commission are subject to the approval of the Supervisor”

13. Subsection 4 (2) is amended by:
 - a) deleting the words “the Last Post” after the word “of” and before the word “a” ; and
 - b) adding the words “The Last Post Fund” after the word “of” and before the word “a” .
14. Subsection 11(2) is repealed.
15. Subsection 11(3) is amended by renumbering the subsection as 11(2).
16. Subsection 11(4) is amended by renumbering the subsection as 11(3).
17. Subsection 12(4) is amended by adding the words “foundation and” immediately after the word “the” in the second line and immediately before the word “base”.
18. Subsection 12(5) is amended by adding the words “foundation and” immediately after the word “the” in the second line and immediately before the word “base”.
19. Subsection 12(6) is amended by adding the words “foundation and” immediately after the word “the” in the second line and immediately before the word “base”.
20. Subsection 12(7) is amended by adding the words “foundation and” immediately after the word “the” in the second line and immediately before the word “base”.
21. Clause 13(a) is amended by adding the words “foundation and” immediately after the word “including” and before the word “base”.
22. Clause 13(b) is amended by adding the words “foundation and” immediately after the word “including” and before the word “base”.
23. Clause 20(2)(vi) is amended by:
 - a) striking out the words “Perpetual care” after the word “interment.” and before the word “charges”; and
 - b) adding the words “Maintenance care” after the word “interment.” and before the word “charges”.
24. Clause 20(2)(vii) is amended by adding the following sentence at the end of the clause:

If there are more than 2 remains being interred in one opening and closing then a second interment fee shall apply.
25. Clause 20(2)(ix) is amended by renumbering the clause as 20(2)(x).

26. Clause 20(2)(x) is amended by renumbering the clause as 20(2)(xi).
27. Subsection 20(2) is amended by adding the following clause:
- (ix) If a vault is being utilized for a cremation interment, 2 interment spaces may be required as shall be determined by the Supervisor.
28. Clause 20(2)(x) is amended by renumbering the clause as 20(2)(xi).
29. Clause 20(2)(xi) is repealed and the following clause substituted and renumbered to 20(2)(xii):
- 20(2)(xii) The Supervisor shall determine the number of lots required for a single or double mausoleum.
30. Subsection 21(6) is amended by;
- a) striking out the words “Only one urn shall be allowed per niche. At the discretion of the Supervisor, and space permitting, an additional urn may be allowed” after the “(6)” and before the “.”; and
- b) adding the following words after the “(6)” and before the “.”:
- Two urns shall be allowed per niche provided there is sufficient space in the niche as determined by the Supervisor.
31. Striking the title to Section 23 and substituting “Fairview Lawn Cemetery Cremation Garden and Mount Hermon Cemetery Cremation Garden”.
32. Subsection 23(1) is amended by:
- a) adding the word “Lawn” immediately after the word “Fairview” and immediately before the word “Cemetery” in the first line; and
- b) striking the words “Plan for the” after the word “Cemetery” and before the word “Cremation” in the first line.
33. Subsection 23(3) is amended by:
- a) striking out the words “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” after “(3)” and before the “.”; and
- b) adding the following words after “(3)” and before the “.”:
- Lots in section 9B and 9C of the Fairview Lawn Cemetery Cremation Garden and in Section N of the Mount Hermon Cemetery Cremation Garden shall be three feet by

three feet in size and may accommodate a maximum of four(4) cremation interments.

34. Subsection 23(4) is amended by:

- a) renumbering the subsection as subsection 23(5);
- b) striking the words “9C lot” after the word “and” and before the word “shall” in the first line; and
- c) adding the words “9C, 16A, 16B and 16C of the Fairview Lawn Cemetery Cremation Garden and Section N of the Mount Hermon Cremation Garden” after the word “and” and before the word “shall”.

35. Subsection 23(5) is amended by renumbering the subsection as 23(6).

36. Subsection 23(4) is added as follows after subsection 23(3)

23(4) Lots in section 16A, 16B and 16C in the Fairview lawn Cremation Garden shall be 40 inches by 40 inches in size and may accommodate a maximum of four (4) cremation interments.

37. Subsection 26(4) is amended by:

- a) striking out the words “twenty-four” in the second line after the word “least” and before the word “hours”; and
- b) adding the words “forty-eight” in the second line after the word “least” and before the word “hours”.

Done and passed in Council this ____ day of _____, 2012.

MAYOR

CLERK

ATTACHMENT 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 Price

1. Lot Fees

A. Single grave lot	\$1,400.00
B. Cremation lots (holds up to 4 cremations)	\$1,050.00
C. Infant lots (in special infant sections)	\$200.00
D. Half lots (lot size 40" x 36")	\$600.00
E. HRM Columbarium (up to 2 urns)	\$2500.00

An additional fee for maintenance care in the amount of \$150.00 will be added to each of the lots mentioned above and provides for the first interment in the lot. Subsequent interments are outlined in section 2 below.

15% of the proceeds of the lot sales will be deposited in a trust or reserve to provide for maintenance care of the lots.

2. Interment Fees

A. Standard interment	\$785.00
B. Double depth/vault/oversize (where site conditions permit)	\$1,000.00
C. Cremation interment (<u>including HRM Columbarium</u>)	\$400.00
D. Last Post Columbarium interment (purchased up to and including Aug 12, 2008)	\$250.00
E. Last Post Columbarium interment (purchased after Aug 12, 2008)	\$400.00

3. Additional Fees

A. Transfer fees (no tax payable)	\$100.00
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B.	Research fee (per hour)	\$50.00
C.	Foundation/ mark administration fee	\$75.00
D.	Vault rental (handling fee per movement)	\$200.00
E.	Rental fee (per month)	\$50.00
F.	Maintenance care for a second and all subsequent interments (including the Last Post Columbarium Niches purchased after August 12, 2008)	\$150.00
FA	Maintenance Care for all Last Post Columbarium Niches purchased up to and including Aug 12, 2008)	\$100.00
G.	Standard disinterment	\$800.00
H.	Cremation disinterment	\$400.0
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)	

If a maintenance care fee was not included at the time of purchase, a maintenance care fee shall be applied at the time of interment pursuant to clause 3F.

Tax is payable on all fees.

**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~~ **maintenance care**;
 - (iv) interment;
 - (v) transfer of burial lots or niche lots;
 - (vi) foundation/marker administration fee;
 - (vii) vault rental;
 - (viii) disinterment.
- (bb) **"Chief Administrative Officer" means the Chief Administrative Officer of the Municipality;**
- (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~~ **placement** of human remains **in a lot, niche or other structure.**
- (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;
- (ia) “maintenance care” means the maintenance of the lawn, grass, and columbaria only, but excludes the maintenance of monuments;**
- (j) ~~“manager” means the Manager of Municipal Operations and his/her designate;~~
repealed
- (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.~~ **repealed**
- ~~(q)~~ **(p)** “Supervisor” means the ~~Supervisor of Cemeteries~~ **Cemetery Administrator** and his/her designate;
- ~~(r)~~ **(q)** “undersized lot” means a lot of less than 27 square feet; **and**
- ~~(s)~~ **(r)** “vault” means any impermeable tomb located above or below ground for the purpose of interring human remains.

Delegation of Authority to the Supervisor

- 2A (1) The Council hereby delegates to the Supervisor the powers and duties necessary and incidental to administer this by-law.**
- (2) (a) The Supervisor may appoint one or more delegates who shall assist the Supervisor in carrying out the Supervisor's powers and duties; and**

(b) Anyone appointed under clause (a) shall act in the place and in the stead of the Supervisor when the Supervisor is absent or at the request of the Supervisor.

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~~ **Monuments or memorials placed by The Last Post Fund, Veterans Affairs Canada, or Commonwealth War Graves Commission are subject to the approval of the Supervisor.**

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~~ **The Last Post Fund**, 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 shall be purchased at the current municipal value for a lot less 20%.
 - (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. (repealed)~~
- (2) costs of stone maintenance and stone leveling are the responsibility of the lot owner.
- (3) 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 **foundation and** base.
- (5) Monuments of six inches in thickness shall not exceed two feet six inches in height, including the **foundation and** 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 **foundation and** base.
- (7) Monuments erected on two grave lots shall have a maximum base size of 50 inches x 14 inches and shall have a maximum height of 32" including the **foundation and** 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 **foundation and** base;
- b) Two Grave Lot - 48" long x 20" wide x 14" high including **foundation and** 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.
- (4) 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:
 - (i) 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.
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.
 - (v) 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.
 - (vi) 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~~
Maintenance care charges will apply to each interment following the initial burial.

- (vii) 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. **If there are more than 2 remains being interred in one opening and closing then a second interment fee shall apply.**
- (viii) The size of a lot shall be 40 inches x 120 inches.
- (ix) **If a vault is being utilized for a cremation interment, 2 interment spaces may be required as shall be determined by the Supervisor.**
- ~~(ix)~~(x) 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.
- ~~(x)~~(xi) Lots shall not be traded from one cemetery to another without the approval of the Supervisor.
- ~~(xi)~~ ~~A single mausoleum shall sit on three lots, and a double mausoleum shall sit on four lots. (repealed)~~
- (xii) **The Supervisor shall determine the number of lots required for a single or double mausoleum.**

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.~~ **Two urns shall be allowed per niche provided there is sufficient space in the niche as determined by the Supervisor.**
- (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**~~ **Fairview Lawn Cemetery Cremation Garden and Mount Hermon Cemetery Cremation Garden**

- 23**
- (1) Lots in section 9A on the Fairview ~~Plan for the~~ **Lawn Cemetery 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.~~ **Lots in section 9B and 9C of the Fairview Lawn Cemetery Cremation Garden and in Section N of the Mount Hermon Cemetery Cremation Garden shall be three feet by three feet in size and may accommodate a maximum of four (4) cremation interments.**
 - (4) **Lots in section 16A, 16B and 16C in the Fairview Lawn Cremation Garden shall be 40 inches by 40 inches in size and may accommodate a maximum of four (4) cremation interments.**
 - ~~(4)~~**(5)** Each section 9B and ~~9C~~ **lot 9C, 16A, 16B and 16C of the Fairview Lawn Cemetery Cremation Garden and Section N of the Mount Hermon Cremation Garden** 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)~~(6) 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~~ **forty-eight** 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 __day of_____, A.D., _____.

Mayor

Municipal Clerk

I, Cathy Mellett, 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

_____.

_____Cathy Mellett,
Municipal Clerk

Notice of Motion:	December 11, 2007
First Reading:	January 8, 2008
Public Hearing Publication:	January 19, 2008
Second Reading:	February 5, 2008
Approved by Service Nova Scotia and Municipal Relations:	N/A
<u>Effective Date:</u>	<u>February 16, 2008</u>
<hr/>	
Amendment # 1 (By-law C-701)	
Notice of Motion:	August 4, 2009
First Reading:	August 11, 2009
Second Reading Publication:	August 22, 2009
Second Reading:	September 8, 2009
Approved by Service Nova Scotia and Municipal Relations:	N/A
Effective Date:	September 12, 2009

ATTACHMENT D

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

BE IT RESOLVED that **Administrative Order 20**, Fees for Cemetery Services Administrative Order, is amended as follows:

1. Subsection 2(1) is amended by adding the following clause after clause D.

E. HRM Columbarium (up to 2 urns)	\$2500.00
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2. Subsection 2(1) is amended by

- a) striking out the word “perpetual” after the words “provide for” and before the word “care”; and
- b) adding the word “maintenance” after the words “provide for” and before the word “care”.

3. Subsection 2 (2) is amended by adding the following clauses after clause C:

D. Last Post Columbarium interment (purchased up to and including Aug 12, 2008)	\$250.00
E. Last Post Columbarium interment (purchased after Aug 12, 2008)	\$400.00

4. Clause (D) of subsection 2(3) is amended by adding the words “per movement” after the words “handling fee” .

5. Clause 2(3)(f) is amended by:

- a) adding the words “a second and” after the word “for” and before the word “all”;
- b) adding the words “(including the Last Post Columbarium Niches purchased after August 12, 2008)” after the word “interments”.

6. Clause 2(3)(fa) is added after clause 2(3)(f) and before clause 2(3)(g) as follows:

Maintenance Care for all Last Post Columbarium Niches \$100.00

(purchased up to and including Aug 12, 2008)

7. Subsection 2(3) is amended by adding the following words after clause (k) and before the sentence ``tax is payable on all fees``:

If a maintenance care fee was not included at the time of purchase, a maintenance care fee shall be applied at the time of interment pursuant to clause 3F.

ATTACHMENT E

Summary of Changes Resulting from Meeting with Last Post Fund January 13, 2012 and introduction of HRM Columbarium

- 1) Report No# 11.1.6 (Background Section) – Addition should read: *The NS Branch of the Last Post Fund was established in 1985 by Veterans Affairs Canada for a burial.....*
- 2) Attachment B: Administrative Order #20 - 1. Lot Fees –
 - (e) Addition should read: *HRM Columbarium (up to 2 urns) \$2500.00*

Change: perpetual care be changed maintenance care
- 3) Attachment B: Administrative Order #20 – 2. Interment Fees – 2 (c) should read *Cremation Interment (including HRM Columbarium)*
- 4) Attachment B: Administrative Order #20 - 3. Additional Fees:
 - f) Addition should read: *Maintenance care for second and all subsequent interments including the Last Post Columbarium Niches purchased after August 12, 2008*
 - g) Addition should read: *Maintenance care for all Last Post Columbarium Niches purchased up to and including August 12, 2008*
- 5) Attachment C: By-Law C-700: 2. Definitions:
 - (h) Addition should read *“Interment” means the traditional burial or placement of human remains in a lot, niche or other structure*
 - (j) Correction should read: *columbaria not columbariums*
- 6) Attachment C: By-Law C-700: 3. Applications:
 2. Addition should read:

Monuments or memorials placed by The Last Post Fund, Veterans Affairs Canada, or Commonwealth War Graves Commission are subject to the approval of the Supervisor.