

**ADMINISTRATIVE ORDER 2016-007-OP
RESPECTING THE ACQUISITION OF CEMETERIES**

BE IT ENACTED by the Council of the Halifax Regional Municipality, under the authority of the *Halifax Regional Municipality Charter*, 2008 S.N.S. c. 39, as amended, as follows:

Short Title

1. This Administrative Order may be cited as the *Acquisition of Cemeteries Administrative Order*.

Purpose

2. The purpose of this Administrative Order is to set out the process by which the Municipality will consider acquiring a cemetery.

Interpretation

3. In this Administrative Order,

(a) “applicant” means an organization applying for consideration under this Administrative Order;

(b) “cemetery” means a cemetery as defined in the *Cemeteries and Monuments Protection Act*, 1998 S.N.S., c.9, as amended;

(c) “care fund” means a care fund pursuant to the *Cemeteries and Funeral Services Act*, SNS 1989, c. 62, as amended;

(d) “Council” means the Council of the Municipality;

(e) “Municipality” means the Halifax Regional Municipality;

(f) “organization” means a person owning, controlling or managing a cemetery, and includes an individual, an association of individuals, a partnership or a corporation, or an employee or agent thereof;

(g) “owner” includes

(i) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,

(ii) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building, and

(iii) in the absence of proof to the contrary, the person assessed for the property;

(h) “pre-arranged funeral plan” means a pre-arranged funeral plan pursuant to the *Cemeteries and Funeral Services Act*;

(i) “pre-need cemetery plan” means a pre-arranged cemetery plan pursuant to *the Cemeteries and Funeral Services Act*;

(j) “Registrar” means the Registrar of Cemetery and Funeral Services; and

(k) “street” means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith.

Eligibility Requirements

4. To be eligible for consideration under this Administrative Order, an applicant must:

(a) be an organization that is the owner of the property that contains the cemetery;

(b) agree to convey its ownership interest to the Municipality for one (\$1.00) dollar, including, if the cemetery does not front on a street, conveying any easements or rights of way to the Municipality that may be required to access the cemetery;

(c) be in compliance with all applicable federal, provincial and municipal enactments at the time of request;

(d) agree to transfer to the Municipality the perpetual care fund, including:

(i) making any amendments to the trust agreement required to allow such transfer, and

(ii) receiving the approval of the Registrar for the Municipality to be the trustee;

(e) agree to transfer any funds for pre-arranged funeral plans and any pre-need cemetery plan for interments to the Municipality; and

(f) comply with sections 5 and 6 of this Administrative Order.

Application Requirements

5. (1) An application must contain:

(a) a written request setting out the organization is abandoning the cemetery;

(b) confirmation the organization is in compliance with any and all applicable federal, provincial and municipal enactments regulations at the time of request;

(c) a list of the organization’s rules, regulations and by-laws pertaining to the cemetery;

(d) audited financial statements for the past seven (7) years pertaining to the cemetery, including the perpetual care fund accounts;

(e) information respecting any pre-arranged funeral plans and any pre-need cemetery plans;

- (f) a survey of the cemetery prepared by a Nova Scotia Land Surveyor;
- (g) a copy of any subdivision plan that organization may have for the cemetery;
- (h) a cemetery plan which must include:
 - (i) the names, address, and type of plot purchased, such as a cremation plot or casket,
 - (ii) for each plot, the names of the deceased, the location in the plot where the deceased is interred, the date of burial and the type of burial, such as whether the deceased was cremated or buried in a casket;
 - (iii) the number and location of all plots available for burials; and
- (i) copies of any agreements the cemetery may have with third parties, such as landscape companies.

Submitting an Application

6. (1) Applications may be submitted to the Municipality from time to time.
- (2) Applications must be submitted to the Office of the Municipal Clerk.

Incomplete Applications

7. Applications are not complete if, in the opinion of the Chief Administrative Officer or delegate, an:
 - (a) applicant is not eligible pursuant to section 4 of this Administrative Order; or
 - (b) applicant has not complied with section 5 of this Administrative Order.

Duties of Applicant

8. An applicant who has submitted a complete application shall
 - (a) allow the cemetery to be inspected by the Municipality, at any time and without notice, prior to conveyance of it;
 - (b) ensure that all surveyor stakes are visible in the cemetery; and
 - (c) execute an agreement indemnifying and holding harmless the Municipality from liability for any actions, claims or proceedings, arising while the operator operated the cemetery.

Duties of Municipality

9. Upon receiving a complete application, the Municipality may:
 - (a) review the application;
 - (b) undertake an inspection to assess the current state of repair of the cemetery;

(c) notify the business unit of the Municipality responsible for the insurance of the Municipality; and

(d) prepare a report for Council's consideration respecting those cemeteries that filed completed applications in accordance with this Administrative Order.

10. Council may consider the report prepared pursuant to clause 9(d).

Conditions of Acceptance

11. If Council decides to accept a cemetery, such acceptance shall be conditional on:

- (a) funds being available in the approved budget;
- (b) the Municipality being satisfied that the cemetery is in good repair; and
- (c) the applicant complying with sections 4, 5 and 6 of this Administrative Order.

By-law Amendments

12. If Council decides to accept a cemetery, staff shall draft amendments to add the accepted cemetery to the *Cemeteries By-law* and forward such draft amendments to Council for its consideration.

Done and passed in Council this 4th day of October, 2016.

Mayor

Acting Municipal Clerk

I Sherryll Murphy, Acting Municipal Clerk of the Halifax Regional Municipality, hereby certify that the above noted administrative order was passed at a meeting of the Halifax Regional Council held on October 4, 2016.

Sherryll Murphy, Acting Municipal Clerk

Notice of Motion:

September 20, 2016

Approval:

October 4, 2016