

THE CORPORATION OF THE
T O W N O F P E L H A M
By-law #352 (1976)

Being a by-law respecting cemeteries owned by
the Corporation of the Town of Pelham.

WHEREAS Section 65, Subsections (b), (c), (d) and (e), of the Cemeteries Act, R.S.O. 1970, Chapter 57 as amended, permit, subject to Sections 5-61 and to the regulations under the Cemeteries Act that the Council of every local municipality may regulate funerals and the interment of the dead; acquire land in the municipality for cemeteries or for the enlargement of existing cemeteries, of which the municipality is the owner; or the selling or leasing parts of such land for the purpose of interment of the dead or otherwise fixing the terms in which the land should be leased and held; and for the maintenance, management, regulation and control of any cemetery that is owned by the Corporation in the municipality;

AND WHEREAS the Corporation of the Town of Pelham is the owner of the Fonthill Cemetery and Hillside Cemetery and the Fonthill Mausoleum;

AND WHEREAS the Corporation of the Town of Pelham is deemed under Section 62 of the Cemeteries Act, R.S.O. 1970, Chapter 57, as amended, to be the owner of Hansler Cemetery;

AND WHEREAS the cemeteries owned by the Corporation of the Town of Pelham have been operating under separate by-laws;

AND WHEREAS Council of the Corporation of the Town of Pelham deems it expedient to enact a by-law for the efficient operation, maintenance, control, regulation and management of the Town owned cemeteries and mausoleum;

NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF
PELHAM ENACTS AS FOLLOWS:

1. REPEAL OF EXISTING CEMETERY BY-LAWS:

(1) That By-law #26 of the former Village of Fonthill, as amended, and By-law #1457 of the former Township of Pelham, as amended, are hereby repealed.

2. MANAGEMENT TRANSFERRED TO STANDING COMMITTEE OF COUNCIL:

(1) That the management and care of said cemeteries and mausoleum is to be placed in the hands of a Committee which shall mean the Standing Committee of Council in which, for the time being is vested jurisdiction over the cemeteries. Such appointment to be made by resolution of Council.

3. DEFINITIONS:

(1) That in this by-law, the following definitions shall apply:

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- (a) "BURIAL" shall mean the burial or interment in the cemetery of the body or remains of a human being.
- (b) "CEMETERY" shall mean Fonthill Cemetery, Hansler Cemetery or Hillside Cemetery and such other cemetery or cemeteries if any that the Corporation shall acquire from time to time.
- (c) "CEMETERY EMPLOYEE" shall mean an employee of the Corporation employed at the Cemetery.
- (d) "CLERK-TREASURER" shall mean the Clerk-Treasurer of the Corporation of the Town of Pelham.
- (e) "COMMITTEE" shall mean the Standing Committee of Council in which for the time being is vested jurisdiction over the cemeteries.
- (f) "CORPORATION" shall mean the Corporation of the Town of Pelham.
- (g) "COUNCIL" shall mean the elected Council of the Corporation of the Town of Pelham.
- (h) "INDENTURE" shall mean the certificate as prescribed in Schedule "A" attached to and forming part of this by-law, which shall be duly signed by the Clerk and sealed by the Corporate Seal and shall include the information as prescribed by the regulations under the Cemeteries Act.
- (i) "HEADSTONE OR MONUMENT" - shall include a stone or other structure such as a column, shaft, or slab, placed at the head of a grave for marking a place of burial and for perpetuating the memory of any deceased person by recording thereon the name or particulars or other information of the deceased buried in the lot.
- (j) "MARKER" shall mean a flat footstone placed flush with the ground.
- (k) "LOT" shall mean a lot according to the Official Plan of the cemetery and shall include part of a lot.
- (l) "OFFICIAL PLAN" shall mean the plan of the cemetery prepared in accordance with the regulations under the Cemeteries Act and as approved by the appropriate Provincial Department or Ministry.
- (m) "OWNER" shall mean and include the purchaser or purchasers of a lot or part lot, his successor-in-title or otherwise the legal holder of an indenture.
- (n) "PERPETUAL CARE" shall mean the preservation, improvement, embellishment and maintenance in perpetuity in a proper manner of lots and plots in a cemetery.
- (o) "PERPETUAL CARE FUNDS" shall mean the funds and property received by the Treasurer of the Corporation for the purpose of providing perpetual care generally of a cemetery, said monies to be invested in trustee securities as set out in Sections 27 and 28 of the Cemeteries Act, R.S.O. 1970.
- (p) "REGULATIONS" shall mean and include the regulations set out in detail in this by-law and any regulations which may be adopted from time to time by Council under the authority of this by-law or any amending by-law and shall also include to mean any other regulations as set out in the regulations under the Cemeteries Act.

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- (q) "RESIDENT" shall mean a resident of the Town of Pelham on the date of death.
- (r) "RATEPAYER" shall mean a person paying taxes to the Town of Pelham in the year of purchase of grave or graves.
- (s) "SUPERINTENDENT" shall mean the Works Superintendent of the Public Works Department of the Corporation of the Town of Pelham.
- (t) "TARIFF" shall mean the tariff of fees and charges set forth in Schedule "B" which is attached to and forms part of this by-law.
- (u) "VAULT" shall mean any concrete, steel or other non-perishable shell.
- (v) "GRAVE OR SINGLE GRAVE" shall mean the minimum area prescribed under the Cemeteries Act for the burial of one human body or the remains of one human being.

4. DUTIES OF THE COMMITTEE:

It shall be the duty of the Committee to make recommendations pursuant to the provisions of the Cemeteries Act and the regulations under the Cemeteries Act on matters relating to:

- (a) the regulating of funerals and the interment of the dead,
- (b) the acquisition of land in the municipality for a cemetery or cemeteries or for the enlargement of the existing cemeteries of which the municipality is the owner,
- (c) the maintenance, management, regulations and control of any cemetery that is owned by the Corporation, and
- (d) to direct the Public Works Department through the Works Superintendent to carry out those duties inherent to the efficient operation, maintenance, control and regulation of cemeteries.

5. DUTIES OF THE CLERK-TREASURER:

The Clerk-Treasurer shall cause to be carried out the duties as prescribed in this by-law or any other amending by-laws and shall cause to be carried out all the requirements of the Cemeteries Act and regulations under this Act.

6. SALE OF LOTS:

(1) The Clerk shall cause to be kept available for inspection by prospective purchasers, a map showing all lots and single graves available for purchase.

(2) Upon payment in full of the purchase price of a lot, the Clerk shall prepare an indenture according to the form set out in Schedule "A" appended hereto and shall after execution thereof record the same in a register kept for that purpose and deliver said indenture to the purchaser.

(3) Single grave lots shall be sold in rotation and no selection thereof shall be permitted.

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(4) All other lots for immediate burial shall be sold in rotation.

7. RIGHTS OF PURCHASERS:

(1) The indenture for a lot or part of a lot shall convey only the right of burial of human remains therein and of erecting a marker, monument, vault or mausoleum and such rights shall be subject to the provisions of the Cemeteries Act and regulations thereunder and of this by-law as amended, from time to time and no purchaser shall acquire any right, title or interest except as aforesaid or pursuant to the said Act or other Acts in that behalf.

8. TRANSFER OF LOTS OR PART OF LOTS:

(1) Upon the transfer of a lot or part of a lot by the owner thereof, the Clerk shall upon payment of a fee of \$2.00 prepare and have executed by the owner or by the authorized personnel representatives of a deceased owner upon satisfactory evidence of their authority, the transfer in duplicate on the form set out in Schedule "A" appended hereto and shall enter the transfer in the register and deliver one copy to the transferree with the other to be maintained by the Corporation.

(2) In the case of a transfer where an owner is deceased, a notarial copy of probate or letters of administration shall, if possible be prepared by the Clerk or a satisfactory statutory declaration with such particulars including the names and addresses of the heirs and the names and addresses of the person authorized to sign the transfer.

(3) Upon receipt by the Clerk of the proper documents, in the case of a transfer, the Clerk shall prepare and issue a new indenture to the lot in the same manner as in the case of a sale of a lot, and the new deed or indenture shall be filed with a duplicate copy of the transfer.

9. REGULATIONS FOR FUNERALS AND INTERMENTS:

(1) No burial other than the body or remains of a human being shall be permitted in any part of the cemetery.

(2) No burial shall be permitted where charges are outstanding. Subject to the provisions of the Cemeteries Act respecting burial of strangers and indigents, no burials shall be allowed in any lot or part lot in respect of which there are any charges including charges for perpetual care outstanding.

(3) There is to be not more than two burials in one grave and notice of this intention shall be made at the time of purchase.

(4) Burials on Saturdays, Sundays & Statutory Holidays - No burials shall be made on Sunday or statutory holidays, except on the written order of the Medical Officer of Health, in which case, the charges shall be as set forth in the schedule of charges appended hereto as Schedule "B". Burials shall be made on any Saturday between the hours of 9:00 a.m. and 12:00 noon local time only.

(5) Time of Burials - No funeral shall be admitted

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to the cemetery and no burial shall be allowed except between the hours of 9:00 a.m. and 4:00 p.m., local time or subject to Section 4 above, 9:00 a.m. and 12:00 noon, local time on Saturdays provided however that a funeral or burial may be allowed at other times by special permission of the Corporation and upon the payment of such additional amounts as is required to be paid to employees, and for equipment of the Corporation to accommodate the funeral.

(6) Notice Prior to Burial - At least 24 hours notice shall be given to the Office of the Clerk during business hours of the date and time desired for a burial and unless such notice is in writing, the Corporation shall not be responsible for any errors.

(7) Oversize Shells and Vaults - Where a shell or vault has a width of more than 2 feet, 10 inches outer measurement, or a length of more than 7 feet, 10 inches, the Corporation shall not be obligated to permit a burial unless there is sufficient space to accommodate said shell or vault and the Corporation shall not be obliged to permit the erection of any monument where there is insufficient room left for the foundation.

(8) Only the Corporation to Supply Cemetery Services - Save as herein otherwise provided, cemetery services available from the Corporation shall not be supplied by any other person for the purpose of this provision.

Cemetery services provided by the Corporation shall include the opening and closing of graves, supply and installation of corner posts for graves, disinterment or removal of remains, construction of foundations for monuments, planting and cutting of grass and the general care of lots.

(9) Order for Burial and Responsibility for Charges - Prior to every burial, there shall be delivered to the Office of the Clerk by the undertaker or some other responsible person a death certificate properly completed and a burial order in the form set forth in Schedule "D" appended hereto and the person giving such order shall be responsible for all charges in connection therewith.

(10) Authority from Lot Owner - Wherever required by the Clerk, a written authority as set forth in Schedule "E" shall be signed by the owner or by one of the co-owners and delivered to the Office of the Clerk before the burial takes place.

(11) Opening of Graves for Burial - No grave or vault shall be opened for a burial or for any other purposes without the attendance of the Works Superintendent or a cemetery employee.

(12) Route of Funeral - Funerals within a cemetery shall follow the route prescribed by the Works Superintendent or cemetery employee.

10. DISINTERMENTS AND REMOVALS:

- (i) All applications for removals or disinterments shall be made at least four weeks prior to the proposed date of removal or disinterment.
- (ii) No disinterment or removal of any remains shall be allowed except under the supervision and direction of the Medical Officer of Health and in the presence of the Works Superintendent or cemetery employee and only upon the due observance of all other requirements of the Cemeteries Act and regulations thereunder.

No removals or disinterments shall be made except under the supervision of the Works Superintendent or his employees who shall have full charge and authority over the same and for all work in connection therewith and the Works Superintendent may require such and order such means and methods to be used in the removal or disinterment as he may deem advisable.

- (iii) Fees for Removal or Disinterment - Shall be as described in Schedule "B".

11. CORNER POSTS, MARKERS, MONUMENTS:

- (i) Corner Posts - No corner posts shall be allowed in the cemetery except for those supplied and placed by the Works Department under the supervision of the Works Superintendent. Upon payment in full of the purchase price of a lot or part lot, the Works Superintendent shall cause to be placed two markers, one at each of the lower inside corners of the plot purchased. Such markers shall be of the dimensions of six inches square with a depth of seven inches and shall have engraved or otherwise placed thereon the initials of the last name of the owner of the lot. Corner posts shall be made out of granite or other materials as specified by the appropriate Committee from time to time.

(ii) Markers & Monuments -

- (a) Owner's Permission - No marker or monument or headstone shall be erected, placed or allowed to remain without the permission of the owner of the lot or grave.

(b) Every marker shall be of a granite or other hard and durable stone or of any sufficiently durable and uncorrosive metal. All markers shall be mounted only on a stone base or footing and such stone base or footing shall be at least 4 inches thick and no concrete shall be used.

- (c) Every marker shall be placed only under the supervision of employees of the Town and the surface shall be levelled and without projections and shall be flush with the ground. Not more than one marker shall be allowed on one grave and no marker shall be placed at the same end of the grave as a monument. Every marker shall be placed on a base of at least six inches in depth of gravel or crushed stone.

(d) There shall be delivered to the Office of the Works Superintendent at least two weeks prior to the date desired for the erection of the monument, an order in writing of a form supplied by the Works Superintendent with the information thereon indicating and including the dimensions of the monument and the order for the foundation.

- (e) Every monument shall be of granite or other durable stone with no vertical joint and no stone, metal or other material shall be attached thereto.

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(f) Size & Location - No monument shall occupy more than 10% of the ground area of the lot on which it is erected and also be centrally located at the head of the lot. Height of the monument including the base shall not be more than four feet above the ground.

(g) Foundations - All monuments are to be placed on a foundation, which shall be constructed by the Works Department and shall be of concrete. A foundation must go to the bottom of the grave or to a depth of four feet, whichever is the greater and shall be flush with the level of the adjoining ground and shall be of a length and width as nearly as practical, equal to the length and width of the base of the monument.

(h) Only One to a Lot - No more than one monument shall be allowed on one lot.

(i) Nature of and Placing of Monuments - No monument may be erected which is defective or cracked. No monument may be erected which is not in material character designed as mentioned or otherwise suitable to the surroundings and the general landscaping and natural effect in its vicinity. No monument may be erected with an inscription placed thereon which is or may be in any way improper, objectionable, destructive or injurious to the cemetery or any part thereof or to any other structure or thing therein or to the purposes and sanctity of the cemetery, as determined by the Works Superintendent. No monument may be erected or maintained which will or may cause the removal or destruction of or injury to any grave, body, tree or other monument. A monument in the nature of a slab or other horizontal form shall be placed and maintained in a flat position level with the ground. Foundations for monuments shall be constructed or placed by the Works Superintendent or cemetery employees or contractor employed by the Works Superintendent and no other person may construct or place same. No monument shall be permitted to be erected on a lot in respect of which the perpetual care charges or any other charges have not been fully paid up. The Works Superintendent shall not be advised to proceed with the construction of a foundation between the first day of November and the first day of April, if he deems it desirable and inexpedient due to climatic or other conditions.

(j) Fees & Charges - In connection with the placing of foundations shall be as set out in Schedule "B".

(12) CARE OF LOTS AND SINGLE GRAVES:

(1) Limits of Planting by Indenture Holders -

All indenture holders may use only the area directly in front of a monument for a distance of 8 inches to plant flowers, etc.

(2) Work to be Done by Works Department -

All grading, planting, removal, trimming and other care shall be carried out only by the Works Department under the supervision of the Works Superintendent and by special permission of the Works Superintendent and in accordance with his directions, a lot owner may plant ornamental trees at the head of a grave next to his monument.

(3) Removal of Wreathes, etc. -

Any wreath or artificial flowers not removed on or before the 1st. day of April shall be removed by the Works Superintendent and destroyed and no such wreathes or artificial flowers shall be allowed

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between the said date and the first day of November following.

(4) Removal of Urns -

Any urns not properly planted on or before the 20th. day of June in a year, shall after notice to the owner if available be removed and put in storage by the Works Superintendent and surrendered to the owner on demand after a reasonable time, but shall not be replaced on the grave.

(5) Stands, Boxes, and Other Methods of Denoting Boundaries Prohibited -

There shall not be placed on any grave any tripod or stands of flowers or any grave blanket or any protective box for a wreath, and any so placed shall be removed by the Works Superintendent. No fence, hedge, railings, coping, embankment, depression, trees, shrubs, bushes, plants or other similar methods of denoting boundaries shall hereafter be erected, placed, made or planted by any owner of a lot or part lot to mark the confines of any lots, graves, single graves. The Works Superintendent may after due notice to the indenture holder cut down and destroy and take away any fence, hedge, railing, coping, embankment, depression, trees, shrubs, bushes, plants or any other similar methods of denoting boundaries hereafter erected and placed, made, planted or maintain to mark the confines of any lot, grave or single grave.

(13) REGULATIONS:

(1) Regulations for Municipal Employees -

(a) During a burial service all employees in the immediate vicinity thereof shall cease all works.

(b) Heavy/loads will not be allowed to enter the cemetery when the roads are in an unfit condition; conditions shall be determined by the Works Superintendent.

(c) Any worker employed by an owner who shall do any damage to any lot, monument, etc. or shall otherwise do any damage in the cemetery, shall be personally responsible for such damages, apart from liability therefore on the part of his employee or the owner.

(d) No person in the employ of the Corporation shall be allowed to accept money or any other form of gratuities for service and favours rendered in reward for any personal service or attention.

(2) Rules for Visitors -

(a) Visiting Hours - No person shall enter or be within the cemetery grounds before 8:00 in the forenoon and after sundown except police constables and employees of the Town in the performance of their duties.

(b) No minor shall be permitted in the cemeteries unless under the supervision of an adult.

(3) Vehicles -

No vehicles shall be driven at a speed of more than 10 mph or elsewhere then upon the roadways provided for vehicles.

(4) Road System - Fonthill Cemetery -

No vehicle shall use a roadway system in the Fonthill Cemetery as means of a thoroughfare from Highland Avenue to Port Robinson Road or vice versa. The gate located at the entrance of the cemetery at Highland Avenue shall be closed and secured with a lock every night at no later than 5:00 p.m. local time.

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(5) Prohibition of Leisure Vehicles Within Cemeteries -

No leisure vehicles such as snowmobiles, motorcycles, minibikes, dune buggies, bicycles or any other vehicle of a leisure nature will be permitted within the cemetery for any reason.

(6) Complaints -

Any person having occasion to make any complaints shall make it at the Office of the Works Superintendent and not through any employee on the grounds, unless it is in the form of a letter in writing addressed to the Committee.

NOTE - For other prohibitions, See Section 61 of the Cemeteries Act, which provides as follows:

Section 61 (1) - No person shall:

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot in a cemetery;
- (b) wilfully destroy, cut, break or injure any tree, shrub, or plant in a cemetery, or wilfully injure, destroy, or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery, except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$4.00 and not more than \$40.00.

(3) No person shall bring any dog, coat or cattle within the limits of a cemetery, and every person so doing is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.00.

(4) Every person who contravenes subsection 1 or subsection 3 is also liable in an action in the name of the owner of the cemetery or of a burial plot upon which the damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act, and when recovered, the damages shall be applied under the direction of the owner of the cemetery, for the reparation and reconstruction of the property destroyed.

(14) PENALTY FOR NON-CONFORMANCE TO BY-LAW:

(1) Any person who violates any provision of this by-law shall upon conviction be liable to a penalty of not more than \$300.00 for each offence exclusive of costs and all such penalties shall be recoverable under the Summary Convictions Act, except as otherwise provided under Section 61 of the Cemeteries Act.

THIS BY-LAW SHALL COME INTO FORCE UPON BEING PASSED BY COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM AND UPON BEING APPROVED BY THE MINISTRY OF CONSUMER & COMMERCIAL RELATIONS.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
2nd. DAY OF February, 1976 A.D.


MAYOR


CLERK

SCHEDULE
"A"

CEMETERY

No. _____

THIS INDENTURE made in duplicate this _____ day of _____, 19____

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM,

Hereinafter called "The Grantor"

OF THE FIRST PART,

- and -

Hereinafter called "The Purchaser"
to include the plural should more
than one name appear above

OF THE SECOND PART

Witnesseth that for the sum of _____
paid to the Grantor of which the sum of _____
is set aside in trust for perpetual care with the Corporation of the Town of Pelham
in accordance with the provisions of the Cemeteries Act, R.S.O. 1970, the Grantor
doth hereby sell to the Purchaser, in _____ Cemetery, Plan _____;
Section _____; Tier or Lot # _____, Grave (s) # _____ said
lot having an area of _____ square feet.

Subject to the provisions of the Cemeteries Act, R.S.O. 1970, and the
Ontario Regulations in effect thereunder and to the Rules and Regulations of the
Grantor which may be in affect from time to time and as approved by the Ministry.

TREASURER, CORPORATION OF THE TOWN OF PELHAM


CLERK

SCHEDULE

" B "

TARIFF OF FEES
FONTHILL & HILLSIDE CEMETERY

1. SALE OF LOTS:

	Land	Perpetual Care	Total
Resident/Ratepayer -			
Adult - Single grave	\$60.00	\$40.00	\$100.00
Childred under Two Years and Stillborn	\$30.00	\$20.00	\$ 50.00
Non-Resident -			
Adult - Single grave	\$90.00	\$60.00	\$150.00
Children under Two Years and Stillborn	\$45.00	\$30.00	\$ 75.00

Multiple graves - Single grave price times the number of graves purchased.

2. INTERMENTS - (Device and dressing not supplied by cemetery)

Outer shells over 40" in length	
Opening & Closings - Weekdays	\$ 65.00
Opening & Closings + Saturday mornings	\$ 85.00
Opening & Closings - Sundays or Holidays	\$110.00
Outer shells up to 40" in length - any time	\$ 50.00
Cremated remains	\$ 25.00
Mausoleum entombment	\$ 65.00

Extra Charges to Above -

1 extra foot	\$ 5.00
2 extra feet	\$ 10.00
3 extra feet	\$ 15.00
4 extra feet	\$ 25.00

3. DISINTERMENT CHARGES -

\$160.00

4. MONUMENT FOUNDATIONS -

\$4.00 per cubic foot

5. TRANSFER FEES -

\$ 2.00

6. OTHER CHARGES -

- (1) Storage of caskets in mausoleum pending burial in other cemeteries - \$ 25.00
- (2) Supply and install two granite corner markers per plot - \$ 15.00
- (3) Place flat marker - \$ 5.00

CLERK

SCHEDULE

KNOW ALL MEN BY THESE PRESENTS, that I,

in consideration of the sum of

(The receipt whereof is hereby acknowledged)

do hereby transfer and assign to

heirs, and assigns, Grave (s) #

TO HOLD for the sole purpose of a burial ground, subject to the Cemeteries Act and regulations, and to the lawful by-laws of the Town of Pelham.

AS WITNESS my hand and seal the _____ day of _____

SIGNED, SEALED AND DELIVERED

- In the Presence of -

CLERK

SCHEDULE
" D "

BURIAL ORDER

CEMETERY

No. _____

NAME _____

BIRTHPLACE _____

ADDRESS _____

AGE _____ SEX _____ SOCIAL STATE _____

DATE OF DEATH _____

BURIAL _____ TIME _____

CAUSE OF DEATH _____

SECTION _____ ROW _____ NO. _____

RELATIVE _____

ADDRESS _____

UNDERTAKER _____ Location _____

DOCTOR _____

CLERGYMAN _____

RELIGION _____

) CARE _____
) LOT _____
) _____
) _____
) GRAVE _____
) BURIAL _____
) REMOVE OR LOWER _____
) VAULT _____
) D. & D. _____
) TENT _____
) _____
) TOTAL \$ _____

CLERK


SCHEDULE

" E "

(See Section 13(10))

OWNER'S ORDER

CEMETERY

I, the undersigned, being the owner of Lot No. _____, Section _____
hereby give permission to _____
for the burial of the body of _____
on _____ in the above lot.

DATED _____, 19

OWNER

REMARKS:

CLERK

<u>Section</u>	
1	Repeal of By-laws #26 and #1457
2	Management Transferred to Standing Committee of Council
3	Definitions
4	Duties of Committee
5	Duties of Clerk-Treasurer
6	Sale of Lots
7	Rights of Purchasers
8	Transfer of Lots or Part Lots
9	Regulations for Funerals & Interments
10	Disinterment and Removal
11	Corner Posts, Markers, Monuments
12	Care of Lots and Single Graves
13	Regulations
14	Penalty for Non-conformance to By-law

<u>Schedules</u>	
A	Indenture
B	Tariffs
C	Transfer Form
D	Burial Order
E	Authority of Lot Owner to Use Grave

I N D E X
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- (b) "CEMETERY" shall mean Fonthill Cemetery, Mansler Cemetery or Hillside Cemetery and such other cemetery or cemeteries if any that the Corporation shall acquire from time to time.
- (c) "CEMETERY EMPLOYEE" shall mean an employee of the Corporation employed at the Cemetery.
- (d) "CLERK-TREASURER" shall mean the Clerk-Treasurer of the Corporation of the Town of Pelham.
- (e) "COMMITTEE" shall mean the Standing Committee of Council in which for the time being is vested jurisdiction over the cemeteries.
- (f) "CORPORATION" shall mean the Corporation of the Town of Pelham.
- (g) "COUNCIL" shall mean the elected Council of the Corporation of the Town of Pelham.
- (h) "INDENTURE" shall mean the certificate as prescribed in Schedule "A" attached to and forming part of this by-law, which shall be duly signed by the Clerk and sealed by the Corporate Seal and shall include the information as prescribed by the regulations under the Cemeteries Act.
- (i) "HEADSTONE OR MONUMENT" - shall include a stone or other structure such as a column, shaft, or slab, placed at the head of a grave for marking a place of burial and for perpetuating the memory of any deceased person by recording thereon the name or particulars or other information of the deceased buried in the lot.
- (j) "MARKER" shall mean a flat footstone placed flush with the ground.
- (k) "LOT" shall mean a lot according to the Official Plan of the cemetery and shall include part of a lot.
- (1) "OFFICIAL PLAN" shall mean the plan of the cemetery prepared in accordance with the regulations under the Cemeteries Act and as approved by the appropriate Provincial Department or Ministry.
- (m) "OWNER" shall mean and include the purchaser or purchasers of a lot or part lot, his successor-in-title or otherwise the legal holder of an indenture.
- (n) "PERPETUAL CARE" shall mean the preservation, improvement, embellishment and maintenance in perpetuity in a proper manner of lots and plots in a cemetery.
- (o) "PERPETUAL CARE FUNDS" shall mean the funds and property received by the Treasurer of the Corporation for the purpose of providing perpetual care generally of a cemetery, said monies to be invested in trustee securities as set out in Sections 27 and 28 of the Cemeteries Act, R.S.O. 1970.
- (p) "REGULATIONS" shall mean and include the regulations set out in detail in this by-law and any regulations which may be adopted from time to time by Council under the authority of this by-law or any amending by-law and shall also include to mean any other regulations as set out in the regulations under the Cemeteries Act.

con't.....

- (q) "RESIDENT" shall mean a resident of the Town of Pelham on the date of death.
- (r) "RATEPAYER" shall mean a person paying taxes to the Town of Pelham in the year of purchase of grave or graves.
- (s) "SUPERINTENDENT" shall mean the Works Superintendent of the Public Works Department of the Corporation of the Town of Pelham.
- (t) "TARIFF" shall mean the tariff of fees and charges set forth in Schedule "E" which is attached to and forms part of this by-law.
- (u) "VAULT" shall mean any concrete, steel or other non-perishable shell.
- (v) "GRAVE OR SINGLE GRAVE" shall mean the minimum area prescribed under the Cemeteries Act for the burial of one human body or the remains of one human being.

4. DUTIES OF THE COMMITTEE:

It shall be the duty of the Committee to make recommendations pursuant to the provisions of the Cemeteries Act and the regulations under the Cemeteries Act on matters relating to:

- (a) the regulating of funerals and the interment of the dead,
- (b) the acquisition of land in the municipality for a cemetery or cemeteries or for the enlargement of the existing cemeteries of which the municipality is the owner,
- (c) the maintenance, management, regulations and control of any cemetery that is owned by the Corporation, and
- (d) ~~to~~ direct the Public Works Department through the Works Superintendent to carry out those duties inherent to the efficient operation, maintenance, control and regulation of cemeteries.

5. DUTIES OF THE CLERK-TREASURER:

The Clerk-Treasurer shall cause to be carried out the duties as prescribed in this by-law or any other amending by-laws and shall cause to be carried out all the requirements of the Cemeteries Act and regulations under this Act.

6. SALE OF LOTS:

- (1) The Clerk shall cause to be kept available for inspection by prospective purchasers, a map showing all lots and single graves available for purchase.

(2) Upon payment in full of the purchase price of a lot, the Clerk shall prepare an indenture according to the form set out in Schedule "A" appended hereto and shall after execution thereof record the same in a register kept for that purpose and deliver said indenture to the purchaser.

- (3) Single grave lots shall be sold in rotation ←
and no selection thereof shall be permitted.

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- (4) All other lots for immediate burial shall be sold in rotation.

7. RIGHTS OF PURCHASERS:

- (1) The indenture for a lot or part of a lot shall convey only the right of burial of human remains therein and of erecting a marker, monument, vault or mausoleum and such rights shall be subject to the provisions of the Cemeteries Act and regulations thereunder and of this by-law as amended, from time to time and no purchaser shall acquire any right, title or interest except as aforesaid or pursuant to the said Act or other Acts in that behalf.

8. TRANSFER OF LOTS OR PART OF LOTS:

- (1) Upon the transfer of a lot or part of a lot by the owner thereof, the Clerk shall upon payment of a fee of \$2.00 prepare and have executed by the owner or by the authorized personnel representatives of a deceased owner upon satisfactory evidence of their authority, the transfer in duplicate on the form set out in Schedule "A" appended hereto and shall enter the transfer in the register and deliver one copy to the transferee with the other to be maintained by the Corporation.
- (2) In the case of a transfer where an owner is deceased, a notarial copy of probate or letters of administration shall, if possible be prepared by the Clerk or a satisfactory statutory declaration with such particulars including the names and addresses of the heirs and the names and addresses of the person authorized to sign the transfer.
- (3) Upon receipt by the Clerk of the proper documents, in the case of a transfer, the Clerk shall prepare and issue a new indenture to the lot in the same manner as in the case of a sale of a lot, and the new deed or indenture shall be filed with a duplicate copy of the transfer.

9. REGULATIONS FOR FUNERALS AND INTERMENTS:

- (1) No burial other than the body or remains of a human being shall be permitted in any part of the cemetery.
- (2) No burial shall be permitted where charges are outstanding. Subject to the provisions of the Cemeteries Act respecting burial of strangers and indigents, no burials shall be allowed in any lot or part lot in respect of which there are any charges including charges for perpetual care outstanding.
- (3) There is to be not more than two burials in one grave and notice of this intention shall be made at the time of purchase.
- (4) Burials on Saturdays, Sundays & Statutory Holidays - No burials shall be made on Sunday or statutory holidays, except on the written order of the Medical Officer of Health, in which case, the charges shall be as set forth in the schedule of charges appended hereto as Schedule "B". Burials shall be made on any Saturday between the hours of 9:00 a.m. and 12:00 noon local time only.

- (5) Time of Burials - No funeral shall be admitted

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to the cemetery and no burial shall be allowed except between the hours of 9:00 a.m. and 4:00 p.m., local time or subject to Section 4 above, 9:00 a.m. and 12:00 noon, local time on Saturdays provided however that a funeral or burial may be allowed at other times by special permission of the Corporation and upon the payment of such additional amounts as is required to be paid to employees, and for equipment of the Corporation to accommodate the funeral.

(6) Notice Prior to Burial - At least 24 hours notice shall be given to the Office of the Clerk during business hours of the date and time desired for a burial and unless such notice is in writing, the Corporation shall not be responsible for any errors.

(7) Oversize Shells and Vaults - Where a shell or vault has a width of more than 2 feet, 10 inches outer measurement, or a length of more than 7 feet, 10 inches, the Corporation shall not be obligated to permit a burial unless there is sufficient space to accommodate said shell or vault and the Corporation shall not be obliged to permit the erection of any monument where there is insufficient room left for the foundation.

(8) Only the Corporation to Supply Cemetery Services - Save as herein otherwise provided, cemetery services available from the Corporation shall not be supplied by any other person for the purpose of this provision.

Cemetery services provided by the Corporation shall include the opening and closing of graves, supply and installation of corner posts for graves, disinterment or removal of remains, construction of foundations for monuments, planting and cutting of grass and the general care of lots.

(9) Order for Burial and Responsibility for Charges - Prior to every burial, there shall be delivered to the Office of the Clerk by the undertaker or some other responsible person a death certificate properly completed and a burial order in the form set forth in Schedule "D" appended hereto and the person giving such order shall be responsible for all charges in connection therewith.

(10) Authority from Lot Owner - Wherever required by the Clerk, a written authority as set forth in Schedule "E" shall be signed by the owner or by one of the co-owners and delivered to the Office of the Clerk before the burial takes place.

(11) Opening of Graves for Burial - No grave or vault shall be opened for a burial or for any other purposes without the attendance of the Works Superintendent or a cemetery employee.

(12) Route of Funeral - Funerals within a cemetery shall follow the route prescribed by the Works Superintendent or cemetery employee.

10. DISINTERMENTS AND REMOVALS:

- (i) All applications for removals or disinterments shall be made at least four weeks prior to the proposed date of removal or disinterment.
- (ii) No disinterment or removal of any remains shall be allowed except under the supervision and direction of the Medical Officer of Health and in the presence of the Works Superintendent or cemetery employee and only upon the due observance of all other requirements of the Cemeteries Act and regulations thereunder.

No removals or disinterments shall be made except under the supervision of the Works Superintendent or his employees who shall have full charge and authority over the same and for all work in connection therewith and the Works Superintendent may require such and order such means and methods to be used in the removal or disinterment as he may deem advisable.

- (iii) Fees for Removal or Disinterment - Shall be as described in Schedule "B".

11. CORNER POSTS, MARKERS, MONUMENTS:

- (i) Corner Posts - No corner posts shall be allowed in the cemetery except for those supplied and placed by the Works Department under the supervision of the Works Superintendent. Upon payment in full of the purchase price of a lot or part lot, the Works Superintendent shall cause to be placed two markers, one at each of the lower inside corners of the plot purchased. Such markers shall be of the dimensions of six inches square with a depth of seven inches and shall have engraved or otherwise placed thereon the initials of the last name of the owner of the lot. Corner posts shall be made out of granite or other materials as specified by the appropriate Committee from time to time.

(ii) Markers & Monuments -

- (a) Owner's Permission - No marker or monument or headstone shall be erected, placed or allowed to remain without the permission of the owner of the lot or grave.
- (b) Every marker shall be of a granite or other hard and durable stone or of any sufficiently durable and ~~non~~^{non}corrosive metal. All markers shall be mounted only on a stone base or footing and such stone base or footing shall be at least 4 inches thick and no concrete shall be used.
- (c) Every marker shall be placed only under the supervision of employees of the Town and the surface shall be levelled and without projections and shall be flush with the ground. Not more than one marker shall be allowed on one grave and no marker shall be placed at the same end of the grave as a monument. Every marker shall be placed on a base of at least six inches in depth of gravel or crushed stone.
- (d) There shall be delivered to the Office of the Works Superintendent at least two weeks prior to the date desired for the erection of the monument, an order in writing of a form supplied by the Works Superintendent with the information thereon indicating and including the dimensions of the monument and the order for the foundation.
- (e) Every monument shall be of granite or other durable stone with no vertical joint and no stone, metal or other material shall be attached thereto.

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(f) Size & Location - No monument shall occupy more than 10% of the ground area of the lot on which it is erected and also ^{shell} be centrally located at the head of the lot. Height of the monument including the base shall not be more than four feet above the ground.

(g) Foundations - All monuments are to be placed on a foundation, which shall be constructed by the Works Department and shall be of concrete. A foundation must go to the bottom of the grave or to a depth of four feet, whichever is the greater and shall be flush with the level of the adjoining ground and shall be of a length and width as nearly as practical, equal to the length and width of the base of the monument.

(h) Only One to a Lot - No more than one monument shall be allowed on one lot.

(i) Nature of and Placing of Monuments - No monument may be erected which is defective or cracked. No monument may be erected which is not in material character designed as mentioned or otherwise suitable to the surroundings and the general landscaping and natural effect in its vicinity. No monument may be erected with an inscription placed thereon which is or may be in any way improper, objectionable, destructive or injurious to the cemetery or any part thereof or to any other structure or thing therein or to the purposes and sanctity of the cemetery, as determined by the Works Superintendent. No monument may be erected or maintained which will or may cause the removal or destruction of or injury to any grave, body, tree or other monument. A monument in the nature of a slab or other horizontal form shall be placed and maintained in a flat position level with the ground. Foundations for monuments shall be constructed or placed by the Works Superintendent or cemetery employees or contractor employed by the Works Superintendent and no other person may construct or place same. No monument shall be permitted to be erected on a lot in respect of which the perpetual care charges or any other charges have not been fully paid up. The Works Superintendent shall not be advised to proceed with the construction of a foundation between the first day of November and the first day of April, if he deems it ^{un-}desirable and inexpedient due to climatic or other conditions.

(j) Fees & Charges - In connection with the placing of foundations shall be as set out in Schedule "B".

(12) CARE OF LOTS AND SINGLE GRAVES:

(1) Limits of Planting by Indenture Holders -

All indenture holders may use only the area directly in front of a monument for a distance of 8 inches to plant flowers, etc.

(2) Work to be Done by Works Department -

All grading, planting, removal, trimming and other care shall be carried out only by the Works Department under the supervision of the Works Superintendent and by special permission of the Works Superintendent and in accordance with his directions, a lot owner may plant ornamental trees at the head of a grave next to his monument.

(3) Removal of Wreathes, etc. -

Any wreath or artificial flowers not removed on or before the 1st. day of April shall be removed by the Works Superintendent and destroyed and no such wreathes or artificial flowers shall be allowed

between the said date and the first day of November following.

(4) Removal of Urns -

Any urns not properly planted on or before the 20th. day of June in a year, shall after notice to the owner if available be removed and put in storage by the Works Superintendent and surrendered to the owner on demand after a reasonable time, but shall not be replaced on the grave.

(5) Stands, Boxes, and Other Methods of Denoting Boundaries Prohibited -

There shall not be placed on any grave any tripod or stands of flowers or any grave blanket or any protective box for a wreath, and any so placed shall be removed by the Works Superintendent. No fence, hedge, railings, coping, embankment, depression, trees, shrubs, bushes, plants or other similar methods of denoting boundaries shall hereafter be erected, placed, made or planted by any owner of a lot or part lot to mark the confines of any lots, graves, single graves. The Works Superintendent may after due notice to the indenture holder cut down and destroy and take away any fence, hedge, railing, coping, embankment, depression, trees, shrubs, bushes, plants or any other similar methods of denoting boundaries hereafter erected and placed, made, planted or maintain to mark the confines of any lot, grave or single grave.

(13) REGULATIONS:

(1) Regulations for Municipal Employees -

(a) During a burial service all employees in the immediate vicinity thereof shall cease all works.

(b) Heavy loads will not be allowed to enter the cemetery when the roads are in an unfit condition; conditions shall be determined by the Works Superintendent.

(c) Any worker employed by an owner who shall do any damage to any lot, monument, etc. or shall otherwise do any damage in the cemetery, shall be personally responsible for such damages, apart from liability therefore on the part of his employee or the owner.

(d) No person in the employ of the Corporation shall be allowed to accept money or any other form of gratuities for service and favours rendered in reward for any personal service or attention.

(2) Rules for Visitors -

(a) Visiting Hours - No person shall enter or be within the cemetery grounds before 8:00 in the forenoon and after sundown except police constables and employees of the Town in the performance of their duties.

(b) No minor shall be permitted in the cemeteries unless under the supervision of an adult.

(3) Vehicles -

No vehicles shall be driven at a speed of more than 10 mph or elsewhere then upon the roadways provided for vehicles.

(4) Road System - Fonhill Cemetery -

No vehicle shall use a roadway system in the Fonhill Cemetery as means of a thoroughfare from Highland Avenue to Port Robinson Road or vice versa. The gate located at the entrance of the cemetery at Highland Avenue shall be closed and secured with a lock every night at no later than 5:00 p.m. local time.

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(5) Prohibition of Leisure Vehicles Within Cemeteries -

No leisure vehicles such as snowmobiles, motorcycles, minibikes, dune buggies, bicycles or any other vehicle of a leisure nature will be permitted within the cemetery for any reason.

(6) Complaints -

Any person having occasion to make any complaint shall make it at the Office of the Works Superintendent and not through any employee on the grounds, unless it is in the form of a letter in writing addressed to the Committee.

NOTE - For other prohibitions, See Section 61 of the Cemeteries Act, which provides as follows:

Section 61 (1) - No person shall:

- (a) wilfully destroy, mutilate, deface, injure or remove any tomb, monument, gravestone or other structure placed in a cemetery, or any fence, railing or other work for the protection or ornament of a cemetery, or of any such tomb, monument, gravestone or other structure or of any lot in a cemetery;
- (b) wilfully destroy, cut, break or injure any tree, shrub, or plant in a cemetery, or wilfully injure, destroy, or deface any building or structure or any road, walk or other works in a cemetery;
- (c) play at any game or sport in a cemetery;
- (d) discharge firearms in a cemetery, except at a military funeral;
- (e) wilfully and unlawfully disturb persons assembled for the purpose of burying a body in a cemetery; or
- (f) commit a nuisance in a cemetery.

(2) Every person who contravenes any of the provisions of subsection 1 is guilty of an offence and on summary conviction is liable to a fine of not less than \$4.00 and not more than \$40.00.

(3) No person shall bring any dog, goat or cattle within the limits of a cemetery, and every person so doing is guilty of an offence and on summary conviction is liable to a fine of not more than \$20.00.

(4) Every person who contravenes subsection 1 or subsection 3 is also liable in an action in the name of the owner of the cemetery or of a burial plot upon which the damage is done or other unlawful act committed to pay all damages occasioned by his unlawful act, and when recovered, the damages shall be applied under the direction of the owner of the cemetery for the reparation and reconstruction of the property destroyed.

(14) PENALTY FOR NON-CONFORMANCE TO BY-LAW:

(1) Any person who violates any provision of this by-law shall upon conviction be liable to a penalty of not more than \$300.00 for each offence exclusive of costs and all such penalties shall be recoverable under the Summary Convictions Act, except as otherwise provided under Section 61 of the Cemeteries Act.

THIS BY-LAW SHALL COME INTO FORCE UPON BEING PASSED BY COUNCIL OF THE CORPORATION OF THE TOWN OF PELHAM AND UPON BEING APPROVED BY THE MINISTRY OF CONSUMER & COMMERCIAL RELATIONS.

READ A FIRST, SECOND AND THIRD TIME
AND FINALLY PASSED BY COUNCIL THIS
2nd. DAY OF February 1976 A.D.

MAYOR

CERTIFIED A TRUE COPY

CLERK

SCHEDULE
"A"

CEMETERY

No. _____

THIS INDENTURE made in duplicate this _____ day of _____, 19____,

BETWEEN:

THE CORPORATION OF THE TOWN OF PELHAM,

Hereinafter called "The Grantor"

OF THE FIRST PART,

- and -

Hereinafter called "The Purchaser"
to include the plural should more
than one name appear above

OF THE SECOND PART

Witnesseth that for the sum of _____
paid to the Grantor of which the sum of _____
is set aside in trust for perpetual care with the Corporation of the Town of Pelham
in accordance with the provisions of the Cemeteries Act, R.S.O. 1970, the Grantor
doth hereby sell to the Purchaser, in _____ Cemetery, Plan _____;
Section _____; Tier or Lot # _____, Grave (s) # _____ said
lot having an area of _____ square feet.

Subject to the provisions of the Cemeteries Act, R.S.O. 1970, and the
Ontario Regulations in effect thereunder and to the Rules and Regulations of the
Grantor which may be in affect from time to time and as approved by the Ministry.

TREASURER, CORPORATION OF THE TOWN OF PELHAM



MINISTRY OF CONSUMER
& COMMERCIAL RELATIONS
CLERK

APPROVED

MINISTER

Date March 12, 1976

App. No. 76-A-C-51-9-2

76-A-C-51-5-1

SCHEDULE

" B "

TARIFF OF FEES FONTHILL & HILLSIDE CEMETERY

1. SALE OF LOTS:

Resident/Ratepayer -	Land	Perpetual Care	Total
Adult - Single grave	\$60.00	\$40.00	\$100.00
Childred under Two Years and Stillborn	\$30.00	\$20.00	\$ 50.00
Non-Resident -			
Adult - Single grave	\$90.00	\$60.00	\$150.00
Children under Two Years and Stillborn	\$45.00	\$30.00	\$ 75.00

Multiple graves - Single grave price times the number of graves purchased.

2. INTERMENTS - (Device and dressing not supplied by cemetery)

Outer shells over 40" in length	
Opening & Closings - Weekdays	\$ 65.00
Opening & Closings - Saturday mornings	\$ 85.00
Opening & Closings - Sundays or Holidays	\$110.00
Outer shells up to 40" in length - any time	\$ 50.00
Cremated remains	\$ 25.00
Mausoleum entombment	\$ 65.00

Extra Charges to Above -

1 extra foot	\$ 5.00
2 extra feet	\$ 10.00
3 extra feet	\$ 15.00
4 extra feet	\$ 25.00

3. DISINTERMENT CHARGES -

\$160.00

4. MONUMENT FOUNDATIONS -

\$4.00 per cubic foot

5. TRANSFER FEES -

\$ 2.00

6. OTHER CHARGES -

- (1) Storage of caskets in mausoleum pending burial in other cemeteries - \$ 25.00
- (2) Supply and install two granite corner markers per plot - \$ 15.00
- (3) Place flat marker - \$ 5.00

SCHEDULE
"C"
(See Section 11)
TRANSFER OF CEMETERY LOT
OR SINGLE GRAVE

KNOW ALL MEN BY THESE PRESENTS, that I,

in consideration of the sum of _____
paid by _____
of the Town of _____
(The receipt whereof is hereby acknowledged)
do hereby transfer and assign to _____

heirs, and assigns, Grave (s) # _____, Lot # _____ in Section # _____
in the _____ Cemetery, in the Town of Pelham
aforesaid, having an area of approximately _____ square feet.

TO HOLD for the sole purpose of a burial ground, subject to the Cemeteries Act
and regulations, and to the lawful by-laws of the Town of Pelham.

AS WITNESS my hand and seal the _____ day of _____, 19 _____

SIGNED, SEALED AND DELIVERED

- In the Presence of -

)
)
)
)
)
)
)
)
)
)

CLERK

SCHEDULE
" D "

BURIAL ORDER

_____ CEMETERY

No. _____

NAME _____

BIRTHPLACE _____

ADDRESS _____

AGE _____ SEX _____ SOCIAL STATE _____

DATE OF DEATH _____

BURIAL _____ TIME _____

CAUSE OF DEATH _____

SECTION _____ ROW _____ NO. _____

RELATIVE _____

ADDRESS _____

UNDERTAKER _____ Location _____

DOCTOR _____

CLERGYMAN _____

RELIGION _____

) CARE _____

) LOT _____

) _____

) _____

) GRAVE _____

) BURIAL _____

) REMOVE OR LOWER _____

) VAULT _____

) D. & D. _____

) TENT _____

) _____

) TOTAL \$ _____

SCHEDULE
"E"

(See Section 13(10))

OWNER'S ORDER

_____ CEMETERY

I, the undersigned, being the owner of Lot No. _____, Section _____
hereby give permission to _____
for the burial of the body of _____
on _____ in the above lot.

DATED _____, 19

_____ OWNER

REMARKS:



Ministry of
Consumer and
Commercial
Relations
Ontario

Approval of Municipal By-Law

It is hereby certified that the Ministry of Consumer & Commercial Relations pursuant to the provisions of section 65 (1) (e) of The Cemeteries Act, R.S.O. 1970 c. 57, has approved of by-law No. 352 (1976) of the municipal corporation of ... the Town. of. 2nd. Pelham enacted by the council of the said municipal corporation on the day of February 19 76, being a by-law respecting cemeteries owned by the Corporation of the Town of Pelham.



DATED AT TORONTO, THIS 12th DAY OF March 19 .. 76 .




Deputy Minister