

# BROCK ROAD CEMETERY BY-LAWS

## General Conduct

The Brock Road Cemetery Trustees reserve full control over cemetery operations and the 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 does not disturb any service being held.

## Resolution by the Brock Road Cemetery Trustees

The Brock Road Cemetery Trustees, consisting of an organized group of volunteers, shall carry on without the purpose of gain for its members, and any profits or other accretions to the Brock Road Cemetery shall be used in promoting its objectives.

## By-law Amendments

The cemetery shall be governed by these by-laws, and all procedures will comply with the Ministry of Public and Business Service Delivery and Procurement 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. The Bereavement Authority of Ontario is responsible for administering the provisions of the (MPBSDP) Ministry of Public and Business Service Delivery and Procurement.

## Liability

The Brock Road Cemetery Trustees 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, except for direct loss or damage caused by the 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 animals, including cremated animal remains, are not permitted to be buried on cemetery grounds.

## **Children**

Children under the age of twelve years are not permitted on the cemetery grounds unless accompanied by an adult, who shall be responsible for their actions.

## **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 the shape or size, or otherwise change all or any part of the cemetery, subject to the approval of the appropriate authorities.

## **Notice of Resale and Transfer of Interment Rights**

The Brock Road Cemetery Trustees permit an interment rights holder to sell or transfer their interment or scattering rights to a third party at no more than the current price listed on the cemetery price list, provided that the sale or transfer is conducted through the Brock Road Cemetery Trustees and the purchaser meets the qualifications and requirements outlined in the Brock Road Cemetery Trustees' by-laws.

## **Cancellation and Resale of Interment Rights**

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. In accordance with the 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) once 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 notify the Brock Road Cemetery Trustees of their intention prior to seeking a third-party buyer.

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

A purchaser has the right to cancel an interment rights contract within thirty (30) days of signing the contract by providing written notice of cancellation to the Brock Road Cemetery Trustees. The Cemetery Trustees will refund all monies paid by the purchaser within thirty (30) days of receiving the cancellation request.

## **Cancellation of Interment after the 30-Day Cooling-Off Period**

Upon receiving written notice from the purchaser of the interment or scattering rights, the Brock Road Cemetery Trustees will cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights, less the amount required to be deposited into the Care and Maintenance Fund. This refund will be issued within thirty (30) days of receiving the notice. If

an interment rights certificate has been issued to the interment rights holder(s), the certificate must be returned to the Brock Road Cemetery Trustees 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) is not entitled to cancel the contract or re-sell the interment rights.

## Resale of Interment Rights after the 30-Day Cooling-Off Period

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 in the cemetery records, has the right to re-sell the interment rights. Any resale of interment rights shall be in accordance with the requirements of the Brock Road Cemetery Trustees' by-laws and in keeping with the MPBSDP – Ministry of Public and Business Service Delivery and Procurement.

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

## Care and Maintenance Fund Contributions

As required by Sections 166 and 168 of Regulation 30/11, a prescribed amount or a percentage of the purchase price of all interment rights, as well as prescribed amounts for monuments and markers, is contributed to the Care and Maintenance Fund. Income from this fund is used exclusively for the general care and maintenance of the cemetery. Contributions to the Care and Maintenance Fund are not refundable except when interment rights are cancelled within the 30-day cooling-off period.

For any lots sold prior to 1955 where no care and maintenance fee was paid, an additional care and maintenance fee (not to exceed \$250.00) will be applied to any new interments.

## Requirements for Resale of Interment Rights to a Third Party

The interment rights holder(s) intending to sell their rights shall provide the following documents to the Brock Road Cemetery Trustees so that the Trustees may confirm ownership of the rights and provide the third-party purchaser with the required documentation:

- 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.

The third-party purchaser will be provided with the following documents by the Brock Road Cemetery Trustees:

- 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, 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.

The Brock Road Cemetery Trustees will require the following:

- a statement signed by the rights holder(s) selling the interment rights acknowledging the sale to the third-party purchaser;
- confirmation that the person selling the interment rights is the same person registered in the cemetery records and that they have the legal right to re-sell the interment rights;
- the date of transfer of the interment rights to the third party.
- the name and address of the third-party purchaser(s);
- a statement of any money owing to the Cemetery Board in respect of the interment rights.

Once the endorsed certificate and all required information have been received by the Brock Road Cemetery Trustees from the rights holder(s), the Trustees will issue a new interment rights certificate to the third-party purchaser.

Upon completion of the above-listed procedures, and upon issuance of the new interment rights certificate, the third-party purchaser or transferee(s) shall be considered the current interment rights holder(s), and the resale or transfer of the interment rights shall be considered final, in accordance with the Brock Road Cemetery by-laws and the MPBSDP – Ministry of Public and Business Service Delivery and Procurement.

The Brock Road Cemetery Trustees may charge an administration fee for the issuance of a duplicate certificate in accordance with the price listed on the Cemetery Board's current price list.

The Brock Road Cemetery Trustees do not prohibit the resale of interment rights and may repurchase the interment rights from the rights holder(s) if the Trustees so desire. A purchase price may be negotiated, provided the seller acknowledges being aware of the Cemetery Board's current price list amounts for interment rights.

## Burial and Cremated Remains

Interment rights holder(s) must provide written authorization prior to a burial or 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.

A burial permit issued by the Registrar General, or an equivalent document showing that the death has been registered with the province, must be provided to the Chairman or Treasurer prior

to a burial or entombment taking place. A Certificate of Cremation must also be submitted to the Chairman or Treasurer prior to the burial of cremated remains.

In accordance with the MPBSDP – Ministry of Public and Business Service Delivery and Procurement, the purchaser of interment rights must enter into a cemetery contract, providing all information required by the Brock Road Cemetery Trustees for completion of the contract and the public register prior to each burial or entombment of human remains.

Payment must be made to the Brock Road Cemetery Trustees before a burial can take place.

The cemetery must be given 48 hours' notice for each burial of human remains.

The opening and closing of graves or cremated remains may only be conducted by cemetery staff or by those designated to perform work on behalf of the cemetery.

The number of cremation interments may not exceed four per grave. Ashes placed in "Cremation Lots" will be placed in a sixteen-by-twenty-six-inch lot. A deed specifying the size and location of the lot will be provided to the family. No marker larger than a sixteen-by-twenty-six-inch flat granite or flat bronze marker, approved by the Brock Road Cemetery Trustees, may be placed over the cremated remains. This marker must be set flush with the surface of the ground and must have sawn edges. Plants or shrubs are not permitted. Two interments will be permitted in each sixteen-by-twenty-six-inch lot.

Cremated remains are not permitted to be scattered on a grave.

Human remains may be disinterred from a lot provided that written consent (authorization) from the interment rights holder has been received by the Cemetery Board and notification has been given to the medical officer of health. A certificate from the local medical officer of health must be received by the Chairman or Treasurer before the removal of casketed human remains may take place. A certificate 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.

## Memorialization of Remains

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 Brock Road Cemetery Trustees.

Minor scraping of the base of an upright monument due to grass or lawn maintenance is considered normal wear.

The Brock Road Cemetery Trustees will take reasonable precautions to protect the property of interment rights holders, but they assume no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.

The Brock Road Cemetery Trustees reserve the right to determine the maximum size of monuments, their number, and their location on each lot or plot. Monuments 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 Brock Road Cemetery Trustees at the expense of the interment rights holder. No foundation shall be less than five feet in depth or the full depth of the grave, whichever is greater, and the excavation shall be subject to inspection before any concrete is poured. Dealers must specify the monument size on their orders and must provide at least 30 days' notice before the work is required. Foundations may be installed by dealers or by the Brock Road Cemetery Trustees, but all costs regarding foundations shall be borne by the purchaser.

Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Board shall take whatever action it deems necessary, including repairing, resetting, or laying down the monument or marker, or any other remedy required to remove the risk.

The Brock Road Cemetery Trustees reserve the right to remove, at their sole discretion, any marker, monument, or inscription that 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—including dimensions, materials, construction details, and proposed location—have been approved by the Brock Road Cemetery Trustees.

In keeping with the cemetery by-laws, only one monument shall be erected within the designated space on any lot, and it shall be placed centrally at the head of the lot.

The minimum thickness for flat markers, including footstones, is 4 inches (10 cm).

All monuments shall be constructed of granite, and markers shall be constructed of bronze.

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 Board.

Markers and footstones made of bronze or granite are permitted, with size and quantity restrictions according to the cemetery by-laws. Placement of such memorials shall not interfere with future interments.

On any single grave lots, the Brock Road Cemetery Trustees require the use of flat grave markers (ground level), as opposed to tablet or columnar markers.

All lots must have corner stones, with the surname engraved on one stone and initials on the remaining three. The cost of the corner stones is to be borne by the purchaser of the lot and paid at the time of purchase if purchased from the Brock Road Cemetery Trustees. If purchased from outside suppliers, installation is to be supervised by the Board.

## Care and Planting

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

- re-levelling 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 the columbarium;
- repairs and general upkeep of cemetery maintenance buildings and equipment.

No person other than cemetery staff shall remove any sod or in any way alter the surface of a burial lot in the cemetery.

No person shall plant trees or shrubs in the cemetery except with the approval of the Brock Road Cemetery Trustees. Flower beds not exceeding fourteen inches in width are permitted in front of the base of monuments. Where no monument exists, flower beds may only be created with the permission of, and under the supervision of, the Board.

Flowers placed on a grave for a funeral shall be removed by cemetery staff after a reasonable time to maintain the tidy appearance of the cemetery.

The erection of borders, fences, railings, walls, and hedges in or around lots is not permitted.

## Items That Are Prohibited and Permitted

The cemetery reserves the right to regulate articles placed on lots or plots that pose a threat to the safety of interment rights holders, visitors, or cemetery employees; that prevent the cemetery from performing general operations; or that 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 excessive or detrimental to the tidy appearance of the cemetery.

All wreaths must be removed by **April 15th** each year. Wreaths not removed by that date will be removed and disposed of by the cemetery without notification.

## Contractor / Monument Dealer By-laws

Any contract work to be performed within the cemetery requires the written pre-approval of both the interment rights holder and the Brock Road Cemetery Trustees 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 related to the work;
- proof of all applicable government approvals and permits;
- confirmation of the location where the work will be performed.

All contractors must report to the Chairman or Treasurer and provide the necessary approvals before commencing any work on cemetery property.

Prior to starting work, contractors may also be required to provide proof of:

- WSIB coverage;
- compliance with Occupational Health and Safety standards;
- environmental protection compliance;
- WHMIS training;
- liability insurance.

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, on weekends, or on statutory holidays unless approval has been granted by the Cemetery Board.

No work shall be performed at the cemetery except during regular business hours.

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 halt contractor operations at its sole discretion if the noise from the work 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 burial lots and pathways over which heavy materials are to be moved, in order to protect the surface from damage.

## Care and Maintenance Fund

Care and Maintenance fees are included in the purchase price of any cemetery plot. Typically, the fee is 40% of the purchase price.

Funds for “Care and Maintenance” (also known as perpetual fee), which is purchased with each grave, are placed in a trust fund, administered by Scotiabank.

Only the interest from these funds can be used for maintenance. When there are no longer any graves for sale, this income will continue to fund care of the grounds.