



Report to Council

Department: Office of the CAO
Division: Legal and Legislative Services
Date: February 3, 2025
Prepared by: Shelley Brown, Deputy Clerk
Report Number: Legal and Legislative Services-2025-01
Subject: Removal of Personal Items in Cemeteries
Number of Pages: 4

Recommendation(s)

That Legal and Legislative Services Report 2025-01 titled Removal of Personal Items in Cemeteries prepared by Shelley Brown, Deputy Clerk dated February 3, 2025 be received, and

That Council adopt Legal and Legislative Services Policy titled Removal of Personal Items in Cemeteries.

Purpose

To establish guidelines for the removal of personal items in cemeteries to ensure compliance with the Town's Cemetery By-Law.

Background and Discussion

The Bereavement Authority of Ontario ("BAO") is a government delegated authority administering the provisions of the Funeral, Burial and Cremation Services Act, 2002. The BAO regulates, ensures compliance with the law, provides resources and services related to funeral establishments, cemetery, crematorium and alternative disposition operators, transfer service

operators and bereavement sector sales representatives across Ontario. Although the BAO governs the operation and ethical business practices of cemetery operators, it does not regulate the day-to-day business transactions. The Town of Essex is licensed by the BAO.

The Town operates and maintains 13 cemeteries. These cemeteries provide an important link to the community's early settlers and are maintained by a contractor. Of the 13 cemeteries, only 3 are active cemeteries in which burials are still performed with 1 of the 3 offering the sale of interment rights.

The Town, as the cemetery operator, is responsible for maintaining the grounds, including all lots, structures and markers to ensure the safety of all visitors, cemetery superintendent and caretaker and Town staff visiting the cemetery.

The duties for maintaining cemetery grounds in the Town has been delegated to a contractor who is referred to as the "Superintendent and Caretaker". These duties are defined in the agreement and generally include the full maintenance and care of the cemetery grounds such as grass mowing, tree trimming, maintenance of sunken graves, disposal of litter and trimming around headstones. The Superintendent and Caretaker is also required to attend on-site meetings with family members to assist in lot selection and all aspects of the interment process. The Town offers interments year-round and in all weather. The interment process can include the excavation of land by hand or backhoe. Interments that require excavation using a backhoe and a dump truck to store the excavated land until after the funeral service is completed. Once the service is over, the caretaker will place the dirt back into the lot using the backhoe.

Currently there are many mementos including solar lights, fencing, toys, glass and plastic vases, wreaths etc. that pose a safety risk to the public, the caretaker and others for whom the Town may be legally responsible. Over time, these items become brittle and break apart posing a projectile safety risk when struck. The Town, operating as a cemetery operator, has a duty to

ensure the safety of all who attend its cemeteries. To ensure this, section 99 to 105 of the Town's Cemetery By-Law includes provisions for the care of lots as follows:

99. No fence, coping, ditching, hedge, iron trellis, post, chain, railing, step, boxing, border, stone or stone chips, shells, toys, wire arches, watering pots, crockery, glassware or other objects, advertisements in any form, a vehicle of any character, glass case, covering, box containing artificial wreath or enclosure of any kind shall be put or placed upon any lot. Grave mounds will not be allowed and shall not be raised above the established grade.
100. The Municipality and/or the Caretaker will not be held liable for any damage to unauthorized articles near the markers.
101. Upon special days such as Easter Sunday, Mother's Day, Victoria Day, Christmas Day, baskets of cut flowers and potted plants will be permitted but must be removed before they become withered, soiled or unsightly. In case of the failure of the owner of any lot to remove such flowers or other unsightly objects, the Caretaker shall have the right to remove it.
102. Artificial wreaths standing not more than eighteen (18) inches around the ground and grave blankets are allowed during the winter season only and must be removed by April 1st. In case of the failure of the owner to remove wreaths or blankets by such date, the Caretaker shall have the right to remove it.
103. No flowers shall be planted on any lot at any time. Only portable containers, which may be moved for maintenance purposes will be permitted with one container per lot. If the owner fails to remove it before they become withered or unsightly, the Caretaker shall have the authority to remove them.
104. Hereafter no trees, shrubbery or plants shall be planted on any lot. Only the Caretaker, acting in the best interest of the cemetery, shall have the authority to prune, remove or transplant any tree, shrub, plant or anything upon any lot when it may be deemed necessary or advisable.
105. No person shall change the grading of a lot, cut any sod or remove any corner post or markers in the cemetery.

Over the years families have placed mementos that are not in compliance with the above provisions and may result in safety risks as many of these items being placed are left for long periods of time causing them to erode and break apart. Without a clear procedure to remove these items, it has been difficult to enforce these provisions.

The intent of the Policy is to ensure compliance with the Cemetery By-Law as well as the safety of visitors and staff.

Financial Impact

There is no financial impact as a result of this report.

Consultations

Joe Malandrucolo, Director, Legal and Legislative Services/Clerk

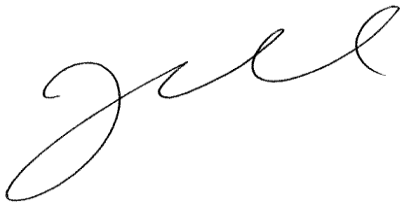
Link to Strategic Priorities

- Embrace asset management best practices to build, maintain, and continuously improve our municipally owned infrastructure.
- Leverage our Town's competitive advantages to promote jobs and economic investment.
- Take care of our natural environment and strengthen the sense of belonging to everyone who makes Essex "home".
- Deliver friendly customer service in an efficient, effective, and transparent manner while providing an exceptional working environment for our employees.
- Build corporate-level and community-level climate resilience through community engagement and partnership and corporate objectives.

Report Approval Details

Document Title:	Removal of Personal Items in Cemeteries - Legal and Legislative Services-2025-01.docx
Attachments:	- Removal of Personal Items in Town-Owned Cemetery.pdf
Final Approval Date:	Jan 10, 2025

This report and all of its attachments were approved and signed as outlined below:



Joseph Malandrucolo, Director, Legal and Legislative Services/Clerk - Jan 10, 2025 - 12:24 PM



Doug Sweet, Chief Administrative Officer - Jan 10, 2025 - 1:15 PM