

City of Kingston By-Law Number 2025–99

***A By-Law to Establish Rules and Regulations for Cemeteries
Operated by The Corporation of the City of Kingston***

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| 1 st Reading | July 11, 2023 |
| 2 nd Reading | July 11, 2023 |
| 3 rd Reading | February 18, 2025 |
| Passed | February 18, 2025 |

By-Law Number 2025-99

A By-Law to Establish Rules and Regulations for Cemeteries Operated by The Corporation of the City of Kingston

Whereas:

The *City* owns cemeteries for the benefit of its residents;

Subsection 150(1) of Ontario Regulation 30/11 under the *Funeral, Burial and Cremation Services Act*, provides that an owner of a cemetery may make by-laws governing the operation of a cemetery;

The *Funeral, Burial and Cremation Services Act* requires that every owner of a cemetery that has by-laws governing the operation of a cemetery be approved by the *Registrar*;

Pursuant to sections 8,9 and 10 of the *Municipal Act, 2001*, S.O. 2001, c.25, a municipality may pass by-laws necessary to govern its affairs, and in particular, paragraphs 5 through 7 of subsection 10(2) authorize by-laws respecting: (a) the economic, social and environmental well-being of the municipality; (b) the health, safety, and well-being of persons; and (c) the provision of services and things that the municipality is permitted to provide;

Section 425 of the *Municipal Act, 2001*, authorizes the *City* to pass by-laws providing that a person who contravenes a by-law of the *City* passed under that Act is guilty of an offence; and

This by-law establishes the rules and regulations that govern the *City's cemeteries* in Kingston, Ontario and has been approved by the *Registrar* pursuant to the *FBCSA*.

Therefore Council enacts:

1.0 Interpretation

1.1 This by-law may be cited as the "**Cemetery By-Law**".

1.2 In this by-law:

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“**Care and maintenance fund**” means the FBCSA, Ontario Regulation 30/11 and Ontario Regulation 184/12 require that an amount of money, that is the greater of a minimum prescribed amount and a percentage of the purchase price (excluding tax) of all *interment rights*, transferred or assigned; and prescribed amounts for monuments and *markers*, be contributed into the operator’s care and maintenance trust fund. Interest earned from this *care and maintenance fund* is used to cover the costs of care and maintenance of the cemetery, including markers and monuments, in perpetuity.

“**cemetery**” means land set aside and approved for the *interment* of *human remains* as set out in Schedule “A” to this by-law;

“**certificate of interment rights**” means the document issued by the *City Clerk* to a purchaser once the *interment rights* to a specific *lot* have been paid in full, identifying ownership and authority over those specific *interment rights*.

“**City**” means The Corporation of the City of Kingston;

“**City Clerk**” means the City Clerk of the *City*, and includes their designate;

“**Commissioner**” means the Chief Financial Officer and City Treasurer of the *City*, and includes their designate;

“**contract**” means a written contract between the cemetery operator and the purchaser of interment rights or other cemetery supplies and services. Purchasers shall receive a copy of the signed contract detailing the obligations of both parties and acknowledging receipt of items listed in subsection 4.4 of this by-law.

“**corner posts**” means 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*;

“**Council**” means the Council of the *City*;

“**fee schedule**” means the price list for *interment rights*, cemetery supplies and services established in accordance with the *Funeral, Burial and Cremation Services Act* and passed by *Council*;

“**Funeral, Burial and Cremation Services Act (FBCSA)**” means the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c. 33;

“**grave**” means any *lot* intended for the *interment* of a child, adult or cremated *human remains*;

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“**human remains**” means a dead human body or the remains of a cremated human body;

“**inter**” means the burial or *interment* of *human remains* or cremated *human remains* in a *lot*;

“**interment rights**” means the right to require or direct the *interment* of *human remains* or cremated *human remains* in a *lot* or *plot* and to authorize the installation of a *marker* subject to the provisions of this by-law;

“**interment rights holder**” means the person who holds the *interment rights* to a *lot* or *plot* whether the person is the purchaser of the rights, the person named in the *certificate of interment rights* or such other person to whom the *interment rights* have been legally assigned;

“**lot**” means a single *grave* space in the *cemetery*, containing, or set aside to contain, *interred human remains* and includes a niche or compartment in a columbarium;

“**marker**” means any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a *lot* or *plot*, columbarium niche, or other structure or place intended for the deposit of *human remains* and may be used to indicate the location of a *grave*;

“**natural green burial area**” means an area within a *cemetery* which is specifically designed to permit *human remains* to be returned to the earth as naturally as possible, as approximately shown on Schedule “B” attached to this by-law;

“**natural green burial grave**” means any inground burial space in a *natural green burial area*, which permits the *interment* of *human remains* in a biodegradable casket, container, shroud, or cremation urn;

“**plot**” means two or more *lots* in which the rights to *inter* have been sold as a unit;

“**Provincial Offences Act**” means the *Provincial Offences Act*, R.S.O. 1990, c. P.33;

“**Provincial Offences Officer**” has the meaning given to it in the *Provincial Offences Act*; and

“**Registrar**” means the *Registrar* appointed under the *Funeral, Burial and Cremation Services Act*, that being the Bereavement Authority of Ontario.

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- 1.3 For the purposes of interpreting this by-law:
- (a) a reference to any legislation, regulation, or by-law or to a provision thereof includes a reference to any legislation, regulation or by-law enacted, made or passed in substitution thereof or amendment thereof;
 - (b) any reference to legislation includes all of the regulations made thereunder; and
 - (c) “include”, “includes” and “including” indicate that the subsequent list is not exhaustive.
- 1.4 This by-law shall not be interpreted as exempting any person from the requirement to comply with any other *City* by-law or federal or provincial legislation. In the event of a conflict between the provisions of this by-law and the *FBCSA*, the provisions of the *FBCSA* prevail to the extent of the conflict.
- 2.0 Administration**
- 2.1 The Schedules attached to this by-law form part of it.
- 2.2 As of the date that this by-law comes into effect, the following by-laws are repealed in their entirety:
- (a) By-Law Number 99-280, “A By-Law to Provide for the Maintenance, Management and Control of Pine Grove Cemetery”;
 - (b) By-Law Number 99-281, “A By-Law to Authorize the Establishment of Pine Grove Cemetery Board of Management”; and
 - (c) By-Law Number 6-89, “A By-Law to Establish a Milton Cemetery Committee”.
- 2.3 The cemetery shall be governed by these by-laws, and all procedures will comply with the *FBCSA* and O. Reg. 30/11 and 184/12, which may be amended periodically. All by-laws and by-law amendments are subject to the approval of the Registrar, *FBCSA*, *BAO* and do not come into force until approval is received.
- 2.4 All amendments to this by-law must be:
- (a) published once in a newspaper with general circulation in the locality in which the *cemetery* is located;

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- (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 amendment pertains to *markers* or their installation.

2.5 This by-law and any amendments are subject to the approval of the *Registrar*.

2.6 The *City Clerk* is responsible for the management, operation and maintenance of all *cemeteries* and is authorized to administer and enforce this by-law with delegated authority granted by *Council* to execute the provisions of this by-law, including the imposition of conditions as necessary to ensure compliance.

2.7 The *City Clerk* may assign duties or delegate tasks under this by-law as they deem necessary to execute their authority under this by-law.

2.8 The *City Clerk* may re-plot, change the boundaries of, grade, alter in shape or size, or otherwise change all or any part of a *cemetery*, subject to the approval of the appropriate authorities any requirements of the Ontario Heritage Act, R.S.O. 1990, c. O.18, as applicable, and consent from the *Registrar*, FBCSA, BAO, where necessary.

2.9 Where approval is required from the *City Clerk* under this by-law, such permission may be refused or withdrawn by the *City Clerk* at any time in their sole discretion.

2.10 The *City*, its employees, agents and contractors 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*, except for loss or damage caused by gross negligence of the cemetery operator.

3.0 **Public Register**

3.1 The *City Clerk* shall maintain an electronic and/or written public register pursuant to Ontario Regulation 30/11 under the FBCSA.

3.2 The public register shall be available to the public during the *cemetery's* hours of operations.

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4.0 Sale and Purchase of Interment Rights

- 4.1 No person shall sell *interment rights* except a person authorized by the *City Clerk*.
- 4.2 *Lots* or *plots* or subdivision of *lots* or *plots* may be purchased by any person by payment in full of the fees set out in the *fee schedule*.
- 4.3 Purchasers of *lots* and *plots* acquire *interment rights*. *Interment rights holders* acquire only the right to direct the *interment* of *human remains* or cremated *human remains* in the *lot* or *plot* to which the *interment rights* relate, and to direct the installation of *markers*, subject to the provisions of this by-law. No burial/interment, installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full and the interment rights certificate has been issued.
- 4.4 At the time *interment rights* are purchased and paid in full, the *City Clerk* must provide the *interment rights holder* with the following:
- (a) a copy of the *contract* duly executed by the *City* and *interment rights holder*;
 - (b) a receipt of payment;
 - (c) a copy of this by-law;
 - (d) a *certificate of interment rights*;
 - (e) a copy of the *fee schedule*; and
 - (f) a copy of the BAO's publication *A Guide to Death Care in Ontario*, also known as the "Consumer Information Guide."
- 4.5 A *certificate of interment rights* will only be issued when all indebtedness has been satisfied and must contain all information prescribed by law, including:
- (a) the name and location of the *cemetery*;
 - (b) the name of the *interment rights holder*;
 - (c) the location and dimensions of the *lot* or *plot* to which the *interment rights* relate;

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- (d) the date on which the *interment rights* were purchased or transferred, as the case may be;
- (e) the amount paid by the purchaser for the *interment rights*;
- (f) the amount deposited into the *care and maintenance fund*;
- (g) a statement that if the *interment rights holder* resells or transfers the *interment rights*, the endorsed *certificate of interment rights* must be returned to the *City Clerk* before the *City Clerk* is required to issue a new certificate; and
- (h) a statement outlining any restrictions and obligations with respect to the installation of *markers*.

4.6 An *interment rights holder* must inform the *City Clerk* of any changes in their *contract*, including changes to contact information or address.

5.0 **Transfers**

5.1 For the purpose of this section 5.0, “transfer” means a gift, a bequest or any other transfer made without consideration. A transfer must be conducted through the *City Clerk*.

5.2 If any portion of the *interment rights* have been exercised, the *interment rights holder* is not entitled to transfer the rights to anyone.

5.3 An *interment rights holder* may transfer their *interment rights* by providing the following to the *City Clerk*:

- (a) written notice of their intent to transfer the *interment rights* that includes,
 - (i) the date of transfer; and
 - (ii) the name and address of the transferee;
- (b) the original *certificate of interment rights* endorsed by the current *interment rights holder*;
- (c) written confirmation of the number of *lots* that have been used in the *plot* and the number of *lots* that remain available;
- (d) payment of the transfer fee as set out in the *fee schedule*; and

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(e) any other documentation in the *interment rights holder's* possession relating to the *interment rights*.

5.4 An heir or authorized representative of a deceased *interment rights holder* may transfer the deceased *interment rights holder's interment rights* by providing the *City Clerk* with all the requirements established in subsection 5.3 and the following:

(a) With a last Will and Testament:

- (i) in the case of a specific bequest of the *lot* or *plot*, a Notarial Copy or Court Certified Copy of the Will or probate;
- (ii) in no specific bequest, a request in writing from the Executor(s) with a consent of all or a majority of the beneficiaries;

(b) Intestate:

- (i) proof in writing to the satisfaction of the *City Clerk* that they have the right to transfer the *interment rights*.

6.0 Resale of Interment Rights to a Third Party

6.1 The resale of *interment rights* must be conducted through the *City Clerk* and satisfy all the requirements outlined in this by-law and prescribed at law to be valid.

6.2 If any portion of the *interment rights* have been exercised, the *interment rights holder* is not entitled to re-sell the rights to anyone.

6.3 Resale of *interment rights* to a third-party is only permitted after 30 days from the date of signing of the *contract* and must be in accordance with provisions of this by-law and in keeping with the *Funeral, Burial and Cremation Services Act*.

6.4 No person will purchase *interment rights* for the sole or primary purpose of re-selling the rights with a view to making a financial gain.

6.5 An *interment rights holder* may first offer the *interment rights* to the *City*. If the *City* does not wish to repurchase the *interment rights*, the *interment rights* may be sold privately to a third-party purchaser for no more than the current price listed on the *fee schedule*.

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6.6 Prior to re-selling their *interment rights*, the *interment rights holder* who intends to sell their *interment rights* must provide to the satisfaction of the *City Clerk* the following:

- (a) written notice from the *interment rights holder* of their intent to sell the *interment rights* to the named third-party purchaser;
- (b) written proof that the person intending to sell the *interment rights* is the *interment rights holder*;
- (c) the original *certificate of interment rights* endorsed by the current *interment rights holder*;
- (d) written confirmation of the number of *lots* that have been used in the *plot* and the number of *lots* that remain available;
- (e) payment of the administration fee as set out in the *fee schedule*;
- (f) the name and address of the third-party purchaser; and
- (g) any other documentation in the *interment rights holder's* possession relating to the *interment rights*.

6.7 The *City Clerk* must provide the following documents to the third-party purchaser:

- (a) a new *certificate of interment rights* endorsed by the current *interment rights holder*;
- (b) a copy of this by-law;
- (c) a copy of the *fee schedule*;
- (d) a copy of the BAO's publication *A Guide to Death Care in Ontario*, also known as the "Consumer Information Guide."
- (e) written confirmation of the number of *lots* that have been used in the *plot* and the number of *lots* that remain available; and
- (f) any other documentation in the *City Clerk's* possession relating to the *interment rights*.

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- 6.8 Once the endorsed *certificate of interment rights* and all other required information has been received by the *City Clerk*, the *City Clerk* must issue a new *certificate of interment rights* to the third-party purchaser.
- 6.9 Upon completion of the above-listed procedures in this section 6.0 and the issuance of the new *certificate of interment rights*, the third-party purchaser is considered the current *interment rights holder* and the resale of the *interment rights* shall be considered final in accordance with this by-law and the FBCSA.
- 7.0 Cancellation of Interment Rights Within 30 Days**
- 7.1 Within 30 days of signing the *contract*, the purchaser may cancel a *contract* for *interment rights* by providing written notice of the cancellation to the *City Clerk*.
- 7.2 If the *contract* is cancelled pursuant to this section 7.0, the *City Clerk* must refund all monies paid by the purchaser within 30 days from the date of the written notice for cancellation.
- 7.3 If any portion of the *interment rights* have been exercised, the purchaser is not entitled to cancel the *contract*.
- 8.0 Cancellation of Interment Rights After 30 Days**
- 8.1 A *contract* for *interment rights* may be cancelled after 30 days from signing if the purchaser provides the *City Clerk* with written notice of the cancellation.
- 8.2 If the *certificate of interment rights* has been issued to the *interment rights holder*, the *interment rights holder* must return the *certificate of interment rights* to the *City Clerk* along with the written notice of cancellation.
- 8.3 The *City Clerk* will issue a refund to the purchaser for the amount paid for the *interment rights* less the prescribed amount that is required to be deposited into the *care and maintenance fund*.
- 8.4 If any portion of the *interment rights* have been exercised, the purchaser or *interment rights holder* is not entitled to cancel the *contract* or re-sell the *interment rights*.

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9.0 Abandonment of Interment Rights

9.1 The *City Clerk* may apply to the *Registrar* for a declaration that *interment rights* are abandoned if the *interment rights* are sold and not exercised within 20 years of the date of sale.

9.2 The *Registrar's* inquiry with respect to the *interment rights* will be conducted in accordance with the FBCSA.

9.3 If the *Registrar* declares the *interment rights* abandoned, the *City Clerk* may:

- (a) re-sell the *interment rights*; and
- (b) remove any *marker* that has been erected on the *lot* or *plot* in respect of which the *interment rights* have been declared abandoned in accordance with the FBCSA.

10.0 Corrections

10.1 The *City Clerk* may correct any error made in the sale, purchase, transfer, or resale of *interment rights* and in correcting such error may, at their sole discretion, substitute a *lot* of equal value and similar location, or cancel the transaction and refund all payments.

10.2 The *City Clerk* must provide the *interment rights holder* with written notice of both the error and the corrective action being taken, except in regard to a typographical error, error of calculation or similar.

11.0 Corner Post

11.1 The boundaries of any *lot* or *plot* will be marked with *corner posts*. All *corner posts* are to be placed by the *City Clerk* at the sole expense of the *interment rights holder* of the *lot* or *plot* wherein the same are placed.

11.2 All *corner posts* must be granite six inches square and not less 43 inches deep. *Corner posts* must be placed level with the ground.

12.0 Care and Maintenance Fund Contributions

12.1 In accordance with the *Funeral, Burial and Cremation Services Act (FBCSA)*, a prescribed amount or a percentage of the purchase price (excluding tax) of all *interment rights* sold, and prescribed amounts for *markers*, must be contributed into the *care and maintenance fund*.

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- 12.2 All interest earned from the *care and maintenance fund* must be used to provide care and maintenance of *lots, plots and markers* at the *cemetery*.
- 12.3 Contributions to the *care and maintenance fund* are non-refundable, except when an *interment rights contract* is cancelled within 30 days of signing the *contract*.
- 12.4 The *Commissioner*, subject to advice from *Council*, will be responsible for the management and investment of the *care and maintenance fund* in accordance with the *FBCSA*.
- 12.5 The *Commissioner* will keep such books, accounts and records as are necessary for properly recording and exhibiting all financial matters pertaining to the *cemetery* as may be prescribed.
- 13.0 Interments**
- 13.1 No *interment* will take place until such time as the *lot* or *plot* has been paid for in full.
- 13.2 No person will prepare a *lot* or *plot* for *interment* or disinterment except a person authorized by the *City Clerk*.
- 13.3 The *City* is not responsible for repairing or replacing, or paying any compensation, should a container holding *human remains* be damaged during *interment*.
- 13.4 The *interment rights holder* must provide written authorization in a form satisfactory to the *City Clerk* prior to an *interment*.
- 13.5 If the *interment rights holder* is deceased, authorization must be provided in writing by the person authorized to act on behalf of the *interment rights holder* in keeping with the *Succession Law Reform Act*, R.S.O 1990, c. S.26.
- 13.6 No *interment* will take place except where:
- (a) a burial permit issued by the Registrar General, or equivalent document, showing that the death has been registered with the province or a Certificate of Cremation has been submitted to the *City Clerk*;
 - (b) all applicable fees under the *fee schedule* have been paid in full; and
 - (c) an *interment rights contract* has been executed.

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- 13.7 Unless otherwise ordered by the Chief Medical Officer of Health, an *interment rights holder*, their heir or representative, or a funeral director must give at least 72 hours' notice in advance of the *interment* to the *City Clerk*:
- (a) authorizing any *interment* in the *interment rights holder's lot* or *plot*;
 - (b) requesting that the *lot* or *plot* be prepared for the *interment*; and
 - (c) giving the particulars as to the location, depth, width and length of the container holding the *human remains* to be *interred*.
- 13.8 The *City Clerk* is responsible for scheduling all *interments* and has the sole discretion to determine if an *interment* can take place based on ground conditions and weather even where the required notice is given.
- 13.9 The *City Clerk* has the sole discretion to determine if the *lot* or *plot* can be prepared, where an *interment rights holder*, their heir or representative, or a funeral director provides less than the required 72 hours' notice.
- 13.10 Only one (1) full casket *interment* is permitted per *lot*. No more than four (4) *interments*, one full casket and three cremated *human remains* or four (4) cremated *human remains*, may be made in the same *lot*. This subsection 13.10 applies only to *lots* and not within the *natural green burial area*.
- 13.11 Only *human remains* will be *interred* in a *lot* or *plot*. The *interment* of pets or other lower animals, including cremated animal remains, is not permitted at the *cemetery*.
- 13.12 *Interments* may only take place between the 15th of April and the 15th of December unless otherwise authorized by the *City Clerk*. During this period, *interments* may take place between the hours of 9:00 a.m. and 3:00 p.m. from Monday to Friday, excluding statutory holidays and other days on which the *City* has elected to be closed for business.
- 13.13 Notwithstanding subsection 13.12, an *interment* may take place on any day and at any time:
- (a) with advance permission of the *City Clerk* and for the applicable fee as set out in the *fee schedule*; or
 - (b) if set out in a certificate issued by the Ministry of Health or an order issued by the Coroner's Office.

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13.14 *Human remains* to be *interred* must be in a container that is:

- (a) enclosed and securely sealed;
- (b) of a sufficient strength to remain intact during *interment*; and
- (c) of an appropriate size that will permit *interment* within the *lot*.

13.15 The scattering of cremated remains is not permitted anywhere in the *cemetery*.

13.16 No *interment rights holder* will change or alter the grading of any *lot* or *plot*. If the grading is altered or changed by an *interment rights holder*, the *City* may restore the *lot* or *plot* to its original grade at the sole expense of the *interment rights holder*.

13.17 No *interment rights holder* will sod or move *corner posts* or *markers* anywhere in the *cemetery*.

14.0 Disinterment

14.1 No disinterment will be allowed in any *lot* or *plot*, nor any body removed from any *lot* or *plot*, unless in accordance with *FBCSA* and Ontario Regulation 30/11 (O.Reg 30/11).

14.2 No disinterment will take place except where:

- (a) a certificate issued by the Chief Medical Officer of Health and the *City Clerk*, confirming the *FBCSA* has been complied with, is affixed to the container holding the disinterred *human remains*;
- (b) all applicable fees under the *fee schedule* have been paid in full; and
- (c) the disinterred *human remains* are placed in a concrete crypt or vault after disinterment and before reinterment.
- (d) *Human remains* may be disinterred from a lot with the written consent of the *interment rights holder* and prior notification to the local Medical Officer of Health. Notification to the local Medical Officer of Health is not required for the disinterment of cremated remains.
- (e) In some circumstances, the disinterment of *human remains* may be ordered by one or more public officials (e.g., Court Order, Coroner's

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Office etc.) and will take place without the consent of the *interment rights holder(s)* and/or next of kin.

- (f) The cemetery operator is not responsible for damage to any casket, urn, container or vault which may occur during a disinterment. Additionally, due to the length of time that a casket, urn, container or vault has been interred and the conditions to which it has been exposed, the cemetery operator cannot guarantee that it can retrieve the complete casket, urn, container or vault interred in the *cemetery*. Should a new casket, urn or container be required at the time of disinterment, it shall be at the expense of the party authorizing the disinterment. Additionally, the cemetery operator has the right to request that a licensed funeral director be present for the disinterment at the expense of the party authorizing the disinterment.
- (g) Disinterments will be scheduled at a day and time designated by the cemetery operator. The cemetery operator reserves the right to close the *cemetery* or the section where the disinterment is to take place. Only those persons required or permitted by the *City* to attend a disinterment shall be allowed to enter the *cemetery* or the section involved during a disinterment.
- (h) If reinterment does not take place within the same lot and if existing memorialization (monument, marker, niche front or crypt front) needs to be removed, it will be at the expense of the person authorizing the disinterment.
- (i) Once a disinterment has been completed, the *lot* space shall be considered available to the *interment rights holder* for a new *interment*, transfer or resale in accordance with this by-law. If the *grave*, niche or mausoleum space from which a disinterment has occurred, is transferred or resold, the new *interment rights holder* must be made aware of the previous disinterment and agree in writing to such knowledge as part of the transfer or resale agreement.

15.0 Markers

- 15.1 The installation of a *marker* must be arranged by the *interment rights holder*, or their heir or representative, with the *City Clerk*.

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- 15.2 Before a *marker* is installed, all *contracts* must be signed and all fees, including fees for installation of a foundation, must be paid as required under this by-law and the *fee schedule*.
- 15.3 A *marker* must not be moved, removed or altered without the advance written permission from the *City Clerk*.
- 15.4 To prevent interference with future interments and optimize cemetery maintenance, the *City Clerk* reserves the right to determine the maximum size of each *marker*, their composition, their number and their location on each *lot* or *plot*.
- 15.5 At a minimum, the following must be met in respect of any *marker*:
- (a) not more than one *marker* will be erected on any one *lot* or *plot*;
 - (b) *markers* are not permitted to stand on *interment* space in any *lot* or *plot*;
 - (c) all *markers* must have a minimum thickness of four (4) inches at its narrowest point; and
 - (d) all *markers* must be made of granite or bronze.
- 15.6 All *markers*, other than *markers* located on a single *lot*, will not exceed 54 inches in height, including base, 48 inches wide, and 16 inches deep.
- 15.7 Upright *markers* on a single *lot* will not exceed 30 inches wide by 16 inches deep by 42 inches high including the base.
- 15.8 Flat *markers* on a single *lot* must not exceed 24 inches wide by 18 inches deep and do not require a base.
- 15.9 *Markers* made of bronze must meet industry standards for bronze, and their casting must be true, free from weakening or minor defects, blemishes or imperfections, with smooth exposed surfaces. Sand-like roughness, painted or pigmented finishes, or ornamentations are not permitted.
- 15.10 *Markers* to be erected must be set upon an adequate concrete foundation which must be no less than five feet in depth or the full depth of the *grave* and must exceed the *marker* by a minimum of three inches on all sides. All foundations must be set one inch above the surface of the ground. Foundations must be approved by the *City Clerk* before the *marker* is erected.

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- 15.11 All foundations for *markers* must be installed by employees or contractors of the *City*, or otherwise approved by the *City Clerk*, between the 15th of April and the 15th of December of each year at the sole expense of the *interment rights holder*.
- 15.12 No *marker* will be delivered to the *cemetery* for installation until the foundation has been completed and paid for in full by the *interment rights holder*, permission has been obtained by the *City Clerk* and the *interment rights holder* has been notified by the *City Clerk*.
- 15.13 Any inscription on a *marker* must be in keeping with the dignity and decorum of the *cemetery*. If, in the opinion of the *City Clerk*, an inscription is not in keeping with the dignity and decorum of the *cemetery*, the *City Clerk* may have such inscription removed at the sole cost of the *interment rights holder* or their heir.
- 15.14 All *markers* are owned by the *interment rights holder* and the *City* is not responsible for their loss, destruction, vandalism, theft, or deterioration. *Interment right holders* may wish to consider adding *markers* to their own insurance coverage.
- 15.15 The *City* will take reasonable precautions to protect the *markers*, but it assumes no liability for the loss, or damage to any *marker* or part of a *marker*, or part thereof unless it is as a result of negligence by the cemetery.
- 15.16 Minor scraping of the *Marker* due to grass/lawn maintenance is considered normal wear and tear.
- 15.17 If, in the opinion of the *City Clerk*, any *marker* presents a risk to public safety because it has become unstable or hazardous to any person visiting the *cemetery*, the *City Clerk* may do whatever they deem necessary by way of repairing, resetting, or laying down the *marker*, or any other remedy available, to remove the risk.
- 15.18 No person will dress any *lot* or *plot*, including a *natural green burial grave*, with:
- (a) decorative cemetery greens unless a request is made for this service;
 - (b) personal effects or belongings;
 - (c) artificial plant material; or

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(d) any memorial article of any kind.

Any such memorials or prohibited items will be removed and stored for collection for 30 days, after which they will be disposed of.

15.19 No person will plant trees, flower beds or shrubs anywhere in the *cemetery* without the written approval of the *City Clerk*.

15.20 All flowers or potted plants placed on a *lot*, *plot* or *natural green burial grave* for a funeral will be removed by the *City* after a reasonable time to protect the sod and maintain the tidy appearance of the *cemetery*.

15.21 Articles placed on *lots* are the sole responsibility of the *interment rights holder*. The *City* cannot be held responsible for the loss or damage of any articles placed within the *cemetery*.

16.0 Work to be Performed by Contractors

16.1 Any contract work to be performed within the *cemetery* requires the written pre-approval of the *interment rights holder* and *City Clerk* before the work may begin.

16.2 No work will commence until plans and detailed specifications related to the work, proof of all applicable government approvals and permits, and the location of the work has been provided by the contractor to the *City Clerk*, and the *City Clerk* has provided its written approval of the work.

16.3 Prior to the start of any work, contractors must provide to the *City Clerk's* satisfaction proof of:

- (a) WSIB coverage;
- (b) Occupational Health and Safety Compliance Standards;
- (c) environmental protection;
- (d) WHMIS; and
- (e) commercial general liability insurance insuring against damage or injury to persons or property, with inclusive limits of at least \$5,000,000.00 per occurrence.

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- 16.4 Contractors, monument dealers and suppliers must not enter the *cemetery* outside its hours of operation, unless written approval has been granted by the *City Clerk*.
- 16.5 No work will be performed at the *cemetery* except during the *cemetery's* regular hours of operation.
- 16.6 Contractors must temporarily stop all operations if working within 100 metres of a funeral until the conclusion of the service. The *City Clerk* has the authority to temporarily cease contractor operations if, at their sole discretion, the work being performed is deemed to be a disturbance to any service or public gathering within the *cemetery*.
- 16.7 Contractors, monument dealers and suppliers must lay wooden planks on the burial *lots* and paths over which heavy materials are to be moved to protect the surface from damage.
- 16.8 All implements and materials used to complete any work must be placed as directed by the *City Clerk*, and all surplus earth or materials must be removed when, and to where, and in such manner as directed by the *City Clerk*. In the event that the *City Clerk's* directives are not followed, any obstructions may be removed at the contractor's sole expense.
- 16.9 Any person working without the permission or authorization of the *City Clerk*, or in contravention of this by-law, may be removed from the *cemetery* property immediately.
- 17.0 Natural Green Burials**
- 17.1 This section 17.0 governs *interments* and memorialization within a *natural green burial area*. All other requirements of this by-law apply to a *natural green burial area*, provided that in the event of a conflict between the provisions of this section and the other provisions of this by-law, the provisions of this section prevail to the extent of the conflict.
- 17.2 The *natural green burial area* must only be used for *natural green burial graves*.
- 17.3 All *lots* within the *natural green burial area* must be 2.44 metres in length by 1.2 metres in width.

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- 17.4 A maximum of one (1) casket and the secondary *interment* of three (3) cremated *human remains*, or a maximum of four (4) cremated *human remains* may be buried in each *natural green burial grave*. The casket burial will be performed at standard depth only, which is at least three feet beneath the natural level of the ground surface.
- 17.5 *Human remains* must be delivered to the *cemetery* for *interment* within the *natural green burial area* in a closed casket, container, shroud or cremation urn.
- 17.6 A casket, container, shroud or cremation urn used for the *interment* of *human remains* within the *natural green burial area* must:
- (a) be made from materials or substances that are non-toxic and readily biodegradable, such as wood, wicker, recycled cardboard or natural fibers;
 - (b) be free of synthetic materials or any metals, except for minimally necessary structural hinges, nails or screws;
 - (c) be free of non-biodegradable resins, glues, or bonding agents;
 - (d) be free of high gloss finish lacquers or paints;
 - (e) be free of any interior liner, bag or wrapping that is fabricated from non-biodegradable material;
 - (f) be free of any memento, articles or personal belonging that is composed of non-biodegradable material; and
 - (g) have proper handles and/or a rigid base to guarantee safe handling of the remains.
- 17.7 The following are not permitted in the *natural green burial area*:
- (a) concrete vaults;
 - (b) metal vaults;
 - (c) grave liners; or
 - (d) other outer containers.

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- 17.8 *Human remains* that have been preserved (embalmed) using formaldehyde or other non-biodegradable chemicals are not permitted to be *interred* within the *natural green burial area*. Formaldehyde-free embalming fluids will only be permitted in the winter when the *interment* must be delayed until spring. The *interment rights holder*, or the person authorized to act on behalf of the *interment rights holder* if deceased, must:
- (a) ensure the shroud, casket or alternative container proposed for *interment* is approved by the *City Clerk*; and
 - (b) arrange for the dignified transfer of the *human remains* to the *cemetery*.
- 17.9 The *City Clerk* has the sole authority to refuse any *interment* of *human remains* that does not comply with this section or any other provision in this by-law.
- 17.10 *Natural green burial graves* are identified only by a numbered *marker*. All reasonable precautions must be taken to open a *natural green burial grave* in the least disturbing manner to the surrounding environment.
- 17.11 Individual memorialization is not permitted in the *natural green burial area*.
- 17.12 Inscriptions on a communal memorial stone that is sourced naturally, and provided by the *City*, may be purchased by paying the applicable fee in accordance with the *fee schedule*. All inscriptions must be approved by the *City Clerk*, and will be in a size, font and space as directed by the *City Clerk*. No emblems or design elements will be inscribed beyond the name of the deceased, year of birth and year of death.
- 17.13 A rough cut, which means the trimming of wildflowers and grasses no lower than 10 inches, pathway will be provided to a *natural green burial grave*.
- 17.14 The *interment* will take place as a direct burial. The *interment* shroud, casket or container will be lowered into the earth by means of a standard lowering device. Earth will be either available on site or brought *grave* side to complete the *interment*. Efforts will be made to return the same earth back into the *natural green burial grave* as was excavated.
- 17.15 The *City Clerk* may limit the number of witnesses to an *interment* service in the *natural green burial area* to preserve the environmental sanctity of the

Cemetery By-Law

natural green burial area or the health and safety of those persons attending the *interment*.

- 17.16 The *natural green burial grave* will be allowed to naturally settle over time. The earth will be over-seeded with a recognized wildflower seed mix after the *interment* process is completed and thereafter with re-establishment of soil grade levels through the natural settlement process. The wildflower seed mix may be mowed, or a prescribed burn may be implemented, to control the invasion of non-native species and promote the health of native species. No watering or fertilization will take place in the seeded areas. Where possible, native trees and shrubs will also be planted by the *City*.
- 17.17 *Interred human remains* in the *natural green burial area* are considered non-recoverable from the *interment* date, and the *City Clerk* has no obligation to recover the remains unless ordered by the provisions of legislation, regulation, or court document. In the case of the *City Clerk* being ordered to recover *human remains*, the *City Clerk* will hold the authorizing party accountable for all fees associated with the work performed.

18.0 Rules and Regulations

- 18.1 The *cemetery's* hours of operation are daily from one half hour before sunrise to one half hour after sunset, or as otherwise established by the *City Clerk*.
- 18.2 All visitors must conduct themselves in a quiet manner that does not disturb any service being held or any other visitor.
- 18.3 No persons under the age of 16 will be admitted within the *cemetery* unless attended by an adult who will be responsible for their conduct.
- 18.4 No person will enter the *cemetery*, except through an established entrance.
- 18.5 No person except authorized personnel or a *Provincial Offences Officer* will enter or be within the *cemetery* grounds outside of the hours of operation.
- 18.6 While in the *cemetery*, no person will:
- (a) place any fences, railings, or other enclosures around any *lot* or *plot*;
 - (b) write upon, deface, injure or damage any *markers*, railings, fences or other structure, or pick or cut flowers of any kind;

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- (c) place artificial flowers or wreaths upon a *lot* or *plot* that would interfere with ongoing maintenance;
- (d) place upon a *lot* or *plot* any nails, wires, wooden crosses, articles of glass, pottery or any other material which when left, neglected or are broken could cause personal injury to visitors or workers, damage maintenance equipment, or impede grounds maintenance procedure;
- (e) have in their possession or be under the influence of alcohol or any other prohibited substance;
- (f) have in their possession any firearm within the *cemetery* enclosure except in the case of an *interment* service having Honour Guards present;
- (g) climb any vegetation, *marker*, or other structure;
- (h) play any game or sport or engage in any activity that may cause damage;
- (i) operate a motorized snow vehicle or off-road vehicle unless authorized by the *City Clerk*; or

18.7 Heavily loaded conveyances are not permitted to enter the *cemetery* without the prior written approval, and supervision, of the *City Clerk*.

19.0 Enforcement

19.1 This by-law may be enforced by a *Provincial Offences Officer*, or other authorized employee or agent of the *City*.

19.2 No person will obstruct or hinder or attempt to obstruct or hinder the *City Clerk*, a *Provincial Offences Officer* or other authorized employee or agent of the *City* in the exercise of a power or the performance of a duty under this by-law.

20.0 Offences and Orders

20.1 Every person who contravenes any provision of this by-law is guilty of an offence as provided for in the *Provincial Offences Act*.

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- 20.2 Every officer or director of a corporation who knowingly concurs in the contravention of any provision of this by-law is guilty of an offence as provided for in the *Provincial Offences Act*.
- 20.3 Every person, officer or director who contravenes any of the provisions of this by-law will, upon conviction, be liable for a fine as provided for in the *Provincial Offences Act*.
- 20.4 When a person, officer or director has been convicted of an offence under this by-law, the Ontario Court of Justice or any court of competent jurisdiction may, in addition to any other penalty imposed on the person convicted, make an order:
- (a) prohibiting the continuation or repetition of the offence by the person convicted; and
 - (b) requiring the person convicted to correct the contravention in the manner and within the period that the Court considers appropriate.

21.0 **Miscellaneous**

- 21.1 If a court of competent jurisdiction declares any provision, or any part of a provision, of this by-law to be invalid, or to be of no force and effect, it is the intention of *Council* in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with its terms to the extent possible according to law.
- 21.2 This by-law will come into force and take effect on the date of its passing.

Cemetery By-Law

| | |
|-------------------------|-------------------|
| 1 st Reading | July 11, 2023 |
| 2 nd Reading | July 11, 2023 |
| 3 rd Reading | February 18, 2025 |
| Passed | February 18, 2025 |

Janet Jaynes
City Clerk

Bryan Paterson
Mayor

Cemetery By-Law

Schedule “A”

Inventory of Cemeteries Operated by the City

The *City* operates and maintains active and inactive *cemeteries* within City of Kingston limits, which are defined as follows:

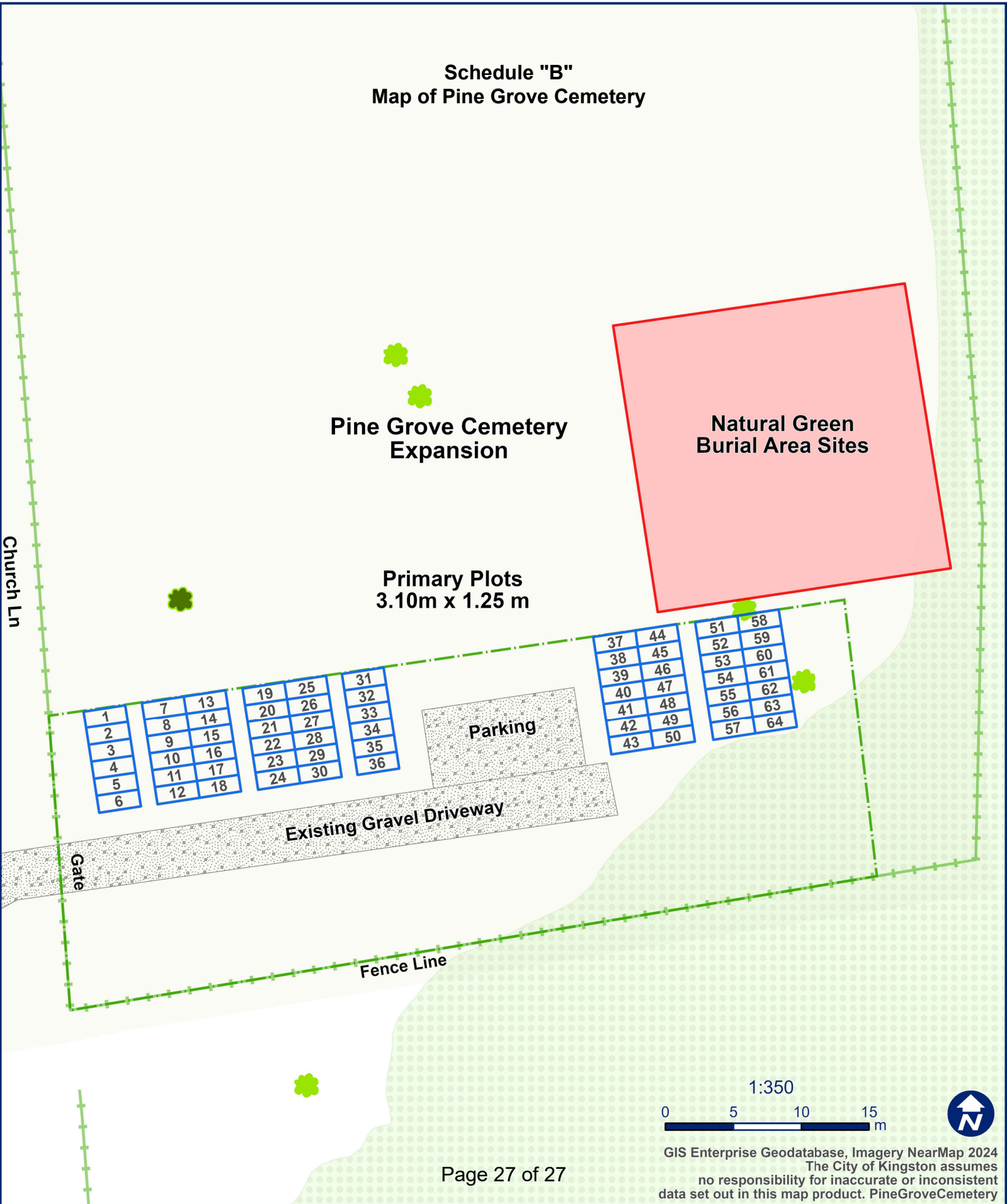
- (1) **Active Cemetery:** *interments rights* are sold, and *interments* continue to take place.
- (2) **Semi-Active Cemetery:** *interment rights* are not sold; however, interments in previously sold *lots* or *plots* may take place.
- (3) **Inactive Cemetery:** *interment rights* are no longer sold, and *interments* no longer take place; however, the *City* is the licenced operator.

The following is an inventory of *cemeteries* operated by the *City*:

| Cemetery Name | Location | Status |
|--|---|---------------|
| Pine Grove Cemetery | Pt Lt 33, Con 8, Pittsburgh as in PTB664; Kingston | Active |
| Milton Cemetery | Pt Lt 3-4, Con 1, Pittsburgh, as in PTG1671, MEM188; Description may not be acceptable in future as in MEM188; Kingston | Inactive |
| Wellborn & Glazeby Burial Mound (BR. Plot) | Pt Lt 9, Con 1 (aka Con Bf) as in FR179875; Pt Crerar Blvd, PI 382 Closed by Order TKW15141 as in TKY17234; S/T FR179875; Kingston Township | Inactive |
| Farm of S. Patterson Cemetery | Pt Lt 21, Con 4 Pt 1, 13R22064; Kingston | Inactive |
| Belle Island Burial Site | | Inactive |
| McBurney Park Cemetery | Blk B PI 1089 Kingston City; Kingston; The County of Frontenac | Inactive |

Pine Grove Cemetery: Natural Green Burial Area

Schedule "B"
Map of Pine Grove Cemetery



1:350

