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Consolidated Version

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Consolidated for Convenience Only

This is a consolidation copy of a City of Owen Sound By-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

The Corporation of the City of Owen Sound

By-Law No. 2014-012

A By-law to Provide for the Control, Regulation and Management of Greenwood Cemetery

WHEREAS Section 10 of the *Municipal Act, 2001* provides that municipalities may provide any service that the municipality considers necessary or desirable for the public; and

WHEREAS the Council of The Corporation of the City of Owen Sound (the "City") passed By-law No. 2002-021 with respect to the regulation and management of Greenwood Cemetery on January 28, 2002; and

WHEREAS a new by-law respecting the regulation and management of Greenwood Cemetery is required to comply with amendments to the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c. 33 (*the "Act"*) which came into effect in July, 2012; and

WHEREAS City Council passed Resolution R-130422-019 on April 22, 2013 to enact the subject by-law; and

WHEREAS section 151 of Ontario Regulation 30/11 passed under the Act provides that no Cemetery By-law is effective until it is filed with and approved by the registrar; and

WHEREAS the subject by-law was filed with the registrar on December 10, 2013 and approved by the registrar on January 8, 2014; and

WHEREAS City Council deems it necessary and expedient to rescind By-law No. 2002-021 and replace it with the subject by-law to provide for the control, regulation and management of Greenwood Cemetery;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

Part I. Preamble and Defined Terms

Short Title

1. This by-law may be referred to as the "Greenwood Cemetery By-law".

Purpose

2. This by-law has been enacted to establish a policy and procedures regulating the management and control of Greenwood Cemetery, to ensure that peace and order are maintained and the Cemetery is properly managed.

Headings

3. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

References to Applicable Law

4. All references to applicable law are ambulatory and apply as amended from time to time.

Interpretation

5. For the purposes of this by-law:
"Care and Maintenance Fund" means the fund required under the Funeral, Burial and Cremation Services Act, 2002 where a set percentage of the

purchase of all Interment Rights and Marker installations are contributed. Interest earned from this fund is used to provide care and maintenance of Lots and Markers in the Cemetery;

“Cemetery” means the lands set aside and approved for the interment of human remains and includes a mausoleum, or other such structures known as Greenwood Cemetery in the City;

“City” means The Corporation of the City of Owen Sound;

“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;

“Crypt” means an individual compartment in a mausoleum for the entombment of human remains;

“Die” when referring to an Upright Monument, means the part of the Upright Monument which can be engraved;

“Disinter” means to dig up or remove interred human remains and “Disinterment” shall have a similar meaning;

“Flat Marker” means a Marker set flush with the surface of the ground;

“Funeral, Burial and Cremation Services Act, 2002” means the Funeral, Burial and Cremation Services Act, 2002, SO 2002, c 33 and the Regulations there under;

“Inter” means the burial of human remains and includes the placing of human remains in a lot, tomb, crypt, compartment or Niche and Interment and Interred shall have a similar meaning;

“Interment Right” means the right to require or direct the Interment of human remains in any Lot;

“Interment Rights Certificate” means the official documentation allowing the holder to direct the interment of human remains or cremated human remains in any Lot and/or to direct the installation of a Marker;

“Lot” means a single grave space;

“Marker” means any monument, tombstone, plaque, headstone, cornerstone or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains;

“Niche” means an individual compartment in a columbarium for the entombment of cremated human remains;

“Plot” means two or more Lots where Interment Rights have been sold as a unit;

“Scattering” means the act of spreading of cremated remains over a designated area within the Cemetery which shall be conducted in accordance with the provisions of this by-law;

“Scattering Gardens” means the land within the Cemetery that is set aside to be used for the scattering of cremated human remains;

“Statutory Holiday” means and includes New Year’s Day, Family Day, Easter Monday, Good Friday, Victoria Day, Canada Day, Civic Holiday, Labour Day, Thanksgiving, Christmas Day and Boxing Day;

“Upright Monument” means any Marker projecting above ground level; and

“Vehicle” means vehicle as defined by the Highway Traffic Act, RSO 1990, c H.8.

Scope

6. This by-law shall apply to all activities, business, interments, Cemetery staff and all persons visiting the Cemetery.

Part II. Cemetery Rules

General

7. No person shall disturb the quiet or good order of the cemetery with excessive noise or other nuisance or inappropriate conduct. Persons causing such a disturbance may be expelled from the grounds.
8. No person shall cause any litter, refuse, wrapper, container, waste or garbage to be thrown out on roads, walks or any part of the cemetery grounds.
9. No person shall possess any alcoholic beverage on cemetery property.
10. Any person in control of a pet in the Cemetery shall, at all times:
 - a. maintain control of the pet; and
 - b. keep the pet off all turf areas.

Visitation Times

11. The Cemetery is open for visitation from dawn to dusk or otherwise by appointment.

Vehicular Parking and Traffic

12. All persons operating a vehicle in the Cemetery shall:
 - a. travel at a rate of speed less than 20 km/hr;
 - b. not cause damage to cemetery roads, parking areas or other property;
 - c. not cause a vehicle to leave the paved roadways; and
 - d. not travel on a road:
 - i. where a barricade has been erected to indicate the road is closed;
 - ii. which is adjacent to the ravine after the first snowfall;
 - iii. which has not been cleared of snow; or
 - iv. where the roads are in an otherwise unfit condition for vehicular travel.
13. Owners of vehicles and their drivers shall be held responsible for any damage done by them.
14. Parking is only permitted in the Cemetery where:
 - a. the area is specifically designated to allow parking; or
 - b. a vehicle can be parked on the side of a road while allowing traffic to pass the parked vehicle without leaving the pavement.

Lot Alteration

15. Without written authorization from Cemetery staff, no person shall:
 - a. change the grade of a lot;
 - b. cut any sod;
 - c. move Corner Posts, markers or monuments; or
 - d. remove any flower, shrub or planter from a lot other than their own.
16. In the event that a person alters a lot contrary to section 15 of this by-law, the cost of any work undertaken by Cemetery staff to restore the lot to its original condition shall be paid for by the person who contravened section 15 or the owner of the lot.

Memorial Service

17. Prior to holding a memorial service, a person or group shall:

- a. apply in writing to Cemetery staff at least 15 days before the proposed date; and
- b. assume in writing all responsibility for damage to cemetery property and expenses incurred as a result of the memorial service.

Staff Exempt

18. While performing the duties of their job, Cemetery staff are exempt from Part 2 of this by-law.

Part III. Interment Rights

Sale by City

19. The City may sell Interment Rights for lots for a fee prescribed by the Fees and Charges By-law.
20. The payment of all fees owed to the City shall be made directly to the City and not through a third party service provider.
21. Extra depth Interment rights shall no longer be sold by the Cemetery.
22. All persons purchasing Interment Rights shall be required to sign a contract with the Cemetery agreeing to follow all obligations of an Interment Rights Holder and all policies, rules and regulations of the Cemetery.

Private Transfer of Interment Rights

23. Any person may transfer Interment Rights back to the City in accordance with the *Funeral, Burial and Cremation Services Act, 2002*.
24. The sale of Interment Rights in the Cemetery by anyone other than the City is prohibited. Interment Rights may be transferred to another party without financial reimbursement by completing the transfer portion of an Interment Rights Certificate.
25. All private transfers of Interment Rights are subject to the Transfer of Interment Rights Fee prescribed by the Fees and Charges By-law.

Rights and Privileges

26. The purchase of interment rights in accordance with this by-law:
 - a. may be at any time prior to need or use;
 - b. provides the purchaser with the right and privilege to:
 - i. the interment of human remains; and
 - ii. install monuments or markers, subject to the provisions of this by-law.
27. The purchase of Interment Rights in accordance with this by-law, does not permit the Interment Rights Holder to:
 - a. resell any Interment Rights which have been used; or
 - b. sub-divide any Interment Rights.

Service Fees

28. The sale of Interment Rights by the City shall include:
 - a. conducting an Interment;
 - b. mowing and trimming of the grass in the cemetery and around monuments and markers;
 - c. refilling of sunken Lots; and
 - d. general upkeep of Lots conducted at the discretion of Cemetery staff.
29. The Fees and Charges By-law may prescribe additional fees for:

- a. care and maintenance and Interment services where Interment Rights have been sold without said provisions;
- b. Interments conducted on Sundays, and Statutory Holidays; and
- c. other requested services which are performed by Cemetery staff.

Allocation of Revenues

30. Revenue from the sale of Interment Rights shall be allocated to operating or reserve funds as described in the Fees and Charges By-law.

Part IV. Interment Procedures

Conditions Required Prior to Interment

31. Cemetery staff shall be in attendance at each Interment and Disinterment.

Conditions Required Prior to Interment

32. Prior to conducting any Interment, all of the following preconditions shall be met:
- a. notice given to Cemetery staff at least eight business hours before the proposed Interment;
 - b. submission of the Burial Permit or Cremation Certificate to the City;
 - c. written confirmation of:
 - i. the name, place of birth, residence, age, date of death, and sex of the deceased;
 - ii. the name and address of the funeral director and the nearest relative of the deceased; and
 - iii. the date, time and location of the Interment, entombment or inurnment; and
 - d. payment of all fees and service charges owed to the City;
 - e. verification that all caskets, cement vaults/liners and urns will fit the Interment space provided; and
 - f. written authorization from the Interment Rights Holder to proceed and confirmation of Interment Rights by:
 - i. an Interment Rights Certificate, contract or deed indicating the rightful owner of the Interment Rights; or
 - ii. where evidence of ownership is unavailable, a signed Interment Rights and Services contract, saving the City harmless from all subsequent claims from such Interment activity.

Adverse Conditions

33. Interments shall be held in the Mausoleum Chapel where Cemetery Staff determine that conditions outside are not suitable for conducting an Interment due to:
- a. weather or ground conditions;
 - b. the time of year from the first day of December to the first day of April; and
 - c. other conditions which risk the safety of persons or may cause damage to Cemetery property.
34. There shall be no additional fee for Interments held in the Mausoleum Chapel.

Scattering of Cremated Remains

35. Prior to the scattering of cremated remains, any person or persons making such a request shall:
 - a. submit an application to scatter cremated remains to Cemetery staff;
 - b. agree, in writing, that the cremated remains are non-retrievable once properly scattered; and
 - c. pay the Scattering of Cremated Remains fee as prescribed by the Fees and Charges By-law.
36. Scattering of cremated remains shall be performed by or in the presence of Cemetery staff in Cemetery Scattering Gardens.

Funeral Services

37. The City shall approve the route of funeral processions within the Cemetery.
38. Funerals which require Cemetery staff to work beyond their normal work hours will be charged an additional fee as prescribed by the Fees and Charges By-law.

Containers

39. All caskets or other like containers used in the Cemetery shall be constructed of at least 19.05 millimetres ($\frac{3}{4}$ inch) pine or a material of equal strength.
40. A cement vault or liner or other permanent container shall be required for:
 - a. all interments made in "Memorial Gardens;" and
 - b. all extra deep interments.
41. Cremated remains for inurnment in a Niche or crypt must be enclosed in a polypropylene plastic urn or an urn made of other durable materials.

Number of Interments Permitted

42. The maximum number of interments in any one lot shall be determined by the type of lot as follows:
 - a. regular Interment Lot:
 - i. 1 standard depth Interment and the Interment of 3 cremated remains;
 - ii. 1 double depth Interment, 1 standard depth Interment and the Interment of 2 cremated remains; or
 - iii. the Interment of 4 cremated remains.
 - b. infant Lot:
 - i. the Interment of 1 infant.
 - c. cremation Lot:
 - i. the Interment of 4 cremated remains.
 - d. any Niche:
 - i. the number of urns which fit within the Niche to a maximum of 2.

Part V. Disinterment Procedures

Approval

43. Unless otherwise required by the Medical Officer of Health, prior to any disinterment the following written approvals must be submitted to Cemetery staff:
 - a. approval of the Medical Officer of Health; and

- b. consent of the Interment Rights Holder.
44. All requirements under the Funeral, Burial and Cremation Services Act, 2002 must be met in order for a disinterment to proceed.

Conduct

45. Unless otherwise ordered by the Medical Officer of Health, Disinterments shall be conducted as determined by Cemetery staff as weather permits between May 1 to October 31.
46. The removal of human remains, not contained in a permanent outer container, must be completed by a certified funeral director.

Provision of a Container

47. If the original Interment container is damaged during disinterment such that it is rendered unusable, the Interment Rights Holder must supply a new container at their expense.

Removal of Private Memorials

48. Any Marker or Upright Monument, designating the location of the Interment, shall be removed at the expense of the Interment Rights Holder, at the time of disinterment.

Part VI. Mausoleum Vault Regulations**Storage Duration and Restrictions**

49. All bodies to be placed in the mausoleum vault for winter storage must be stored in a casket or like container constructed of at least 19.05 millimetre ($\frac{3}{4}$ inch) pine or alternate material of equal strength approved by Cemetery staff.
50. All bodies must be removed from the mausoleum vault by the first day of May each year, unless storage of bodies is otherwise approved by Cemetery staff.
51. Interment in Greenwood Cemetery of all bodies previously stored in a Mausoleum Vault shall:
- a. be made at a time determined by the Cemetery staff, in cooperation with the funeral director.
 - b. only be attended by the funeral director and Cemetery staff.
52. No body may be deposited in the vault from the first day of May to the first day of December unless it is enclosed in an air tight metallic casket or hermetically sealed zinc-lined box, and with the permission of Cemetery staff.
53. Cemetery staff may, at any time, direct the removal and interment in a single grave of any body stored in the vault if required by the condition of the body.
54. The bodies of persons dying from contagious diseases shall not be admitted to the vault and must be interred.

Storage Fees

55. All bodies stored in the mausoleum vault that will not be interred in the Cemetery will be subject to a fee prescribed by the Fees and Charges By-law unless an alternative agreement exists.

Part VII. Lot Decorations

Cut and Artificial Flowers

56. Placement of cut and artificial flowers shall only be permitted on lots:
- a. in containers made of metal, plastic or other material which will not shatter;
 - b. between May 1 to October 31 each year; and
 - c. up to a maximum of:
 - i. one container on a single Lot, or
 - ii. no more than two containers on two or more Lots.
57. Unsightly flowers shall be removed without notice from Lots by Cemetery staff.

Wreaths and Arrangements

58. Arrangements which are secured to an Upright Monument and do not touch the ground are permitted at any time. All other wreaths and like arrangements may be placed on lots on October 31 and must be removed by May 1 or may be considered abandoned and removed by Cemetery staff.

Potted Plants

59. Potted plants may be permitted on lots four days before and four days after Easter, Mother's Day, Father's Day, and Remembrance Day. Any plants placed prior to or remaining after this period shall be removed by Cemetery staff.

Flower Beds

60. Flower beds shall only be planted as follows:
- a. after the installation of an Upright Monument;
 - b. in beds not to exceed 30.5 cm from the Upright Monument;
 - c. in front of an Upright Monument; and
 - d. on the side(s) of an Upright Monument where Internment Rights are owned.

Shrubs

61. Small deciduous shrubs and dwarf evergreen trees shall only be planted:
- a. with a shrub permit issued by Cemetery staff; and
 - b. on a Lot with an Upright Monument, with a maximum of one shrub on either side.
62. Unauthorized shrubs shall be removed without notice.

Structures and Objects

63. Copings, fences, benches, steps and other wood structures are prohibited and shall be removed by Cemetery staff without notice at a cost to the Interment Rights Holder.
64. Any structures built on any lot previous to the adoption of these regulations, which have become unsightly by reason of neglect or age, shall be removed.
65. The following objects are prohibited and shall be removed without notice:
- a. candles, lamps and other flammable items; and
 - b. flower pots, containers and decorations made of glass, ceramic, crockery or other material which may shatter.

Other Decorations

66. Any other decorations or objects which have not been specifically approved by Cemetery staff are not permitted and shall be removed at the expense of the Interment Rights Holder.

Special Provisions – Northwest Extension

67. The following Lot decoration provisions shall apply to the Northwest Extension:
- a. flower beds may only be planted in front of Upright Monuments; and
 - b. all trees and shrubs shall be planted and maintained by Cemetery staff.

Staff Exempt

68. While performing the duties of their job, Cemetery staff are exempt from section 7 of this by-law and may perform construction, planting or landscaping work in any part of the Cemetery in accordance with Cemetery requirements.

Part VIII. Memorialisation**General**

69. Flat Markers, foundations and bronze plaques shall only be installed or moved in accordance with this by-law by Cemetery staff after all service charges have been paid by the Interment Rights Holder.
70. Contractors may install or remove an Upright Monument with permission from Cemetery staff and the Interment Rights Holder.
71. All Markers shall conform to the specifications in schedule A of this by-law.
72. All cremation Niches must be memorialised with bronze plaques approved by Cemetery staff.

Permitted Locations and Placement

73. Upright Monuments shall only be permitted on a Lot as follows:
- a. where two or more Lots have been sold as a unit;
 - b. cremation and infant Lots which are part of the Columbarium Garden;
 - c. Lots in Memorial Garden Block A & C; and
 - d. Lots in the Northwest Extension in:
 - i. ranges which are adjacent to a hedge, or
 - ii. ranges 41 to 43.
74. Where permitted, only one Upright Monument shall be placed on a Plot.
75. Upright Monuments must be placed where designated unless written permission is given by Cemetery staff for an alternative placement. Unauthorized Markers will be removed at the expense of the Interment Rights Holder.

Existing Upright Monuments

76. Where part of a Cemetery Plot is sold with an existing Upright Monument:
- a. future Interments may only use a Flat Marker; or
 - b. an agreement must be reached with the Interment Rights Holder to use the existing Upright Monument.

Marker Dealers and Manufactures

77. No Upright Monument shall be delivered to the Cemetery until the foundation is completed.

78. Prior to the construction of the foundation, Cemetery staff must be provided with the following:
- a. the exact measurements of the Marker base; and
 - b. at least of fifteen days advance notice of the proposed date of installation.

Inscriptions

79. All inscriptions shall be approved by the Cemetery staff, or Cemetery staff shall change the inscription at the expense of the Interment Rights Holder.
80. Inscriptions shall not be permitted on a side of an Upright Monument where there is not room for an adult interment between the Upright Monument and the boundary of the Plot.

Care and Maintenance Contribution

81. Where installed in the Cemetery, the following are subject to a Memorial Care and Maintenance Fee in accordance with the Fees and Charges By-law:
- a. any Upright Monument; or
 - b. any Marker over 436.9 sq. cm.

Monument Safety and Upkeep

82. Interment Rights Holders shall keep all Upright Monuments safe and free of damage.
83. Where Cemetery staff have determined that a Monument is in disrepair or unsafe and notified the Interment Rights Holder in writing:
- a. the owner must complete the repair within three months; or
 - b. Cemetery staff will complete the repair at the expense of the Interment Rights Holder.

Special Provision – Memorial Gardens Block ‘B’

84. Only flat markers are permitted in the Memorial Gardens Block “B” subject to the specifications in schedule A of this by-law.

Part IX. Contractors

Requirements

85. Every contractor entering the Cemetery for business purposes shall:
- a. provide proof of coverage under the *Workers’ Compensation Act* and their Workers’ Compensation Number to the City;
 - b. carry a minimum one million dollar liability insurance and provide the policy number and name of the Insurance Company to the City;
 - c. comply with the service contract with the Cemetery, where applicable; and
 - d. have the permission of any holder of Interment Rights as required.

Responsibilities

86. The demeanour and behaviour of all contractors and their employees shall be consistent with all of the Cemetery rules outlined in Part 2 of this By-law.
87. Workers shall cease all work in the immediate vicinity of a funeral service, while the service is being performed.
88. Contractors shall be held responsible for any damage to Lots, tombstones, Upright Monuments or other cemetery property resulting from their work.

Working Time Restrictions

89. Contractors may only enter the Cemetery for business purposes between 7:30 am and 4:00 pm, Monday to Friday.
90. No contractor shall begin work that cannot be completely finished before the weekend, including cleanup, without written permission from Cemetery staff.

Part X. Enforcement**Penalty**

91. Any person, organization or business who contravenes the provisions of this by-law is guilty of an offense and, upon conviction, is subject to the penalty set out in the *Funeral Burial Cremation Services Act, 2002*, or the *Provincial Offences Act*.

Part XI. Conflict and Transition**Conflict**

92. In the event the provisions of this by-law are inconsistent with the provisions of the *Funeral, Burial and Cremation Services Act, 2002*, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.

Terms Severable

93. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

Repeal

94. By-law Number 2002-021 is hereby repealed.

Enactment

95. This by-law shall come into full force and effect upon the final passing thereof and receipt of approval from the Ministry of Consumer Services of Ontario and receipt of approval of short form wording under the *Provincial Offences Act*.

FINALLY PASSED this 27th day of January, 2014.

Signature on File

Acting Mayor Colleen Purdon

Signature on File

Kristen M. Van Alphen, City Clerk

Schedule A – Mandatory Marker Specifications

Mandatory Marker Specifications

All Markers in Greenwood Cemetery must be constructed of Granite and conform to the specifications set out below.

Upright Monument Specifications		
Foundation	At least 6 feet (1.83 m) deep Constructed of concrete by Cemetery staff	
Base	Minimum Height:	4" (10.2 cm)
	Maximum Size:	24"x12"x8" (61 cm x 30.5 cm x 20.3 cm)
Dimensions	2 Lots:	42" x 12" (106.7 cm x 30.5cm) Max
	3 Lots:	60" x 12" (152.4 cm x 30.5cm) Max
	4+ Lots:	base not to exceed 2/3 of width
	Maximum Height:	30 inches (76 cm)
Die Thickness	Minimum:	6" (15.2 cm) for a Die less than 26" (66 cm) 8" (20.3 cm) for a Die taller than 26" (66 cm)
	Maximum:	10" (25.4 cm)

Special Provisions – Upright Monument Specifications	
Infant Lot (Columbarium Garden Lots & any single grave)	Maximum Base Size 24"x12"x8" (61 cm x 30.5 cm x 20 cm) Maximum Overall Height of 32" (81.3 cm)

Flat Marker Specifications		
Construction	The bottom of the base shall be cut level and true Edges must be smooth to ease installation and reduce frost heaving	
Any Single Lot	Size	12"x24"x4" (30.5 cm x 61 cm x 10.2 cm)
	Base	10"x16" (25.4 cm x 40.6 cm)
Memorial Gardens Block "B"	Minimum Size	36" x 16" (91.4 cm x 40.6 cm) except on a single lot
	Maximum Size	42" x 18" (106.7 cm x 45.7 cm) on 2 lots 48" x 18" (121.9 cm x 45.7 cm) on a 3 lots
Concrete Foundation	Required when marker exceeds:	30"x16" (76.2 cm x 40.6 cm)