

THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 05 0 - 2018

A BY-LAW WITH RESPECT TO THE MAINTENANCE, MANAGEMENT, REGULATION AND CONTROL OF ORANGEVILLE GREENWOOD CEMETERY

WHEREAS the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.3, provides that by-laws may be passed by the owner affecting the operations of the cemetery;

AND WHEREAS The Corporation of the Town of Orangeville is the owner and operator of Greenwood Cemetery;

AND WHEREAS the Council of The Corporation of the Town of Orangeville deems it expedient to repeal and replace By-law No. 95-95.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF ORANGEVILLE ENACTS AS FOLLOWS:

1. **DEFINITIONS**

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"Act" means the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) and the regulations thereunder.

"Bereavement Authority of Ontario (BAO)" means the agency who administers provisions of the Funeral, Burial and Cremation Act, 2002 (FBCSA) on behalf of the Ministry of Government and Consumer Services.

"Care and Maintenance Fund" it is a requirement under the FBCSA and O. Reg. 30/11 and 184/12 that a prescribed amount or a percentage of the purchase price (excluding tax) of all interment and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. If no scattering rights are sold but scattering is permitted a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.

"Cemetery" means Orangeville Greenwood Cemetery located on Lot 1, Concession 1, Township of Amaranth, County of Dufferin, being land set aside to be used for the interment of human remains and includes a columbarium or other similar such structure.

"Cemetery Operator or Operator" means The Corporation of the Town of Orangeville (the Town).

"Cemetery Services" means in respect of a lot:

- (i) Opening and closing of a grave;
- (ii) Interring or disinterring human remains;
- (iii) Construction of a foundation for a monument, marker;
- (iv) Setting of corner posts; and
- (v) Cemetery care and maintenance

"Cemetery Staff" means personnel assigned by the Town to carry out cemetery services.

"Cemetery Supplies" means interment vaults, markers, flowers, liners, urns, shrubs, artificial wreaths and other articles intended to be placed in the Cemetery.

"Columbarium" means a structure designed for the interment of cremated human remains in sealed compartments.

"Cremation Section" means a location within the cemetery designated for the interment of cremated human remains and referred to as the urn garden or cremation plot.

"General Manager" means the person appointed by the Cemetery Operator to be in charge of the Cemetery or their appointed designate.

"Grave" means any inground burial space intended for the interment of a child, adult or cremated human remains.

"Human Remains" means a dead human body and includes a cremated human body.

"Inter" means the burial of human remains or cremated human remains in a grave or niche.

"Interment Rights or Rights" includes the right to require or direct the interment of human remains or cremated human remains in a grave, lot or niche and to authorize the installation of a monument or marker.

"Interment Rights Certificate" The document issued by the cemetery operator to the purchaser once the interments rights to a specific lot have been paid in full, identifying ownership and authority over those specific interment rights.

"Interment Rights Holder" means a person(s) authorized or entitled to inter human remains. They may be the person named in the Interment Rights Certificate or such other person to whom the rights have been assigned.

"Lot" means a single grave space.

"**Marker/Cornerstone**" means any permanent memorial structure, that is set flush and level with the ground, and used to mark the location of a burial plot or lot

"Minister" means the Minister of Consumer and Commercial Relations.

"Monument" means any permanent memorial structure, monument, tombstone, plaque, headstone or other structure above the ground installed within the designated space to mark the location of a burial or lot.

"Niche" – An individual compartment in a columbarium for the entombment of cremated human remains.

"Plot" means two or more lots in which the rights to inter have been sold as a unit.

"**Pre-Need Supplies or Services**" means cemetery supplies or services that are not required to be provided until the death of a person alive at the time the arrangements are made.

"Price List" means the tariff of charges for the Corporation of the Town of Orangeville Cemeteries Section.

"Registrar" means the registrar appointed under the Act.

"Town" means The Corporation of the Town of Orangeville.

"Trust Fund" means a Trust Fund established for the purpose of this Act.

2. SALE OF LOTS

- (A) Interment rights (lots) may only be sold by The Corporation of the Town of Orangeville. When interment rights are purchased, a contract shall be completed and signed by the purchaser or a personal representative of the deceased. See Schedule "B", attached to this By-law.
- (B) Interment rights holders acquire only the right and privilege of burial of the deceased and of constructing monuments or markers, subject to the rules and regulations in force and approved by the BAO.
- (C) Payments for interment rights or cemetery supplies or services shall be made at the office of the Treasurer of the Town.
- (D) The Town shall provide each rights (lot) owner at the time of sale with:
 - (i) Copy of the contract;
 - (ii) Copy of the Cemetery By-law(s);
 - (iii) Upon payment in full, a Certificate of Interment Rights; and
 - (iv) Copy of the Consumer Information Guide.
- (E) The purchase price for lots and niches shall be set forth in the Tariff of Charges as prescribed by the Town.
- (F) A person may cancel their Contract for interment rights within thirty (30) days of purchase only if:
 - (i) The interment right has not been exercised; and
 - (ii) All the requirements of the *Act* and this By-law are otherwise in compliance.

A person who wishes to cancel their Contract for interment rights shall:

- (i) Give written notice within the 30 days of purchase to the Town stating they wish to cancel their contract; and
- (ii) Return to the Town the original Certificate of Interment Rights as issued by the Town.

Upon receipt of all the documentation required in this By-law, the Town shall cancel the interment rights of the Rights Holder in accordance with the Act and this By-law and refund the full amount paid within 30 days of the written notice.

If it is past the 30 days, the Rights Holder can resell to a third party, as prescribed in Section 4.

- (G) Lots purchased in advance on an installment plan shall:
 - (i) Require a non-refundable down payment of 25% to be deposited in the Care and Maintenance Fund;
 - (ii) Be secured through monthly post-dated cheques; and
 - (iii) Be fully paid within 6 months and before interment.

No Certificate of Interment Rights will be issued, and no Cemetery Services will be provided until all costs associated with the Lot purchase have been paid in full.

- (H) An Interment Rights Holder shall not transfer ownership of a lot or any interest therein without first advising the Town in writing of intentions to do so and submitting the appropriate transfer fee and relinquishing the original Interment Rights Certificate to the Town. Transfer Fee shall also be subject to making the necessary adjustments in the care and maintenance fund. All such transactions are to be registered with the Town.
- (I) In the case of transfer of ownership by will or bequest of a lot, the Town reserves the right to require the production of a copy of the will or other evidence to prove ownership.
- (J) In the case of transfer of ownership the cost of new corner markers will be borne by the new owner.

3. CREMATION COLUMBARIUM

- (A) The cremated remains of not more than two persons will be interred in any one niche.
- (B) The niche plate engraving shall be the responsibility of the Internment Rights Holder.
- (C) Photograph cases will not be allowed to be attached to the niche.
- (D) The Cemetery Staff reserves the right to remove deteriorated or excessive quantities of flowers from the niche or surrounding area.
- (E) The inside dimensions of the niche are $11 \frac{1}{2}$ " x $11 \frac{1}{2}$ " x $13 \frac{1}{2}$ ".
- (F) The interment charge shall be as shown on the tariff of charges.
- (G) Placement of single vases shall be permitted on the niche. No additional ornaments or fastenings may be placed on the niche and only human remains are permitted in the niche.

4. **RESALE OF LOTS**

(A) If an individual wishes to sell his/her unexercised Interment Rights, he/she may do so on the open market but may not charge more than the current fee listed in the Town's Tariff of Charges. Any resale of interment rights shall be in accordance with the requirements of the Cemetery By-law and in keeping with the Act. All resales of interment or scattering rights must be carried out through the Cemetery Operator.

To complete the sale, the Town requires the following:

- (i) A Resale Form must be completed to the satisfaction of the Town;
- (ii) The original Certificate of Interment Rights must be provided to the Town; and
- (iii) The applicable fee must be paid.

Upon completion, a copy of this By-law and a Certificate of Interment Rights will be issued to the new Interment Rights Holder.

(B) The purchase of Interment Rights for the sole purpose of reselling same with a view to making a profit or financial gain is prohibited.

- (C) An Interment Rights Holder intending to sell his or her Interment Rights shall provide the following documents to the Town so that the Town can confirm the ownership of the rights and provide the third party purchaser with the required certificate:
 - (i) The original Certificate of Interment Rights endorsed by the Town;
 - (ii) Any other documentation in the Interment Rights Holder's possession relating to the Interment Rights.
 - (iii) A Resale Form signed by the Interment Rights Holder(s) selling the Interment Rights and acknowledging the sale of the Interment Rights to the purchaser;
 - (iv) Confirmation that the person selling the Interment Rights is the person registered in the Cemetery Records and that they have the right to re-sell the Interment Rights;
 - (v) Notification of the date of the resale of the Interment Rights to the purchaser; and
 - (vi) The name and address of the purchaser.
- (D) The purchaser will be provided with the following documents by the Town:
 - (i) An Interment Rights Certificate endorsed by the Mayor and Clerk;
 - (ii) A copy of this By-law; and
 - (iii) A copy of the Cemetery's current price list.
- (E) Upon completion of the above listed procedures, and upon the issuance of the new Interment Rights Certificate, the purchaser shall be considered the current Interment Rights Holder and the Resale of the Interment Rights shall be considered final.
- (F) The Town charges an administration fee for the issuance of a duplicate Certificate in accordance with the price listed in the Town's Tariff of Charges.

5. **INTERMENTS**

- (A) No interment shall be made without the written permission of the rights holder or his/her authorized representative.
- (B) No interment shall take place without a burial permit, or certificate of cremation, nor until the person making the arrangements for the interment has complied with all laws, rules and regulations relative to burials.
- (C) No burial shall be allowed in any lot against which there are unpaid charges.
- (D) No grave or niche shall be opened or closed by any person other than a Town employee.
- (E) Double-depth interments are not permitted.
- (F) In each case of interment, a written statement giving the name, late residence, age, place of birth, place of death, date of death, sex, name of deceased's nearest relative or friend, date of interment, description of where interred and the name of the funeral director shall be provided so that an accurate register may be kept.

- (G) The Town shall not be responsible for any error occurring for want of precise and proper instructions regarding the location of any burials, nor where such instructions are not given in writing, any such erroneous instructions shall be the responsibility of the person or persons giving the same.
- (H) Notice of each interment to be made shall be given to the cemetery staff, 48 hours previous thereto, except under special circumstances.
- (I) No interment shall be made on a Sunday or Statutory holiday except by an order of the Medical Officer of Health.
- (J) Only one interment in any one grave shall be permitted, except in special circumstances where the operator has approved the burial of four urns (cremated remains) above the interment.
- (K) Orders from funeral directors shall be construed as orders from Interment Rights Holder.
- (L) The Cemetery Operator shall not be responsible for providing pallbearer services.
- (M) The setting up and removal of artificial grass, lowering devices, and other interment accessories at a grave site are the responsibility of the funeral director.
- (N) All funeral flowers and containers are to be removed from the grave site within seven days or if unsightly before the seven days, the same will be removed by the cemetery staff.
- (O) The interment fee includes the opening and closing of the grave, administration/registration of the burial and earth cover.
- (P) Winter interment shall mean all interments between the 15th of November in any year and the 15th of April of the following year, weather conditions permitting, and pending location and safe access to the grave site.
- (Q) The scale of fees for grave openings shall be set in the Tariff of Charges as prescribed by the Town from time to time.
- (R) All interment charges are payable in advance or at the time of the interment. Alternative payment plans may be considered and these shall be arranged and approved through the Cemetery Operator.
- (S) Pets or animals, including cremated animal remains, are not allowed to be buried or scattered on the cemetery grounds.
- (T) The scattering of cremated remains on top of the ground within the limits of the Cemetery are strictly prohibited.
- (U) Burials may take place after the 15th of November of a given year until the General Manager, Infrastructure Services or designate is of the opinion that weather conditions and manpower do not allow for a safe, appropriate and dignified interment in the normal manner.
- (V) Niche burials may occur Monday to Saturday 9 a.m. to 3 p.m. year round except Sunday and statutory holidays or if emergency situations, such as weather or staff availability warrants the General Manager, Infrastructure Services or designate to deny burial on a particular date.

6. **DISINTERMENTS**

- (A) Disinterment of a body once properly interred shall not be made without the written consent of the local Medical Officer of Health and the owner of the lot, or a court order, and upon due observance of all requirements of the *Act*, and the regulations thereunder.
- (B) A person requesting to disinter human remains shall arrange with the Town for such disinterment no less than three (3) weeks prior to the intended date of disinterment.
- (C) Any markers or monuments designating the location of an interment shall be removed at the time a disinterment is made.
- (D) The charges for disinterment shall be two times the normal interment fee, payable in advance.
- (E) A member of Town staff shall be on site during all disinterments.

7. LOT DECORATION

- (A) Lot decorations shall be deemed to include all structures, ornaments, plantings or other embellishments, with the exception of monuments and markers or mausoleums, which are placed on Cemetery Lots with the intention of improving their appearance. Because certain types of individual lot decorations are not in harmony with the development of the Cemetery as a whole or because they may intensify maintenance problems, the following rules shall be observed with regard to the decoration of Cemetery Lots.
- (B) Copings, fences, curbs, benches, steps, structures of wood, candles and containers of glass, or other perishable and destructible materials are prohibited and shall be removed without notice. Those structures or enclosures established on any lot previous to the adoption of these regulations, which have become unsightly by reason of neglect or age, shall be removed without notice.
- (C) Floral tributes shall be removed from lots by the cemetery staff as soon as they become unsightly.
- (D) Urns, hanging baskets or any other decorations or objects deemed unsuitable or unsightly are not permitted and shall be removed.
- (E) No person shall do any work on a burial plot without the permission of the cemetery staff.
- (F) Flower beds are permitted only on lots that have an upright monument, with the flower beds not exceeding 18" in width by the length of the upright marker base. Planting of borders around lots is prohibited. It is the responsibility of the plot owner to provide adequate maintenance.
- (G) Annual flowers only may be planted in the cemetery. Flower beds are required to be cleared after the first frost in the autumn.
- (H) In order to preserve the natural appearance of the grounds and safety within the cemetery, artificial flowers, wreaths, saddle type flower arrangements or any form of artificial decorations are prohibited on graves from April 1st to October 31st of each year. If these decorations are not removed by April 1st, they shall be considered abandoned and will be disposed of by cemetery staff.
- (I) Rubbish shall not be thrown on roads, walks or any part of the cemetery grounds.
- (J) No Interment Rights Holder shall change the grading of a lot, and in case of any such change, the Town may restore the lot to its original grade at the expense of the Interment Rights Holder.
- (K) No unauthorized person shall sod or move corner posts or grave markers.

- (L) The Town shall not be responsible for any damage to lots and structures or objects thereon, or for flowers or articles removed from any lot or grave.
- (M) Ornamental dwarf evergreen shrubs are permitted only on lots larger than six (6) feet in width and having a monument. One shrub shall be permitted on either side of the monument. Shrubs will not be permitted to exceed the height of the monument. Lot owners must provide adequate maintenance.

Failure of the lot owner to provide adequate maintenance in that any trees or shrubs situated on any lot have become, by means of their roots or branches, or in any way detrimental to the adjacent lots, drains, roads or walks or prejudicial to the general appearance of the grounds or inconvenience to the public, the General Manager, Infrastructure Services or his designate may remove such trees or shrubs or parts thereof, after 30 days notice to the interment rights holder.

8. MARKERS AND MONUMENTS (GENERAL)

- (A) All markers and monuments of any kind erected in the cemetery shall be constructed of granite and/or bronze.
- (B) Structures of any other kind are prohibited.
- (C) No marker, monument or other structure shall be erected or permitted on a lot until any accrued charges have been paid in full.
- (D) Persons engaged in placing monuments shall provide planking adequate to protect the turf and shall remove materials and equipment immediately upon completion of the work.
- (E) The site following the placing of a marker or monument shall be left in a clean and orderly condition to the satisfaction of the cemetery staff.
- (F) No monument shall be erected or removed without the knowledge and supervision of cemetery staff. No monument work shall be delivered to the cemetery until the foundation is completed and the contractor is ready to proceed with the work of erection.
- (G) The dimensions and particulars of a marker and/or foundations shall be submitted in writing to the Town prior to the placing of the marker or foundation within the cemetery.

9. MARKERS

- (A) Markers and cornerstones shall be dressed on the upper surface and level with the ground and to be placed by the cemetery staff.
- (B) Sizes of Flush Markers Permitted:
 - (i) Single Grave 18" x 30" maximum;
 - (ii) Double Grave 18" x 48" maximum;
 - (iii) Child Grave 18" x 30" maximum;
 - (iv) Infant Grave 12" x 20" maximum; and
 - (v) Urn Garden/Cremation Lot 12" x 20" maximum.
- (C) All granite markers shall be of a uniform thickness of not less than 4" plus or minus ½" and must be set so that the top is flush with the level of the ground.
- (D) All granite foot stones shall be of a uniform thickness of not less than 4" plus or minus ½" and must be set so that the top is flush with the level of the ground.

10. MONUMENTS

- (A) Monuments shall be free from visible defects with respect to endurance and no tablet, monument or other structure composed in whole or in part of wood or iron shall be erected.
- (B) Not more than one upright monument shall be erected on any one lot and this must be placed at the centre of the head end of a plot except where alignment with existing nearby monuments justifies another location approved by the General Manager, Infrastructure Services.
- (C) All bases of monuments must be level on the bottom and the stonework next to the foundation shall have the surface squared, so as to allow full bearing upon the foundation and no building up or under pinning with spalls or chips will be allowed. The base shall have a rock edge and be eight (8) inches high.
- (D) Foundations of monuments shall extend not less than five (5) feet below the surface of the ground; shall be level on the top and constructed of concrete by the Town and paid for by the company erecting the monument. Foundations must be as large in area as the base of the monument, but the Town reserves the right to require a larger foundation, if deemed necessary.
- (E) The dimensions and particulars of the required foundations for a monument shall be submitted in writing to the Town prior to the placing of the foundation so it may be properly constructed.
- (F) The Town reserves the right to limit the maximum size of monuments as follows and the base size must not exceed:

Single Grave -2' - 6" in length maximum;

Two Graves -4' - 0" in length maximum;

Three Graves -6' - 0" in length maximum; and

Four Graves -8' - 0" in length maximum.

- (G) Any monument or any inscription thereon shall be in keeping with the dignity and decorum of the cemetery.
- (H) Inscriptions on monuments shall be allowed only on the burial side of the monument.
- (I) No monument shall be erected or removed without the knowledge and supervision of cemetery staff. No monumental work shall be delivered to the cemetery until the foundation work is completed and the contractor is ready to proceed with the work of erection.
- (J) Die thickness shall be a minimum of six (6) inches up to the total monument height of three (3) feet. Over three (3) feet will be one (1) inch per every foot, to a maximum die thickness of ten (10) inches.

- (K) The deposit to the care and maintenance fund payable when a marker is installed in the cemetery shall be as specified in the regulations made under the *Act*:
 - (i) Installing a flat marker measuring less than 173 square inches (1116.3 square centimetres) \$0.00;
 - (ii) Installing a flat marker measuring at least 173 square inches (1116.3 square centimetres) \$50.00;
 - (iii) Installing an upright marker measuring four feet (1.22 metres) or less in height and four feet in length (1.22 metres) including the base \$100.00; and
 - (iv) Installing an upright marker measuring more than four feet (1.22 metres) in either height or length including the base \$200.00.
- (L) The Town has the right to move monuments or markers to facilitate grave openings.
- (M) The Town shall only be responsible for damage to monuments and markers caused by cemetery staff.

11. CONDUCT WITHIN THE CEMETERY

- (A) No person shall enter the cemetery except through an established gate, nor shall they enter or be within the cemetery grounds before one half hour after sunrise and one half hour before sunset, except police officers or authorized personnel of the Town.
- (B) No person or persons under sixteen years of age shall enter the cemetery unless attended by an adult or adults responsible for their conduct or unless permission has been granted by the Town.
- (C) No picnic party or alcoholic beverage shall be permitted in the cemetery.
- (D) No person shall willfully destroy, mutilate, deface, write upon, injure or remove any tomb, monument, gravestone or any structure placed within the cemetery, or any fence, railing or other work for the protection of the cemetery, nor shall any person willfully destroy, cut, break or injure any tree, shrub or plant within the limits of the cemetery, or play at any game of sport, or discharge firearms (save at a military funeral) nor willfully or unlawfully disturb any person or persons assembled for the purpose of burying any body therein; nor shall any person commit any nuisance or behave in an unseemly manner in the cemetery; nor shall any person in any way violate, desecrate or disfigure such cemetery, or any grave, tomb, tombstone, vault or other structure within the same, and no person shall pick or destroy flowers (wild or cultivated) growing in the cemetery.
- (E) All work personnel in any capacity within the cemetery whether as contractors, masons, stonecutters, erectors, helpers, vault truck operators, etc. are subject to the direction and control of the General Manager, Infrastructure Services. Any work personnel who causes damage or injury within the cemetery shall be personally responsible for such damage or injury; and in addition, thereto, his employer shall be liable therefore.
- (F) Prior to the start of any work within the cemetery, all work personnel/contractors are responsible for reporting to the cemetery office and to provide the necessary approvals before commencing work at any location on the cemetery property. Contractors must provide proof of the following, but not limited to WSIB coverage, Occupational Health and Safety compliance standards, Environmental Protection, WHMIS, liability insurance.
- (G) Contractors, masons, stone cutters, erectors, vault truck operators, etc. shall lay planks on the lots and paths over which heavy materials are to be moved in order

to protect the surface from injury and damage. All work sites shall be left in a clean and orderly condition to the complete satisfaction of the General Manager, Infrastructure Services or his designate. Damaged areas shall be restored to original or better condition.

- (H) When the roads in the cemetery are soft from spring thaws, rain or other cause, the General Manager, Infrastructure Services or cemetery staff may restrict vehicular traffic.
- **(I)** No parades other than funeral processions shall be admitted to or organized within the cemetery.
- (J) No vehicle shall exceed a speed of 10 miles per hour (16 kph) nor shall any vehicle leave the roadways within the cemetery.
- (K) Any inquiries or complaints by lot owners or visitors shall be made to the Municipal Offices and not to the work personnel.
- Any person disturbing the quiet and good order of the cemetery by noise or other (L) improper conduct or who violates any provision of these policies and procedures may be expelled from the cemetery and/or subject to charges administered by the local Police Services.

12. **TARIFF OF CHARGES**

- (A) Subject to the Act and the regulations stated therein, the Council of The Corporation of the Town of Orangeville shall adopt a tariff of charges to regulate the fees and charges to be paid by persons purchasing interment rights in the said cemetery or requiring service to be performed therein.
- **(B)** The Tariff of Charges may be amended by the Council of The Corporation of the Town of Orangeville as it deems fit from time to time.
- (C) The Tariff of Charges for interment rights, cemetery supplies and services shall be as shown on Schedule "A", attached to this By-law.

13. PENALTY

(A) Where a specific penalty is not provided for an offence under the Act, every person who contravenes any provision of this by-law is guilty of an offence and is liable, upon conviction, to a fine not exceeding five thousand dollars (\$5,000.00) exclusive of costs, for each offence, recoverable under the Provincial Offences Act.

OTHER 14.

- (A) This by-law shall come into force and effect upon being filed and approved by the Registrar appointed pursuant to the Act.
- **(B)** That By-law 95-95 and all other by-laws or parts of by-laws inconsistent with this by-law are hereby repealed.

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS OT DAY OF <u>December</u>, 2018.

Sandy Brown, Mayor	BAOD BEREAVEMENT AUTHORITY OF ON SasahOr L'AUTORITÉ DES SERVICES FUNÉRAIRES ET CIMETIÈRES DE L'ONTARIO	Patrix, Clerk
	APPROVED APPROUVÉ In accordance with the Funeral, Burial and Cremation Services Act, In accordance with the Funeral, Burial and Cremation Services Act,	
	2002 de crémation Date of Approval/ NOV 22, 2018 Date de l'approbation 3265537	Page 11
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