

The Corporation of the Municipality of Brockton



By-Law 2022-0XX

Being a By-Law to Regulate the Operation of the Cemeteries in the Municipality of Brockton

Whereas, pursuant to Section 224 (c) and (d) of the Municipal Act, 2001, S.O. 2001, Council may determine which services the municipality provides and ensures that administrative policies, practices and procedures and controllership policies, practices and procedures are in place to implement the decisions of council;

And Whereas the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33, as amended provides that the Municipality of Brockton, as operator of the listed cemeteries, may enact by-laws affecting the operation of the said cemeteries;

And Whereas there are Cemeteries known locally and legally described as:

- (i) Walkerton Cemetery Plan 162 Pt Park Lot 47 Durham N/S
- (ii) Starkvale Cemetery Plan 107 Lot 25 Lot 27 Pt Lot 29
- (iii) Holy Trinity Anglican Cemetery Lot 23 Conc. A - Closed to sales September 1, 2012 all situated within the Municipality of Brockton.

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

Definitions:

- a) **Act** means the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33, as amended, including all the Regulations enacted under this legislation.
- b) **Burial** means the opening and closing of an in-ground lot or plot for the disposition of human remains or cremated human remains.
- c) **Care and Maintenance Fund** 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, lost, markers and monuments within a Cemetery.
- d) **Caretaker** means the Caretaker of Walkerton Cemetery and Starkvale Cemetery, as designated by the Municipality of Brockton.
- e) **Casket** means a container intended to hold human remains for a funeral, cremation or interment purposes that is not a vault, burial container, grave liner or an urn.
- f) **Cemetery** means Cemeteries in Brockton as listed.
- g) **Certificate of Interment Rights** means the document certifying the holder's right to interment(s) within a given lot.
- h) **Chief Financial Officer** means the Chief Financial Officer for the Municipality of Brockton.
- i) **Columbarium** shall mean, niche for funeral urn; a niche in which an urn containing funeral ashes is placed in columbarium.
- j) **Contract** all purchasers of interment rights must sign a contract with cemetery, dealing obligation of both parties and acceptance of the cemetery by-laws
- k) **Corner Posts** shall mean any stone set flush with the surface of the ground and used to indicate the corners of a lot.

- l) **Council** means the Council of the Municipality of Brockton.
- m) **Corporation** means The Corporation of the Municipality of Brockton.
- n) **Designate** means anyone appointed by the Chief Financial Officer, **Director of Operations or Caretaker** to conduct Cemetery transactions on his/her behalf.
- o) **Director of Operations** means the Director of Operations for the Municipality of Brockton
- p) **Full Interment** means the interment of uncremated human remains within a casket.
- q) **Grave (also known as lot)** means any in-ground burial space intended for the interment of an adult, child, or cremated human remains.
- r) **Interment Rights** includes the right to require or direct the interment of human remains in a lot.
- s) **Interment Rights Certificate** means the document issued by the Cemetery to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.
- t) **Interment Rights Holder** any person designated to hold the right to inter human remains in a specified lot in a listed Cemetery.
- u) **Lot** for the purpose of this by-law is a single grave space.
- v) **Marker** means any memorial of granite, marble or bronze set flush with the surface of the ground and used to mark the location of a lot.
- w) **Minister** means the Minister of Government and Consumer Services.
- x) **Ministry** means the Ministry of Government and Consumer Services.
- y) **Monument** means any permanent memorial projecting above ground level made of granite, marble, and/or limestone.
- z) **Municipality** means the corporation or other entity having municipal jurisdiction in the area in which a cemetery is located.
- aa) **Plan** shall mean the plan or plans of the cemetery, approved by the Bereavement Authority of Ontario.
- bb) **Plot** means the lot in which the rights to inter have been sold.
- cc) **Register** means electronic or written records kept in accordance with the Funeral, Burial and Cremation Services Act, 2002 S.O. 2002, c. 33.
- dd) **Resident** means any person who resides within the corporate limits of the Municipality of Brockton; or any person who resides beyond the corporate limits, but whose name appears on the last revised assessment roll as a property owner, or who is assessed for business tax.
- ee) **Urn** means a container intended to hold cremated human remains for a funeral, cremation or interment purposes

Administration:

- a) The Corporation reserves full and complete control and management of all assets of the Corporation including but without limiting the generality of the foregoing: land, buildings, plantings, roads, utilities, books and records of the cemetery and complete authority to administer these by-laws.
- b) The Chief Financial Officer or designate shall have financial custody of the cemetery(ies) under the direction of the Corporation. The Director of Operations or designate shall have operational custody of the cemetery(ies) under the direction of the Corporation.
- c) **No interment or disinterment of bodies/cremation remains shall take place without notice to the Director of Operations or designate who shall see that a proper Burial Permit or other documentation is furnished in each instance.**
- d) The Corporation shall take reasonable precautions to protect the property of Interment Rights Holders but it assumes no liability or responsibility for the loss or damage to any article of any type that is placed on any lot or grave.
- e) The Caretaker or his representative shall uphold the provisions of this by-law and the Act.
- f) The Corporation is the trustee of the Care and Maintenance Funds as established for all municipal cemeteries and is administered by the Chief Financial Officer.
- g) In addition to this by-law, all Provincial, Municipal or other relevant legislative and regulatory requirements shall be observed.

Sale and Transfer of Lots

- a) The cemetery operator permits the interment 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, 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.

- b) Payment for interment rights shall be payable to the Municipality and forwarded to the Chief Financial Officer.
- c) The Chief Financial Officer or designate shall provide each Interment Rights Holder at the time of sale with the following:
 - i. A copy of the contract
 - ii. A copy of the Cemetery By-law
 - iii. Upon payment in full, a Certificate of Interment Rights
- d) Purchasers of interment rights acquire only the right and privilege of burial of the dead and for constructing monuments or placing markers subject to the Cemetery By-law.
- e) To ensure the accuracy of records, ownership and interments, no transfer of any interment rights or any interest therein shall be binding upon the Corporation until notice is given in writing to the Chief Financial Officer. This information must specify the name and address of the proposed transferee and date of transfer, and all particulars must be noted in the records. Upon receipt of such notice, and payment of the transfer fee is received, the transfer shall be made.
- f) In cases of transmission of ownership by will or bequest of interment rights, the Municipality reserves the right to require the production of a notarial copy of the will or other evidence sufficient to prove ownership.
- g) A purchaser has the right to cancel an interment contract within thirty (30) days of signing the interment contract, by providing written notice of the cancellation to the Municipality of Brockton. The Municipality will refund all monies paid by the purchaser within (30) days from the date of the request of cancellation. After the 30-day cooling-off period has expired, an interment rights holder has the right to cancel a contract ONLY if it was entered into prior to July 1, 2012. Upon receiving written notice from the purchaser of the interment rights the Municipality of Brockton will 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. The 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, the certificate must be returned to the Municipality of Brockton along with the written notice of cancellation.
- h) If any portion of the interment has been exercised, the purchaser, or the interment rights holder(s) are NOT entitled to cancel the contract or re-sell the interment rights.

Interment and Disinterment:

- a) All Interments will be conducted at the discretion of the Caretaker. Outside of Winter Interments, all interments may be conducted between 7:00 am and 4:00 pm, Monday to Friday. Any interment outside of this time shall be subject to additional fees.
- b) Winter Interments shall take place between November 1 of each year and the second Monday each May. Winter Interments are weather permitting, location and access dependent and subject to an additional charge. Winter interments will only be conducted between 11:00 am and 2:00 pm, Monday to Friday.
- c) Winter Interments will only be conducted in the Walkerton Cemetery.
- d) Saturday Interments shall only be conducted between the second Monday each May and October 31 of each year.
- e) All disinterment's will be conducted at the discretion of the Caretaker and only occur between the second Monday each May and October 31 of each year.
- f) A burial permit is required before a full interment can be conducted.
- g) A Cremation Certificate is required before a cremation interment can be conducted.
- h) A single grave may contain the following:
 - (i) a full interment and the cremated remains of three (3) persons, provided the full body interment is conducted first, if placement allows or
 - (ii) the cremated remains of four (4) persons, if placement allows.
- i) Section 824 graves may contain the following:
 - (i) One (1) double depth full interment and one (1) regular depth interment, or
 - (ii) One (1) double depth or regular depth full interment and one (1) cremation
- j) No more than one cremation interment shall be made in a cremation lot.
- k) Columbarium niches are permitted to contain the following:
 - (i) The cremated remains of up to two (2) persons.

- l) Columbarium niches shall only permit urns or other containers up to 10 inches wide by 10 inches deep by 5.5 inches tall in order to fit both urns. Families wishing to have a larger urn or different size are permitted to do so with the written permission of the Director of Operations or designate.
- m) Remains to be buried in a grave must be enclosed in a sealed secure container of sufficient strength to permit burial with the container remaining intact. The container must be of a size to permit burial within the size of the lot.
- n) All interments must be authorized in writing by the Interment Rights Holder(s), except the interment of the Interment Rights Holder. Authorization shall be in the form of a permission letter and/or an interment authorization letter. When the Interment Rights Holder(s) is deceased, permission must be obtained from all living heirs of the Interment Rights Holder(s) prior to any interment.
- o) In the case of a cremation interment, the cremation certificate and the prescribed fee for this service according to the Fees & Charges By-law must be deposited with the Chief Financial Officer or designate. Arrangements for cremation interment will be scheduled with the Caretaker by the Chief Financial Officer or designate.
- p) No lot shall be opened for interment or disinterment by any person not in the employ of, or under the direction of the Corporation, except under special circumstances and with the permission of the Corporation.
- q) The Corporation will exercise all due care during burials, interments, and disinterment but is not responsible for damage to any casket, urn or other container.
- r) Funeral processions within the cemetery shall follow the route indicated by the Caretaker.
- s) The Corporation will not be held responsible for any errors in funeral arrangements received by telephone or electronic transmission. These arrangements should be made in writing and confirmed with the Director of Operations or designate.
- t) Notice of each interment shall be given to the Director of Operations or designate at least two (2) business days in advance. The Corporation will not be held responsible for having burial lots prepared for funerals unless such notice is given.
 - i. In the event of a Winter Interment, five (5) business days are required for notice. The Corporation will not be held responsible for having burial lots prepared for funerals unless such notice is given.
- u) The Caretaker shall direct that, at the time when the ground in the Cemetery is soft from spring thaw, rain or other cause, committal services shall be held at the funeral home or church instead of at the grave site and interments may be rescheduled.
- v) The Director of Operations or designate may deny an interment request or cancel a planned interment due to safety reasons or unsuitable conditions that may have a negative impact on the surrounding area, i.e. soil conditions, etc.
- w) In the event of inclement weather, the Director of Operations or designate may cancel planned interments, up until two (2) hours prior to an interment.
- x) No Sunday burials will be permitted at any of the Municipality's Cemeteries.

Care of Lots – General Rules:

- a) All lots sold or assigned shall be maintained and kept properly graded, seeded and mown by the Caretaker on behalf of the Corporation.
- b) No person shall do any work upon a lot without permission of the Corporation.
- c) No lots or graves shall be raised higher than the surface level of the ground as laid out by the Caretaker in the first instance.
- d) Trees, shrubs, flowering or other plants may be cultivated on lots, but only such varieties that are in good taste, keeping with the general plan of the grounds, miniature in nature and subject to the approval of the Caretaker. No trees or shrubs growing within any lot may be removed or altered without the consent of the Caretaker. Trees, and shrubs may only be placed beside the monument, as placement allows.
- e) If any trees or shrubs situated in any lot shall have become, by means of their roots, branches or in any other way, detrimental to the adjacent lots, drains, roads or walks, or prejudicial to the general appearance of grounds or inconvenient to the public, the Corporation may remove such trees, shrubs or parts thereof.
- f) Nails, wires, wooden crosses, articles of glass, ceramics, pottery or any other material that potentially could create a hazard to workmen and/or visitors when neglected or broken are not allowed in the Cemetery and will be removed by the Caretaker.

- g) Since borders, fences, railing, walls, cut-stone coping and hedges in or around lots become unsightly; they are prohibited except those already established. Decorative stone is not permitted.
- h) No Interment Rights Holder(s) shall change the grading of a lot, and in the case of such a change, the Corporation will restore the lot to its original grade at the expense of the Interment Rights Holder(s).
- i) No unauthorized personnel shall move corner-posts or lot markers.
- j) The Corporation will not be responsible for loss or damage to any articles left upon any lot or plot.
- k) The Municipality may remove any article, which is detrimental to efficient maintenance or constitutes a hazard to machinery, employees or visitors, or is unsightly or does not conform to the natural beauty or design of the cemeteries. Any article removed will be held at the cemetery for collection. If not collected, it will be disposed of after one (1) month.
- l) All sales of lots and all cemetery services provided to or on behalf of the Interment Rights Holder(s) shall be made or performed based on the price list set out in the Municipality's Fees and Charges By-law.

Care of Lots – Flowers:

- a) The Corporation reserves the right to remove all unmaintained flowers, potted plants, wreaths and baskets of flowers.
- b) Vases, urns, potted plants, and flower stands or similar receptacles that are unsightly or unsuitable will be removed from the lot.
- c) Flower beds may be permitted in front of the base of a stone or a monument to a depth of one foot and not wider than the width of the base of the monument. Where there is no stone or monument, flower beds may only be permitted under the supervision of the Caretaker.
- d) No objects that will interfere with maintenance equipment are to be placed on the lot.
- e) All decorations **and** arrangements mounted on top of a monument within the cemetery must be removed by November 1st.

Monument and Markers – General Information:

- a) No monument or other structure shall be erected or permitted on a lot until accrued charges have been paid in full.
- b) No monument, marker or memorial of any kind shall be placed, moved, altered or removed without permission from the Municipality.
- c) **Monument installations will only occur between the second Monday each May and October 31 of each year.**
- d) Every person installing a monument or marker in the cemetery shall pay the prescribed amount, as set out in the Act, to the Care and Maintenance Fund. The interest earned from this fund will be used to maintain the markers and monuments in a safe condition.
- e) All photographs attached to any memorials or placed within the Cemetery grounds shall be the sole responsibility of the Interment Rights Holder.
- f) Costs for foundation, monument and markers that are built by or contracted to be built for the Corporation are at the expense of the Interment Rights Holder(s).
- g) No inscription shall be placed on any monument or marker, which is not in keeping with the dignity and decorum of the cemetery.
- h) If a monument or marker in a cemetery presents public safety risk, the Corporation may undertake the necessary repair work at the expense of the Interment Rights Holder.
- i) **Monument maintenance, including washing, when not conducted by an Interment Rights Holder, must be done with the written permission of the Director of Operations or designate.**

Monuments:

- a) Minor scraping of the base portion of the upright monument caused by grass mowing is considered by the Corporation to be normal wear.
- b) Each lot shall allow one (1) upright monument.
- c) Candle holders and vases may constitute part of a monument if they are made principally of bronze or stainless steel. If a translucent section is necessary, it must be made of an unbreakable, heat-resistant glass or of a plastic material that is fire resistant.

Monument die stones shall not exceed the following dimensions:

Lot Type and Size	Dimension	Inches
Single Regular Lot 9ft x 4ft	Height	36"
	Width	30"
	Thickness	6-14"
Double Regular Lot 9 ft x 8 ft	Height	48"
	Width	56"
	Thickness	6-14"
Single Cremation Lot 2 ft x 2ft	Height	6"
	Width	16"
	Depth	10"
Double Cremation Lot 2 ft x 4ft	Height	6"
	Width	30"
	Depth	19"

The monument die stones must be installed on a granite base. The height of the base shall be a minimum of 8 inches. The top surface of the base must be both wider and longer than the die stone in order to provide a minimum border of two (2) inches of the surface of the base exposed on all sides. Bottoms of the base shall be smooth.

- d) Monuments cannot be placed "consecutively" against another without permission from the **Director of Operations or designate.**
- e) Monuments must be placed at the centre of the head end of the lot except where alignment with existing nearby monuments justifies another location.

Markers:

- a) Markers of bronze, marble or granite are permitted with size and quantity restrictions in accordance with the lot size. The following is allowed:
 - Single lot maximum 24" x 18"
 - Double lot maximum 48" x 18"
- b) Flat markers are to be flat on top and set level with the ground so that a mower can pass safely over them.
- c) One marker may be placed at each grave in addition to the monument. The marker shall be placed at the end of the grave farthest from the monument.
- d) Granite markers shall not be more than four (4) inches or less than three (3) inches in thickness throughout and smoothly finished on the top surface.
- e) All bronze markers must be attached to a concrete or granite base of not less than four (4) inches in thickness.

Columbarium:

- a) Inscriptions on niche shutters must meet the cemetery standards of block lettering and does not allow for any other symbol, drawings or etching in any form.
- b) The removal and replacement of a niche shutter shall be performed only by the cemetery staff.
- c) No more than two approved receptacles containing cremated human remains may be placed in anyone niche.
- d) Vases are not permitted in the area of the columbarium

Installation of Monuments, Markers, Liners and Vaults:

- a) No monument or marker will be delivered to the Cemetery without a work order being presented to the Cemetery Caretaker, containing the following information:
 - (i) The Interment Rights Holder's name and address
 - (ii) Instructions for placement of the marker or monument
 - (iii) The dimensions in the case of a flat marker
 - (iv) The dimensions of the die, height, width, length
 - (v) The dimensions of the base, height, width, length
 - (vi) The overall size of the monument
 - (vii) A description of the monument; colour and design
 - (viii) The appropriate amount for the care and maintenance in relation to the size of the marker/monument as set out in the FBCSA must accompany the monument

- b) Installers of monuments, markers, liners and vaults shall lay planks or use motorized carts on the lots and paths over which heavy materials are to be moved during wet conditions or at the Caretaker's discretion.
- c) There shall not be a variance of more than four (4) inch in the size of the foundation required as stated on the work order and the size of the monument delivered.
- d) The demeanor and behaviour of all workmen employed by others in the cemeteries shall be subject to the control of the Caretaker.
- e) Workers shall cease work in the immediate vicinity of a funeral until the conclusion of the service.
- f) All work must be done during regular cemetery hours unless authorized by the Caretaker. No work shall be commenced that cannot be finished including removal of the litter and debris by 3:00 p.m. Friday of that week.
- g) Heavy loads shall not be permitted in the cemetery when the roads are in unfit condition.
- h) No monument dealer shall park on the grass unless otherwise directed to do so by the Caretaker.
- i) All implements and materials the monument dealer used in the performance of any work shall be placed where the Caretaker directs and all rubbish and surplus earth shall be removed when, and to where, and in such manner as the Caretaker orders. Otherwise, the obstructions will be removed and the expense charged to the monument dealer.
- j) The foundation shall be at least 4 feet deep. The foundation shall not rise above the grade of the surrounding ground except for leveling purposes.
- k) The foundation shall be built in the designated space and with the proper dimensions of the monument base. If incorrect dimensions have been given on the application form, signed by the Interment Rights Holder (s) or the supplier, the foundation must be immediately removed and rebuilt by the Corporation at the expense of the Interment Rights Holder. Foundations will be not less than 4 feet deep and they will be set at the Caretaker's direction.
 - (i) The surface area must be formed and flush with the surrounding ground level and shall provide a level surface free of defects.
 - (ii) Foundations must be cured for a minimum of forty-eight (48) hours before placing the monument.

Rules for Visitors:

- a) The cemeteries shall be open from sunrise to sunset.
- b) No parades shall be admitted to or be organized within the cemetery without approval from the Caretaker.
- c) Children under the age of twelve (12) years are welcome in the cemetery grounds when accompanied by an adult, who is responsible for their good conduct.
- d) Vehicles within the cemetery shall be driven at a moderate rate of speed and shall not leave the avenues or park on the grass unless otherwise directed to do so by the Caretaker.
- e) No ATV's (all-terrain vehicles) or snowmobiles are allowed in the cemeteries.
- f) Owners of vehicles and their drivers shall be held responsible for any damage done by them.
- g) Discharging of firearms is prohibited in and around the cemetery.
- h) No dogs or other pets shall be allowed in the cemetery.
- i) No trapping of animals is permitted without the written approval of the Director of Operation or Designate.
- j) No picnic party shall be permitted in the cemetery grounds without prior authorization from the Caretaker.
- k) Any person who damages or moves any tree, plant, marker, fence, structure, or other thing usually erected, planted or placed in the Cemetery, is liable to the Municipality and any Interment Rights Holder(s) who, as a result, incurs damage. The amount of damages shall be the amount required to restore the Cemetery to the state that it was in before anything was damaged or moved by the person liable.
- l) Any complaints by Interment Rights Holder(s) or visitors should be made to Director of Operations or designate and not to workmen on the grounds. Controversies with workmen or others on the grounds are to be avoided.
- m) Rubbish shall not be thrown on the roadways, lots or walkways or any part of the grounds. Receptacles are provided at convenient points on the grounds for the disposal of weeds, decayed flowers, plants, etc.
- n) Any person disturbing the quiet and good order of the cemetery by noise or other improper conduct, or who violates this by-law, must be expelled from the grounds.

- o) No tips or gratuities are to be given to cemetery workers by visitors or Interment Right Holders.

Effective Date:

This by-law shall come into full force and effect on the day that it receives approval from the Registrar as required under the Act and on that date, this by-law will supersede any by-law not consistent with it.

Read, Enacted, Signed and Sealed this XXth day of XXX, 2022.

Original Signed By
Mayor – Chris Peabody

Original Signed By
Director of Legislative and Legal Services (Clerk) –
Fiona Hamilton