

## By-laws as approved & filed effective January 4, 2016

These by-laws are the rules and regulations that govern Blue Cemetery and Dilke Cemetery and have been approved by the Registrar of Cemeteries, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Cemeteries Regulations Unit, Ministry of Consumer Services.

### A. DEFINITIONS

**Burial:** The opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.

**By-laws:** The rules and regulations under which the Cemetery (and/or Crematorium) operates.

**Care and Maintenance Fund:** It is a requirement under the FBCSA that a percentage of the purchase price of all Interment Rights, and set amounts for marker and monument installations is contributed into the Care and Maintenance Fund. Interest earned from this fund is used to provide care and maintenance of plots, lots, markers and monuments at the Cemetery.

**Contract:** For purposes of these by-laws, all purchasers of interment rights must sign a contract with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-laws.

**Corner Posts:** Shall mean any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.

**Crypt:** An individual compartment in a mausoleum for the entombment of human remains.

**Grave:** (Also known as Lot) means any inground burial space intended for the interment of a child, adult or cremated human remains.

**Interment Right:** The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and direct the associated memorialization.

**Interment Rights Certificate:** The document issued by the Cemetery to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.

**Interment Rights Holder:** Any person designated to hold the right to inter human remains in a specified lot.

**Lot:** For the purposes of these By-Laws a lot is a single grave space.

**Marker:** Shall mean any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot.

**Monument:** Any permanent memorial projecting 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:** For the purposes of these by-laws, a plot is a parcel of land, sold as a single unit, containing multiple lots.

**Scattering:** Shall mean the act of spreading of cremated remains over a designated area within a cemetery with the knowledge and permission of the cemetery operator and in keeping with the cemetery's by-laws.

**Scattering Rights Holder:** Any person designated to hold the right to scatter cremated human remains in a specified lot or other designated area within the cemetery.

## **B. GENERAL INFORMATION**

### **Hours of Operation:**

Visitation Hours: Daily during daylight hours

Office Hours: 8:00 am to 4:30 p.m.

Burial Hours: 8:00 am to 3:00 p.m.

### **General Conduct:**

The cemetery reserves full control over the cemetery operations and management of land within the cemetery grounds.

No person may damage, destroy, remove or deface any property within the Cemetery.

All visitors should conduct themselves in a quiet manner that shall not disturb any service being held.

### **By Law Amendments:**

The cemetery shall be governed by these bylaws, and all procedures will comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, which may be amended periodically.

All by-law amendments must be:

- a) published once in a newspaper with general circulation in the locality in which the cemetery is located;
- b) conspicuously posted on a sign at the entrance of the cemetery; and
- c) delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or by-law amendment pertains to markers or their installation.

All by-laws and by-law amendments are subject to the approval of the Registrar, Cemeteries and Crematoriums Regulation Unit, Ministry of Government and Consumer Services.

### **Liability:**

The cemetery operator will not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to, any lot, plot, columbarium niche, mausoleum crypt, monument, marker, or other article that has been placed in relation to an interment or scattering right save and except for direct loss or damage caused by gross negligence of the cemetery.

**Public Register:**

Provincial legislation – Section 110 of Ontario Regulation 30/11 requires all cemeteries and crematoriums to maintain a public register that is available to the public during regular office hours.

**Pets or Other Animals:**

Pets or other lower animals, including cremated animal remains, are not allowed to be buried on cemetery grounds.

**Right to Re-Survey:**

The Cemetery has the right at any time to re-survey, enlarge, diminish, re-plot, change or remove plantings, grade, close pathways or roads, alter in shape or size, or otherwise change all or any part of the cemetery, subject to approval of the appropriate authorities.

**Notice of Resale and Transfer of Interment or Scattering Rights:**

The cemetery operator permits the interment or scattering rights holder to sell or transfer their interment rights or scattering rights to a third party, at no more than the current price listed on the cemetery price list, as long as the sale or transfer is conducted through the cemetery operator and the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws.

**C. CANCELLATION OR REALE OF INTERMENT RIGHTS**

Purchasers of interment or scattering rights holders acquire only the right to direct the burial of human remains and the scattering of cremated human remains, and the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws. In accordance with cemetery by-laws, no burial, entombment, scattering, or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. An interment rights certificate will be issued to the interment rights holder(s) when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or real property. An interment rights holder wishing to resell their interment rights may advise the cemetery operator of their intention prior to seeking a third party buyer for their interment rights

**Cancellation of Interment Rights within 30 Day Cooling-Off Period:**

- A purchaser has the right to cancel an interment or scattering rights contract within thirty (30) days of signing the interment or scattering rights contract, by providing written notice of the cancellation to the cemetery operator. The cemetery operator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

**Cancellation of Interment or Scattering Rights after the 30 Day Cooling-Off Period:**

- Upon receiving written notice from the purchaser of the interment or scattering rights, the cemetery operator will cancel the contract and issue a refund to the purchaser for the amount paid for the interment or scattering rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund. This refund will be made

within thirty (30) days of receiving said notice. If the interment rights certificate has been issued to the interment rights holder(s), the certificate must be returned to the cemetery operator along with the written notice of cancellation.

- If any portion of the interment or scattering rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment or scattering rights.

#### **Resale of Interment or Scattering Rights after 30 Day Cooling-Off Period:**

- Unless the interment or scattering rights have been exercised the purchaser retains the right to cancel the contract or re-sell the interment or scattering rights. Once payment for the interment or scattering rights has been made in full, and an interment rights certificate has been issued, the interment or scattering rights holder(s), as recorded on the cemetery records, has the right to re-sell the interment rights. Any resale of the interment right shall be in accordance with the requirements of the cemetery by-laws and in keeping with the FBCSA.
- If any portion of the interment or scattering rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to re-sell the interment or scattering rights.

#### **Care and Maintenance Fund Contributions:**

- As required by sections 166 and 168 of Regulation 30/11, a percentage of the purchase price of all interment rights, scattering rights and a prescribed amount of \$25.00 where there was no scattering rights sold, and a prescribed amount for monuments and markers is contributed into the care and maintenance fund. Income from this fund is used to provide only general care and maintenance of the cemetery. Contributions to the care and maintenance fund are not refundable except when interment or scattering rights are cancelled within the 30 day cooling off period.

#### **Permit resale of interment or scattering rights to a third party:**

##### **Requirements for resale of interment rights or scattering rights**

- The interment or scattering rights holder(s) intending to sell their rights shall provide the following documents to the cemetery operator so that the operator can confirm the ownership of the rights and provide the third party purchaser with a the required certificate etc.:
  1. an interment or scattering rights certificate endorsed by the current rights holder
  2. if the resale involves interment rights, a written statement of the number of lots that have been used in the plot and the number of lots that remain available
  3. if the resale involves scattering rights, a written statement of the number of scatterings rights
  4. any other documentation in the interment or scattering rights holder(s) possession relating to the rights
- The third party purchaser will be provided with the following documents by the cemetery operator :
  1. an interment or scattering rights certificate endorsed by the current rights holder

2. a copy of the cemetery's current by-laws
  3. a copy of the cemetery's current price list
  4. if the resale involves interment rights, a written statement of the number of lots that have been used in the plot and the number of lots that remain available
  5. if the resale involves scattering rights, a written statement of the number of scattering rights available
  6. any other documentation in the interment rights holder(s) possession relating to the rights
- The cemetery operator will require:
    1. require a statement signed by the rights Holder(s) selling the interment or scattering rights acknowledging the sale of the interment rights to the third party purchaser
    2. require confirmation that the person selling the interment or scattering rights is the person registered on the cemetery records and that they have the right to re-sell the Interment or scattering rights
    3. record the date of transfer of the interment or scattering rights to the third party;
    4. the name and address of the third party purchaser(s)
    5. a statement of any money owing to the Cemetery Operator in respect to the Interment or Scattering Rights.
  - Once the endorsed certificate and all required information has been received by the cemetery operator from the rights holder(s), the cemetery operator will issue a new interment or scattering rights certificate to the third party purchaser.
  - Upon completion of the above listed procedures, and upon the issuance of the new interment or scattering rights certificate, the third party purchaser or transferee(s) shall be considered the current interment or scattering rights holder(s) of the interment or scattering rights, and the resale or transfer of the interment or scattering rights shall be considered final in accordance with the cemetery by-laws and the FBCSA.
  - The cemetery operator may charge an administration fee for the issuance of a duplicate certificate in accordance with the price listed on the cemetery operator's current price list.
  - The cemetery operator does not prohibit the resale of an interment or scattering rights and may repurchase the interment or scattering rights from the rights holder(s) if the cemetery operator so desires and may negotiate a purchase price so long as the seller acknowledges being aware of the cemetery operators current price list amounts for interment and scattering rights.

**Requirements if rights holder(s) cannot be determined.**

- In addition to the application for either interment or placement of a monument, payment of applicable fees, the applicant shall also provide an affidavit that covers the following:
  - a) The applicant is the legal interment rights holder(s)
  - b) The list of other heir(s), to the original rights holder(s),
  - c) The fact that all other applicable heirs(s) agree to the interment or placement.
 When all procedures have been complied with and subject to the applicable rules and conditions of the cemetery, permission for interment or placement of the approved

monument may be given. Unless the rights holder(s) can be determined, permission for interment or placement of a monument will not be granted. (The next of kin is established as set out in The Table of Intestate Succession to be found in the Succession Law Reform Act).

#### **D. BURIAL OR SCATTERING OF CREMATED REMAINS**

- Interment or scattering rights holder(s) must provide written authorization prior to a burial, scattering, or an entombment taking place. Should the interment or scattering rights holder be deceased, authorization must be provided in writing by the person authorized to act on behalf of the interment rights holder i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province must be provided to the cemetery office prior to a burial, scattering or entombment taking place. A Certificate of Cremation must be submitted to the cemetery office prior to the burial of cremated remains or scattering of cremated remains taking place.
- In accordance with the FBCSA the purchaser of interment or scattering rights must enter into a cemetery contract, providing such information as may be required by the cemetery operator for the completion of the contract and the public register prior to each burial or entombment of human remains, or each scattering of cremated human remains.
- Payment must be made to the cemetery before a burial can place.
- The cemetery shall be given 24 business hours of notice for each burial of human remains or scattering of cremated human remains.
- The opening and closing of graves, crypts and niches or the scattering of cremated remains may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- Cremated remains may be scattered within a designated area of the cemetery.
- Cremated remains are not permitted to be scattered on a grave.
- A scattering rights contract must be completed and the payment of the scattering fee must be received before the scattering of cremated human remains can take place.
- Once scattered cremated remains cannot be retrieved.
- Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the cemetery operator and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received at the cemetery office before the removal of casketed human remains may take place. A certificate from the local medical officer of health is not required for the removal of cremated remains.

- In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder and/or next of kin(s).
- A maximum of one casket and upto a maximum of four cremated remains will be permitted on a single lot.
- The head of the casket shall be placed at the west end of the lot facing east.
- Interments on Saturday, Sunday and Statutory Holidays: will be allowed, however any applicable surcharge will apply.
- Winter burials under normal circumstances winter burials will not be permitted. The start of the restriction on winter burials is at the sole discretion of the cemetery and the dates of starting and ending the restriction may vary from winter to winter depending on snow cover and frost conditions.
- Cremated remains shall have a minimum of 2 feet or .61 metres of cover.

#### **E. BYLAWS PERTAINING TO MEMORIALIZATION**

- No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the cemetery operator.
- Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
- The cemetery operator will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- The cemetery operator reserves the right to determine the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments.
- All foundations for monuments and markers shall be built by, or contracted to be built for, the cemetery operator at the expense of the interment rights holder.
- Should any monument or marker present a risk to public safety because it has become unstable, the cemetery operator shall do whatever it deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- The cemetery operator reserves the right to remove at its sole discretion any marker, monument, or inscription which is not in keeping with the dignity and decorum of the cemetery as determined by the trustees.

- A monument, private mausoleum, or other structure shall be erected only after the specific design plans have been approved by the cemetery operator including: dimensions, material of structure, construction details, and proposed location.
- In keeping with the cemetery by-laws only one monument shall be erected within the designated space on any lot.
- The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
- All monuments and markers shall be constructed of bronze or natural stone (i.e. granite).
- No monument shall be delivered to the cemetery for installation until the monument foundation has been completed, and the interment rights holder(s) and/or marker retailer have been notified by the cemetery operator.
- Markers and footstones of bronze or granite are permitted with size and quantity restrictions according to cemetery by-laws and the placement of such memorials shall not interfere with future interments.
  - Single lot maximum: 1.2 metres
  - Double lot maximum: 2.4 metres and centered between the lots
  - Cremation lot maximum: 1.2 metres

#### **F. BYLAWS PERTAINING TO CARE AND PLANTING**

A portion of the price of interment or scattering rights is trusted into the Care and Maintenance Fund. The income generated from this fund is used to maintain, secure and preserve the cemetery grounds. Services that can be provided through this fund include:

- Re-leveling and sodding or seeding of Lots or scattering grounds
- Maintenance of cemetery roads, sewers and water systems
- Maintenance of perimeter walls and fences
- Maintenance of cemetery landscaping
- Maintenance of mausoleum and columbarium
- Repairs and general upkeep of cemetery maintenance buildings and equipment
- No person other than cemetery staff shall remove any sod or in any other way change the surface of the burial lot in the cemetery.
- No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the cemetery.
- Flowers placed on a grave for a funeral shall be removed by the cemetery staff after a reasonable time to protect the sod and maintain the tidy appearance of the cemetery.

#### **G. BYLAWS OUTLING ITEMS THAT ARE PROHIBITED AND PERMITTED**

The cemetery reserves the right to regulate the articles placed on lots or plots that pose a threat to the safety of all interment rights holders, visitors to the cemetery and cemetery employees, prevents the cemetery from performing general cemetery operations, or are not in keeping with the respect and dignity of the cemetery. Prohibited articles will be removed and disposed of without notification.

- The cemetery reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.
- Memorial wreaths may be placed in the cemetery only between the 1<sup>st</sup> of November and the 30<sup>th</sup> of April. In order to prepare the grounds for spring, wreaths must be removed prior to May 1st. Wreaths not removed by May 1st will be removed and disposed of by the Cemetery without notification.
- The following are articles prohibited from being placed on lots within the cemetery: articles made of hazardous materials such as non-heat resistant glass (excludes glass attached to monuments), ceramics, or corrosive metals; loose stones or sharp objects; trellises or arches; chairs or benches wire works, borders, fences, railings, walls, cut-stone coping, wooden articles (including wooden crosses and other wooden memorials).

#### **H. CONTRACTOR/MONUMENT DEALER BYLAWS**

Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the cemetery operator before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plans and detailed specifications relating to the work, proof of all applicable government approvals and permits, the location of the work to be performed. It is the responsibility of all contractors to report to the cemetery office and provide the necessary approvals before commencing work at any location on the cemetery property.

Prior to the start of any said work, contractors must provide proof of:

- WSIB coverage
- Occupational Health and Safety compliance standards
- Environmental Protection
- WHMIS
- Evidence of liability insurance of not less than \$2 million.

- All cemetery by-laws apply to all contractors and all work carried out by contractors within the cemetery grounds.
- Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the cemetery operator.
- No work will be performed at the cemetery except during the regular business hours of the cemetery.
- Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The cemetery reserves the right to temporarily cease contractor operations at their sole discretion if the noise of the work being performed by the contractor is deemed to be a disturbance to any funeral or public gathering within the cemetery.

- Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved in order to protect the surface from damage.

### **I. MAUSOLEUM BYLAWS**

- Full payment must be made to the cemetery operator before an entombment may take place
- Only the cemetery operator may open and seal crypts for entombments. This applies to the inside sealer and the crypt front.
- To ensure quality control, desired uniformity and standard of workmanship, the cemetery operator reserves the right to inscribe all crypt fronts or install all lettering, vases, adornments, or any other approved attachment.
- Photographs are permitted and must conform to the design, material and standards of the building.

### **J. COLUMBARIUM BYLAWS**

- Payment must be made to the cemetery operator before an interment may take place
- Only the cemetery operator may open and seal niches for interments. This applies to the inside sealer and the niche front.
- To ensure quality control, desired uniformity and standard of workmanship, the cemetery reserves the right to inscribe all niche fronts or install all lettering, vases, adornments, or any other approved attachment.
- No person other than cemetery staff shall remove or alter niche fronts.