



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FLORAL HILLS MEMORIAL GARDENS ADMINISTRATION ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to May 6, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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FLORAL HILLS MEMORIAL GARDENS ADMINISTRATION ACT

CHAPTER F-13.02

WHEREAS Floral Hills Memorial Gardens is a cemetery located in Pleasant Valley, Queens County, in the Province of Prince Edward Island;

AND WHEREAS Floral Hills Memorial Gardens is owned by Atlantic Cemetery Holdings Inc., a private, share capital company incorporated in the Province of Newfoundland and Labrador;

AND WHEREAS Atlantic Cemetery Holdings Inc., is no longer active and has abandoned Floral Hills Memorial Gardens;

AND WHEREAS many residents of Prince Edward Island have purchased burial plots at Floral Hills Memorial Gardens for their future use;

AND WHEREAS it is desirable to provide for the continuing administration, management and operation of Floral Hills Memorial Gardens to permit the dignified interment of those persons who have purchased burial plots at the cemetery and to allow for the future use of Floral Hills Memorial Gardens as a cemetery:

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. In this Act

- (a) “**affiliate**” means, in respect of the operator or a former operator,
 - (i) an “**affiliate**” within the meaning of the *Canada Business Corporations Act* (Canada), or
 - (ii) a person who controls the operator or a former operator or who is controlled by the operator or a former operator;
- (b) “**burial plot**” means a space in a cemetery used or intended to be used for the interment of human remains and includes a niche or compartment in a columbarium;
- (c) “**care fund**” means any trust fund established under section 14 of the *Cemeteries Act* R.S.P.E.I. 1988, Cap. C-2 for the care and maintenance of the cemetery;
- (d) “**cemetery**” means the land that is commonly known as Floral Hills Memorial Gardens that is located in Pleasant Valley, Prince Edward Island and known as Parcel Number 290452, as described in the Schedule hereto, and includes any buildings that are incidental or ancillary to that land;
- (e) “**cemetery goods**” means the goods supplied or to be supplied at the cemetery in conjunction with the burial of human remains including grave liners, vaults, urns, memorials and other supplies incidental to the identification or embellishment of a burial plot;
- (f) “**cemetery services**” means the services performed or to be performed at the cemetery relative to the installation or provision of cemetery goods, including opening and closing of burial plots and installation of memorials;
- (g) “**Director**” means the Director of Corporations appointed under the *Companies Act* R.S.P.E.I. 1988, Cap. C-14;

- (h) “**former operator**” means a person who owned, controlled or managed the cemetery before the operator took ownership and possession of the cemetery, and includes an individual, an association of individuals, a partnership or a corporation;
- (i) “**human remains**” includes cremated human remains;
- (j) “**interment rights**” means rights to use a burial plot for the purpose of the interment of human remains;
- (k) “**memorial**” means a memorial, marker, monument, headstone, footstone, tombstone, plaque, tablet or plate marking a grave and includes an inscription of lettering or ornamentation, or both, on or on the front of a space within a building or structure for the permanent placement of human remains;
- (l) “**Minister**” means the Minister of Justice and Public Safety and Attorney General;
- (m) “**operator**” means, in respect of the cemetery, Atlantic Cemetery Holdings Inc., a company incorporated under the laws of Newfoundland and Labrador;
- (n) “**pre-need cemetery plan**” means an agreement under which, in consideration of payment in advance by a lump sum or by instalments, the operator or its affiliate or a former operator or its affiliate contracted to provide cemetery goods or cemetery services or both at the cemetery when required for one or more individuals alive at the time the agreement was entered into. *2006,c.6,s.1; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

2. Powers of Director

The Director may take any steps the Director considers necessary or advisable to take control over and administer the affairs of the operator or its affiliates in relation to the cemetery and, without limiting the generality of the foregoing may

- (a) take control over and administer, assign or dispose of any fund relating to a pre-need cemetery plan or a care fund;
- (b) access and expend any money that the operator or its affiliates would be entitled to spend pursuant to the *Cemeteries Act*;
- (c) allocate or specify the use of any income earned on a care fund;
- (d) take control and management of the cemetery, including the sale of burial plots and the sale and provision of at-need or pre-need cemetery goods and cemetery services;
- (e) take control and management of any assets or personal property of the operator or its affiliates used in the operation of the cemetery, and assign and dispose of those assets or property;
- (f) take control and management of any memorials or other cemetery goods of the operator or its affiliates held to fulfil a pre-need cemetery plan, and assign and dispose of those goods;
- (g) make efforts to find another person to operate the cemetery; and
- (h) make an operational arrangement for the on-going care and maintenance of the cemetery, including arranging for the sale of burial plots and for the sale and provision of at-need or pre-need cemetery goods and cemetery services. *2006,c.6,s.2.*

3. Administrator

The Minister may appoint an administrator to perform any of the duties and functions of the Director set out in section 2. *2006,c.6,s.3.*

4. Trust companies and other institutions holding funds

A trust company or any other person that is in possession of moneys set aside in relation to a pre-need cemetery plan or a care fund shall, on the request of the Director, or the administrator, as the case may be, pay to the Director or the administrator or to any other person on the direction of the Director or the administrator, all or part of the moneys in the pre-need cemetery plan or care fund as is specified in the request. *2006,c.6,s.4.*

5. Vesting

- (1) On the coming into force of this section, the cemetery is vested in the Government, free and clear of all judgments, executions, mortgages, charges, liens or other encumbrances attached to the property, but subject to any existing easements or rights of way over the property.

Burial plots

- (2) For greater certainty, subsection (1) does not extinguish interment rights in the cemetery.

Alienation of cemetery

- (3) The cemetery may be granted, sold, leased, or otherwise disposed of by the Government under the authority of the Lieutenant Governor in Council.

Compensation

- (4) No person is entitled to compensation as a result of the cemetery vesting in the Government under subsection (1). *2006,c.6,s.5; 2022,c.62,s.28.*

6. No action

No action or other proceeding for damages lies or shall be instituted against the Minister, the Director, an administrator appointed by the Minister, or any person acting under their instructions or under the authority of this Act for any act or omission of that person that occurs while that person is carrying out duties or exercising powers in good faith under this Act. *2006,c.6,s.6.*

7. Transfer of debts and liabilities

For greater certainty, nothing in this Act shall be construed to transfer any of the debts or liabilities of the operator or its affiliates or any former operator or its affiliates to the Government, the Minister, the Director, an administrator appointed by the Minister, or any person acting under their instructions or under the authority of this Act. *2006,c.6,s.7; 2022,c.62,s.28.*

SCHEDULE

ALL that parcel of land situate, lying and being on Lot 21 in Queens County, in Prince Edward Island;

ON the North side of the Malpeque Road or Highway to Summerside;

BOUNDED on the North and West by lands now or formerly in the possession of John Weeks;

ON the East by lands now or formerly in the possession of James Murray; and

ON the South by said Main Road.

CONTAINING 25 acres of land a little more or less,

as described in a deed from the Maritimes Cemetery Company, Limited to Atlantic Cemetery Holdings Inc., dated January 31, 2000 and registered on February 15, 2000 in the Office of the Registrar of Deeds.

(2006,c.6)