

THE CORPORATION OF THE TOWNSHIP OF BROCK

BY-LAW NUMBER 3050-2021

BEING A BY-LAW TO GOVERN THE OPERATION OF MUNICIPAL CEMETERIES UNDER THE JURISDICTION OF THE TOWNSHIP OF BROCK AND, IN PARTICULAR, GOVERNING RIGHTS, ENTITLEMENTS AND RESTRICTIONS WITH RESPECT TO INTERMENT RIGHTS, IN ACCORDANCE WITH THE *FUNERAL, BURIAL AND CREMATION SERVICES ACT, 2002, S.O. 2002, C.33*

WHEREAS The Corporation of the Township of Brock owns and operates municipal cemeteries known as All Saints Anglican Cemetery, located at C1645 Concession 11; Hart Cemetery, located at C20280 Brock Road; North Brock Shier Cemetery, located at B405 Concession 14 (Brock) Orange Hall Cemetery, located at 427 Main Street, Beaverton; Scotch Burying Ground, located at C1945 Highway 7; Thompson Cemetery, located at Concession 6 Part Lot 3; Union/Riverside Cemetery, located at Concession 6 Part Lot 11; Vallentyne Cemetery, located at Concession 7 Part Lot 3; Vroomanton United Church Cemetery, located at Concession 7 Part Lot 6; and Zion Cemetery, located at Concession 12 Part Lot 12;

AND WHEREAS the *Funeral, Burial and Cremation Services Act (FBCSA), 2002, S.O. 2002, c.33* (Act) regulates the operation of cemeteries in Ontario;

AND WHEREAS the Council of The Corporation of the Township of Brock deems it desirable to enact a By-law to regulate the operation of municipal cemeteries;

AND WHEREAS public notice of Council's intention to pass this By-law was provided in accordance with the Act;

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF BROCK ENACTS AS FOLLOWS:

1. DEFINITIONS

- a) **Board:** shall mean the duly elected Municipal Council of the Corporation of the Township of Brock.
- b) **BAO:** means the Bereavement Authority of Ontario
- c) **Burial:** The opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.
- d) **By-laws:** The rules and regulations under which the Cemetery operates.
- e) **Care and Maintenance Fund:** It is a requirement under the Act 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 or monument care fund as is appropriate. Interest earned from these funds is used to provide care and maintenance of plots, lots, and stability of markers and monuments at the cemetery.
- f) **Cemetery Manager:** A person(s) designated by the Township of Brock to execute all rights and responsibilities under this by-law and under the Act.
- g) **Cemetery Operator:** Township of Brock
- h) **Contract:** For purposes of this by-law, all purchasers of interment rights or cemetery services must sign a contract with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-law.
- i) **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.
- j) **Council:** shall mean the duly elected Council of the Township of Brock.
- k) **Clerk:** shall mean the Municipal Clerk of the Township of Brock who will act as primary liaison with the public and maintain all cemetery records.

- l) **Facilities Co-ordinator:** shall coordinate all activities within the Township cemeteries including but not limited to grave openings and general maintenance and repairs.
- m) **Grave:** (Also known as a Lot) means any inground burial space intended for the interment of a child, adult or cremated human remains.
- n) **Interment Right:** The right to require or direct the interment of human remains or cremated human remains in a grave or lot and direct the associated memorialization.
- o) **Interment Rights Certificate:** The document issued by the Township of Brock to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.
- p) **Interment Rights Holder:** Any person designated to hold the right to inter human remains in a specified lot.
- q) **Lot:** For the purposes of this By-Law a lot is a single grave space measuring 39 inches by 120 inches or 1.0 metre by 3.05 metres.
- r) **Marker:** Shall mean any permanent memorial structure that is set flush and level with the ground within the designated memorial space, and used to mark the location of a burial lot.
- s) **Monument:** Any permanent memorial projecting above the ground installed within the designated memorial space to mark the location of a burial or lot.
- t) **Memorial Space:** An area specified at the head end of a grave for the installation of a monument or marker.
- u) **Owner:** shall mean the person or person listed in the Township Cemeteries records as owning the interment rights for a plot.
- v) **Plan:** shall mean the plan of the Township Cemeteries, approved by The Ministry of Consumer Services Consumer Protection Branch, Cemeteries Regulation Unit.
- w) **Plot:** For the purposes of these by-laws, a plot is a parcel of land, sold as a single unit, containing multiple lots.
- x) **Price List:** shall mean the fees for interment rights and various services as approved by the Township of Brock Council.
- y) **Treasurer:** shall mean the Treasurer of the Township of Brock who is responsible for preparing financial reports for the Council as well as annual licensing reports for the BAO.

2. GENERAL INFORMATION

General Provisions

- a) The Facilities Co-ordinator reserves full control over the cemetery operations and management of land within the cemetery grounds. No person shall damage, destroy, remove or deface any property within the cemetery. All visitors shall conduct themselves in a quiet manner that shall not disturb any service being held.
- b) Visitors are welcome at Township Cemeteries during the open hours from 8:00 A.M. until one half hour before sundown, every day of the year including Sundays and holidays.
- c) The Facilities Co-ordinator and his/her assistants are empowered and are required to preserve order and decorum in the Township of Brock Cemeteries.
- d) Children under the age of twelve (12) are not admitted to the grounds except in the charge of an adult who shall be responsible for their good conduct and shall see that they do not run over plots and graves.
- e) Vehicles with Township Cemeteries shall be driven at a speed not in excess of 15 kilometers per hour (10 mph) and shall not leave the roadways.
- f) The discharge of firearms other than at a Military Funeral is prohibited in and around the Township Cemeteries.

- g) No dogs or other pets other than service dogs, shall be permitted in the Township Cemeteries.
- h) Pets or other lower animals, including cremated animal remains, are prohibited from burial or scattering on cemetery grounds.
- i) No picnics are permitted in the Township Cemeteries.
- j) No persons shall damage or remove any flowers, plants, shrubs or trees, wild or cultivated, nor deface in any way any a marker, fence or other property in or belonging to the Township Cemeteries.
- k) During the growing season from May 1st to October 31st, while natural flowers are available, artificial flowers in any form shall not be permitted in the Township Cemeteries. From November 1st to April 1st artificial wreaths on stands without glass or plastic covers shall be permitted on plots, but must be removed by Plot Owners by April 1st.
- l) Flower urns shall be removed from the Township Cemeteries by November 1st of each year.
- m) No sod may be cut for a flower bed except by an employee of the Township of Brock. Permission to plant a flower bed or place an urn must be obtained from the Facilities Co-ordinator.
- n) Natural or artificial flowers placed on plots shall be removed when they become unsightly.
- o) Glassware or crockery shall not be used as containers for flowers or as statuary.
- p) No person except an employee of the Township of Brock, shall make a walkway, cut any sod or remove any soil for the purpose of digging a flower bed, nor shall they move any corner post or grave marker in the Township Cemeteries.
- q) The Township of Brock shall not be responsible for loss or damage to any portable articles left upon any plot or grave.
- r) The Township of Brock shall take reasonable precautions to protect the property of plot owners but shall assume no liability or responsibility for the loss of or damage to any monument, marker or part thereof or any type that may be placed on any plot or grave.
- s) The throwing of rubbish on the roads or walkways or on any part of the grounds is prohibited and receptacles are provided at convenient points on the grounds for the deposit of rubbish, weeds, decayed flowers, plants, etc..
- t) Any person disturbing the quiet and good order of the cemetery by noise or other improper conduct, or who shall violate any of the foregoing rules shall be expelled from the grounds.

Cemetery Operator Discretion

- u) The sale of interment rights or the authorization for burial is at the discretion of the Clerk. Burial authorization is subject to the provision of evidence of interment rights by the interment rights holder, availability of documentation proving unused lot space, and other factors as may be required. The sale of interment rights is subject to the cemetery being considered an "active" cemetery.

Hours of Operation

- v) Office Hours: 8:30am - 4:30pm Monday to Friday with the exception of all public holidays
- w) Burial Hours: There are no Sunday burials except as required by the Bereavement Authority of Ontario. Burials from Monday to Saturday are available after 9am and before 6pm. Additional charges will apply depending on day and time as indicated in the price list.

By Law Amendments

- x) The Township Cemeteries shall be governed by this bylaw, and all procedures shall comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, as may be amended.

- y) All amendments must include proper notice as per Section 151 of Ontario Regulation 30/11. All by-laws and amendments are subject to the approval of the Registrar, Bereavement Authority of Ontario

Liability

- z) The Township of Brock shall 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, monument, marker, or other article that has been placed in relation to an interment right save and except for direct loss or damage caused by gross negligence of the cemetery operator.

Public Register

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

Right to Re-Survey

- bb) The Township of Brock 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 Rights

- cc) The Cemetery Operator permits the interment rights holder to sell or transfer their interment rights to a third party, at no more than the current price listed on the cemetery price list, provided 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 and provides for the administrative charge outlined in the cemetery price list to transfer the interment rights certificate.

3. CANCELLATION OR RESALE OF INTERMENT RIGHTS

- a) Purchasers of interment rights acquire only the right to direct the burial of human remains and the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws.
- b) In accordance with cemetery by-laws, no burial or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. An interment rights certificate shall 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 shall 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

- c) A purchaser has the right to cancel an interment rights contract within thirty (30) days of signing the interment rights contract by providing written notice of the cancellation to the Cemetery Operator. The Cemetery Operator shall refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.

Cancellation of Interment Rights after the 30 Day Cooling-Off Period

- d) Upon receiving written notice from the purchaser of the interment rights, the Cemetery Operator shall cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund. This refund shall 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 shall be returned to the Cemetery Operator together with the written notice of cancellation.
- e) If any portion of the interment right has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment rights.

Resale of Interment Rights after 30 Day Cooling-Off Period

- f) Unless the interment rights have been exercised the purchaser retains the right to cancel the contract or re-sell the interment rights. Once payment for the interment rights has been made in full, and an interment rights certificate has been issued, the interment 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 Act.
- g) If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to re-sell the interment rights.

Care and Maintenance Fund and Monument Care Fund Contributions

- h) As required by sections 166 and 168 of Regulation 30/11, a percentage of the purchase price of all interment rights and a prescribed amount for monuments and markers is contributed into the care and maintenance fund or the monument care fund as is appropriate. Income from these funds is used to provide only general care and maintenance of the cemetery and maintain safety of monuments. Contributions to the care and maintenance fund or monument care fund are not refundable except when interment rights are cancelled within the 30 day cooling off period.

Permit or prohibit resale of interment rights to a third party

- i) All resale of interment rights must be carried out through the Cemetery Operator.

Requirements for the resale of interment rights

- j) The interment rights holder(s) intending to sell their rights shall provide the following documents to the Cemetery Operator in order that the operator can confirm the ownership of the rights and provide the third party purchaser with the required certificate:
 - an interment rights certificate endorsed by the current rights holder
 - 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
 - any other documentation in the interment rights holder(s) possession relating to the rights
- k) The third party purchaser shall be provided with the following documents by the Cemetery Operator:
 - an interment rights certificate endorsed by the current rights holder
 - a copy of the cemetery's current by-laws
 - a copy of the cemetery's current price list
 - a written statement of the number of lots that have been used in the plot and the number of lots that remain available
 - any other documentation in the interment rights holder(s) possession relating to the rights
- l) The Cemetery Operator shall:
 - require a statement signed by the rights holder(s) selling the interment rights acknowledging the sale of the interment rights to the third party purchaser;
 - require confirmation that the person selling the interment rights is the person registered on the cemetery records and that they have the right to re-sell the interment rights;
 - record the date of transfer of the interment rights to the third party;
 - record the name and address of the third party purchaser(s);
 - require a statement of any money owing to the Cemetery Operator in respect to the Interment Rights;
- m) Once the endorsed certificate and all required information has been received by the Cemetery Operator from the rights holder(s), the Cemetery Operator shall issue a new interment rights certificate to the third party purchaser.
- n) Upon completion of the above listed procedures, and upon the issuance of the new interment rights certificate, the third party purchaser or transferee(s) shall be considered the current interment rights holder(s) of the interment rights, and the resale or transfer of

the interment rights shall be considered final in accordance with the cemetery by-laws and the Act.

- o) 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.
- p) The Cemetery Operator does not prohibit the resale of interment rights and may repurchase the interment 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 Operator's current price list amounts for interment rights.

4. BURIAL

- a) Interment rights holder(s) must provide written authorization prior to a burial or an entombment taking place. Should the interment 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).
- b) A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province shall be provided to the Township prior to a burial taking place. A Certificate of Cremation must be submitted to the Township prior to the burial of cremated remains taking place.
- c) In accordance with the Act the purchaser of interment 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 of human remains.
- d) Fees for opening and closing of graves will be levied as stated in the Cemetery Operator's current Schedule of Fees for its products and services.
- e) Payment must be made to the cemetery before a burial can place.
- f) The cemetery shall be given 36 hours of notice for each burial of human remains.
- g) The opening and closing of graves shall only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- h) Cremated remains are not permitted to be scattered on a grave.
- i) 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 Township prior to the removal of casketed human remains. A certificate from the local medical officer of health shall not be required for the removal of cremated remains.
- j) 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).
- k) All interments must be facilitated through a licensed funeral home (Director) or direct cremation service.
- l) When a plot is held jointly by two or more persons an order will be accepted from either or any of them or their authorized representatives for interment in such part of the plot as may be requested.
- m) One casket burial and one cremated remain or two (2) cremated remains may be interred in a single grave. Each grave shall be a sufficient depth to allow two (2) feet of earth cover. For persons to be buried enclosed in a container, the container must be securely sealed, dry and of sufficient strength to permit burial with the container remaining intact. Containers must be of a size to permit burial within the dimensions of the lot.

5. MEMORIALIZATION

- a) No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.

- b) No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Cemetery Operator.
- c) Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
- d) The Cemetery Operator shall take reasonable precautions to protect the property of interment rights holders, but assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- e) 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.
- f) All foundations for monuments and markers shall be built by and at the expense of the interment rights holder according to the specifications as set out by the Cemetery Operator and under the supervision of the Cemetery Operator. All foundations shall be constructed of solid concrete to a minimum depth of 5 inches below the natural ground surface.
- g) Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Operator shall do whatever is deemed necessary by way of stabilizing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- h) 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 Cemetery Operator.
- i) A monument 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.
- j) Department of Veterans Affairs tablets shall be permitted. Tablets may be fifteen (15) inches wide by three (3) inches thick by thirty-nine (39) inches high in a gray granite material only. No polished finish is permitted. Markers shall be permitted in a size of twelve (12) inches by twenty (20) inches only and shall be gray or pink Canadian granite with no polish.
- k) Only one monument shall be erected within the designated space on any lot.
- l) The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
- m) The minimum thickness of upright monuments is 6 inches or 15.5 cm. The maximum height for upright monuments is 42 inches or 107 cm including the base.
- n) All monuments and markers shall be constructed of natural stone (i.e. granite). Marble, ceramic or wood memorials shall not be permitted.
- o) Neither the die stone nor any part of a marker may exceed the length or width of the base.
- p) 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 has notified the Cemetery Operator.
- q) Markers and footstones are permitted with size and quantity restrictions according to cemetery by-laws and the placement of such memorials shall not interfere with future interments.
- r) Single lot maximum: width including the base is 24 inches or 61 cm.
- s) Double lot maximum: width including the base is 42 inches or 107 cm.
- t) Cremation lot maximum: one flat marker to a width of 24 inches by 12 inches or 61 cm by 31 cm

6. CARE AND PLANTING

- a) 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.
- b) 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
 - Repairs and general upkeep of cemetery maintenance buildings and equipment
 - 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.

7. ITEMS THAT ARE PROHIBITED AND PERMITTED

- a) The Cemetery Operator 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 Operator from performing general cemetery operations, or are not in keeping with the respect and dignity of the cemetery. Prohibited articles shall be removed and disposed of without notification.
- b) The Cemetery Operator 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.
- c) No inscription shall be placed on the side of the marker facing an adjoining plot where there is not room for an adult grave between the marker and boundary of the plot except when the owner owns the plot both in front and behind the marker. Inscriptions that are not in keeping with the general decorum of the Cemetery shall not be permitted.
- d) Gold leafing, painting, colouring, enameling, gilding, bronzing of a marker shall not be permitted.
- e) The scattering of cremated remains shall not be permitted on a grave or within the cemetery.
- f) Fences, railings, walls or hedges in or around plots shall be prohibited.
- g) It is forbidden to place on any plot(s) any nails, wire, steel rods, hanging baskets, wooden crosses, articles of glass or any substance with might cause injury to any person or cause damage to any plot(s)."

8. MONUMENT CONTRACTIONS

- a) Every contractor employed to erect markers or do any work in the cemetery shall first present an application to the Cemetery Operator signed by the interment rights holder or his representative requesting permission to employ such contractor to do the work specified.
- b) The demeanor and behavior of all contractors employed by others in the cemetery shall be subject to the control of the Cemetery Operator. Contractors shall lay planks on the lots and paths over which heavy materials are to be moved in order to prevent damage to the grounds. Contractors shall cease work in the immediate vicinity of a funeral until the conclusion of the service. All work must be done during regular cemetery hours. No work shall be started on Saturday that cannot be completed and litter and debris removed by noon Saturday. The employee of any contractor who damages any plot, monument, marker or other structure or otherwise does any damage in the cemetery shall be held liable for such damage.

9. ADMINISTRATION

- a) This By-law may be cited as the "Cemeteries By-law".
- b) The fees applicable shall be in accordance with the "Fees By-Law", as amended from time to time.

c) That By-law Number 2422-2012-PP is hereby repealed in its entirety.

d) This By-law shall come into force and effect upon the requisite notice provisions for this by-law being carried out in compliance with section 151 of Ontario Regulation 30/11.

THIS BY-LAW READ TWICE THIS 28th DAY OF JUNE, A.D., 2021.

Mayor – John Grant

Deputy Clerk – Maralee Drake

THIS BY-LAW READ A THIRD TIME AND FINALLY PASSED THIS 28th DAY OF JUNE, A.D., 2021.

Mayor – John Gant

Deputy Clerk – Maralee Drake