



THE CORPORATION OF THE TOWNSHIP OF ST. CLAIR

BY-LAW NUMBER 9 of 2024

[Replacing By-law 38 of 2023]

Being a by-law to provide rules and regulations for the governance of the cemeteries under the jurisdiction of the Township of St. Clair.

WHEREAS it is deemed necessary to provide rules and regulations governing the management, maintenance and control of the Cemeteries under the jurisdiction of the Township of St. Clair in order to comply with the Funeral, Burial & Cremation Services Act, 2002 S.O. 2002, Chapter 33, and Ontario Regulation 30/11;

THEREFORE, the Council of the Corporation of the Township of St. Clair enacts as follows: That this by-law contains the rules and regulations that govern the Zion Cemetery, and any other cemetery whose operations are formally turned over to the Township of St. Clair; and will come in force and effect once it has been approved by the Registrar, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Bereavement Authority of Ontario (BAO).

1. Definitions

Burial/Interment The opening of a lot and then the placing of dead human remains or cremated human in that lot, followed by closing the lot. The lot may be a grave in the ground, a crypt in a mausoleum or a niche in a columbarium.

By-laws means the rules and regulations under which the Cemetery operates.

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.

Cemeteries means any cemetery owned and operated by the Corporation of the Township of St. Clair.

Cemetery Operator means the Township of St. Clair or those designated for the purpose of overseeing the cemetery on behalf of the municipality.

Cemetery Owner means the Township of St. Clair.

Columbarium shall mean a structure containing individual compartments or Niches, designed for the purpose of interring cremated human remains in each sealed compartment.

Corner Posts means 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.

FBCSA means Funeral, Burial & Cremation Services Act, 2002

Grave (Also known as Lot) means any in-ground 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 to authorize the installation of a monument or marker.

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

Interment Rights Holder Person designated to hold the right to inter human remains in a specified lot.

Inurnment shall mean the placing of cremated remains in a Niche.

Inurnment Rights Holder shall mean the any person designated to hold the right to inter cremated human remains in a niche.

Lot means a single grave space.

Marker means any permanent memorial structure that is set flush and level with the ground and used to mark the location of a burial lot.

Monument means any permanent memorial structure projecting above the ground installed within the designated space to mark the location of a burial or lot.

Niche is an individual compartment in a Columbarium for the inurnment of cremated human remains.

Plot means a parcel of land, sold as a single unit, containing either one or multiple lots.

Resident means a land owner or resident of the Township of St. Clair

Scattering shall mean the act of spreading cremated human remains over a designated area within the cemetery, with the knowledge and permission of the cemetery operator and in keeping with the cemetery bylaws.

Scattering Grounds are an area within the cemetery designated for the scattering of cremated human remains.

Scattering Rights Holder shall mean any person designated to hold the right to direct the scattering of cremated human remains in the designated area of the cemetery.

2. General Operating Information

Hours of Operation

Hours of operation at the St. Clair Township Cemeteries shall be;

- (a) Visitation Hours 8 a.m. to dusk, every day
- (b) For Burial arrangements – the St. Clair Township Office is open Monday to Friday 8:30 a.m. to 4:30 p.m.
- (c) Burial Hours: 8 a.m. to 4 p.m. Monday through Friday, excluding Statutory Holidays.

3. General Regulations

- (a) **By-Law Amendments** The cemeteries shall be governed by this bylaw, and all procedures will comply with the Funeral, Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, which may be amended periodically.

- (b) **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, monument, marker or other article that has been placed in relation to an interment right, save and except for the direct loss or damage caused by gross negligence of the cemetery operations.
- (c) **Pets or Other Animals** Pets or other animals, including cremated animal remains, are not allowed to be buried or scattered on cemetery grounds.
- (d) **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.

4. Conduct

- (a) The cemetery operator reserves full control over the cemetery operations and management of land within the cemetery grounds.
- (b) No person may damage, destroy, remove or deface any property within the cemeteries.
- (c) All visitors should conduct themselves in a quiet manner that shall not disturb any service being held. Any persons disturbing the peace may be expelled from the cemetery.
- (d) Young children are not permitted on the cemetery grounds except when accompanied by an adult, who shall be responsible for the children's conduct.
- (e) Vehicles in the cemetery shall be driven at a moderate pace and shall not leave designated roadways. Recreational vehicles, such as ATV's and snowmobiles, are not allowed. Drivers shall be held responsible for any damage they cause while in the cemetery.
- (f) All lots will only be uncovered and dug by the Township of St. Clair or an approved contractor of their selection.
- (g) Minor exemptions to this bylaw may be granted by the cemetery operator.

5. Lots – Sale, Cancellation and Transfer

- (a) The Corporation of the Township of St. Clair is not actively selling interment rights or scattering rights in any of their cemeteries and currently has no plans to open new sections or columbaria. At this time, the Township is only fulfilling rights already sold. Under some circumstances, the Township might grant an interment sale upon an application being made to the Clerk. These requests are determined on a case by case basis and will require the approval of Clerk and CAO.
- (b) A scattering right contract allows for the scattering of the cremated remains of one person.
- (c) Only the person named in the scattering rights certificate may be scattered. Only the Cemetery Operator may perform or oversee the scattering of ashes. Cremated remains may only be scattered within a designated area of the cemetery. Once scattered; Cremated remains cannot be retrieved.
- (d) Landscaping in this area is done exclusively by the Cemetery Owner.

6. Fees and Purchase of Interment Rights

- (a) **Payment Fees for Burial and Scattering Rights** must be paid in full at the time of purchase unless alternate terms are agreed upon by all parties. The cost of the interment rights is set out in a price list By-law, as may be amended from time to time.
- (b) **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 and

a prescribed amount for monuments and markers is to be contributed into the "Care and Maintenance Fund". Interest income from this fund is to be used only to provide general care and maintenance of the cemetery. Contributions to the care and maintenance fund are not refundable.

- (c) The cemetery operator prohibits the resale of interment or scattering rights to a third party and will allow a cancellation of these rights by the interment rights holder or such other person to whom the interment rights have been assigned, at the price listed on the current price list less any care and maintenance contribution amount previously made. Cancellations of interment or scattering rights cannot be prohibited so long as the purchaser meets the qualifications and requirements as outlined in the cemetery operator's by-laws.

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

- (d) Requirements for cancellation: Upon receiving written notice from the purchaser of the interment or scattering rights, the cemetery operator will cancel the contract. The interment or scattering rights holder requesting the cancellation of the rights must return the interment or scattering rights certificate to the cemetery operator and the rights holder(s) must endorse the interment or scattering rights certificate, transferring all rights, title and interest back to the cemetery operator. The appropriate paperwork must be completed before the cemetery operator reimburses the rights holder(s) the current value less any care and maintenance contribution after the 30-day cooling off period.
- (e) Transfer of Interment Rights: The rights holder may transfer the interment rights to another person for no consideration (no money). This must be done with the permission of the cemetery operator and in accordance with the cemetery by-laws. Transfers must be processed through the cemetery operator and the following must be provided.

The interment/scattering rights certificate endorsed with the following:

- A statement signed by the rights holder selling the rights, acknowledging the transfer to the third-party.
- A signed confirmation by the cemetery operator that the person transferring the rights is shown as the rights holder in the cemetery's records. 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 in keeping with the Succession Law Reform Act i.e. Personal Representative, Estate Trustee, Executor or next of kin. A copy of the notarized will or other documentation may be required to ensure the person requesting the transfer is authorized to do so.
- The date on which the rights were transferred to the third-party.
- The name and address of the third-party transferee.
- A statement of any money owing to the cemetery operator in respect to the rights
- A written statement regarding the lots/scatterings rights that are being transferred and confirmation that they have not been used.
- Any other documents in the rights holder's possession relating to the rights.
- A copy of the current cemetery by-laws must be provided the transferee.

Once all required documentation and 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 transferee(s).

Upon completion of the above listed procedures, and upon the issuance of the new interment or scattering rights certificate, the third-party 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.

- (f) Administration fee for cancellation or transfer: In the case of a cancellation or a transfer of rights, an administration fee applies for the cemetery operator to process the cancellation or issue a new rights certificate to the third-party transferee, as applicable. The fee, which is set out on the cemetery price list, is also charged for replacement of lost or damaged certificates.

7. Interment, Disinterment and Re-interment

- (a) Authorization: The interment rights holder(s) must provide written authorization prior to the burial 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 in keeping with the Succession Law Reform Act i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- (b) Required Documentation: 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 taking place. A certificate of cremation must be submitted to the cemetery office prior to the burial, inurnment, or scattering of cremated remains taking place.
- (c) Payment: All opening costs must be made to the cemetery operator within forty-eight (48) hours prior of the burial taking place.
- (d) Notice: The cemetery operator shall be given seventy-two (72) hours notice prior to a burial of human remains or cremated human remains.
- (e) Opening and Closing: The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on the behalf of the cemetery.

8. Columbarium

- (a) Payment must be made to the cemetery operator before an interment may take place
- (b) Only the cemetery operator may open and seal niches for interments. This applies to the inside sealer and the niche front.
- (c) 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.
- (d) No person other than cemetery staff shall remove or alter niche fronts.

9. General Provisions for Interment, Disinterment and Re-interment

- (a) Cremated remains are not allowed to be scattered on a grave.
- (b) The number of interments allowed per grave or niche will be based on allotment stipulated on the interment rights certificate.
- (c) No interment shall be permitted in any lot where outstanding charges exist.
- (d) No interment shall be made on Sunday or statutory holiday except on a doctor's certificate that the interment must be made within 24 hours of death in accordance with the regulations of the Ontario Ministry of Health for the control of communicable disease.
- (e) Disinterment: Human remains may be disinterred from a lot provided that the written authorization from the interment rights holder has been received by the cemetery operator and the 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 the casketed remains may take place. A certificate from the

local 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).

10. Monuments and Markers

- (a) No monument, footstone, marker or 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 the permission of the cemetery operator.
- (c) The cemetery operator will take reasonable precautions to protect the property of the interment rights holder, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof. Minor scraping of the monument base of an upright monument due to grass and lawn maintenance is considered to be normal wear.
- (d) Should any monument or marker present a risk to public safety because it has become unstable, the cemetery owner shall do whatever it deems necessary by way of repairing, resetting, laying down of the monument or marker or any other remedy so as to remove the risk.
- (e) 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.
- (f) A monument shall only be erected in a location and within the designated space on a lot, as approved by the cemetery operator.
- (g) No monument shall be delivered to the cemetery for installation until the monument foundation has been completed.
- (h) Charges for the care and maintenance of the monument or marker will be collected before the installation of the monument or marker and placed in a trust account.
- (i) The cemetery operator reserves the right to determine the maximum size of monuments, and the number and the location on each lot or plot. Monuments must not be of a size that would interfere with any future interments.
- (j) War Memorial markers placed in veterans' graves by the Royal Canadian Legion will be permitted to remain as a permanent marker, in addition to other markers and monuments allowed.
- (k) Memorial benches must be approved by the Cemetery Operator and may only be placed in designated locations.
- (l) Once donated, the memorial bench becomes the property of the cemetery owner. Inscription is paid for by the donor of the bench.
- (m) Monuments to be erected shall be set upon an adequate concrete base approved by the Township of St. Clair.
- (n) All foundations shall be constructed by the monument company at the expense of the interment rights holder.
- (o) No base shall be closer than 2 in (5.08 cm) to the plot or lot side lines. All bases shall be a minimum of 1 in (2.54 cm) wider on all sides than the monument placed upon it. No base shall be wider than 2 ft (.61 m).
- (p) No foundation shall be placed between November 1 and April 1 of any year.

11. Cemetery Care and Plantings

- (a) Grassed roadways may be closed to vehicular traffic at any time.
- (b) A portion of the price of interment rights is trusted into the Care and Maintenance Fund. The interest income generated from this fund is used to maintain, secure, and preserve the cemetery grounds. Services that can be provided through this fund include:

- (i) Re-leveling and sodding or seeding of lots
 - (ii) Maintenance of cemetery roads and water systems
 - (iii) Maintenance of perimeter walls and fences
 - (iv) Maintenance of cemetery landscaping
 - (v) Repair and general upkeep of cemetery maintenance buildings and equipment.
- (c) All maintenance work at the cemetery may be conducted only by cemetery staff or those designated to do work on the behalf of the cemetery.
- (d) The erection of borders, fences, railings, walls, and hedges is prohibited.
- (e) No person shall plant trees, flower beds or shrubs or in any way change the surface of a burial lot in the cemetery except with the written approval of the cemetery.
- (f) If any trees or shrubs situated in any lot, in the opinion of the cemetery operator, become detrimental to the adjacent lots or detrimental to the general appearance of the cemetery by means of their roots, or branches, or in any other way, the cemetery staff or those designated to do work on behalf of the cemetery may, without notice, remove such trees, shrubs or parts thereof.
- (g) 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.
- (h) 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 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 notice.

12. Contractors/ Monument Dealers

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.

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 to protect the surface from damage.

Upon the approval by the Registrar, Funeral, Burial and Cremation Services Act 2002, Bereavement Authority of Ontario, this by-law will come into force and effect and all sections of previous by-laws providing rules and regulations governing the management, maintenance and control at any St. Clair Township cemetery are repealed.

13. That By-law 38 of 2023 be hereby repealed.

READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED this 5th day of February, 2024.



Jeff Agar – Mayor



Jeff Baranek - Clerk



Approved by the Bereavement Authority of Ontario March 5, 2024.

APPROVED	APPROUVÉ
By the Registrar, Funeral, Burial and Cremation Services Act, 2002, Bereavement Authority of Ontario	Par le Registraeur, Loi de 2002 sur les services funéraires et les services d'enterrement et de crémation, l'Autorité des services funéraires et cimetières de l'Ontario
Date: <u>March 5, 2024</u>	