

## Staff Report

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<b>Report To:</b>	<b>General Government Committee</b>		
<b>Date of Meeting:</b>	May 9, 2022	<b>Report Number:</b>	LGS-012-22
<b>Submitted By:</b>	Rob Maciver, Deputy CAO/Solicitor		
<b>Reviewed By:</b>	Mary-Anne Dempster, CAO	<b>Resolution#:</b>	GG-233-22
<b>File Number:</b>		<b>By-law Number:</b>	22-035, 22-036
<b>Report Subject:</b>	Cemetery By-law Review and Update		

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### Recommendations:

1. That Report LGS-012-22, and any related delegations or communication items, be received;
2. That the By-law attached to Report LGS-012-22, as Attachment 1, to repeal the current Cemetery By-law and replace it with the attached new Cemetery By-law, be approved;
3. That Staff be authorized to provide notice, and signage, regarding the proposed new Cemetery By-law, in accordance with Regulations of the Funeral, Burials and Cremation Services Act, 2002;
4. That the By-law attached to Report LGS-012-22, as Attachment 2, to amend Clarington's Fee By-law, to add a schedule for the Cemetery Price List, be approved; and
5. That all interested parties, and any delegations, be advised of Council's decision.

## Report Overview

This Report provides a thorough review and proposes a replacement by-law to the current Cemetery By-law, including moving the Price List from the Cemetery By-law to the Fee By-law.

## 1. Background

- 1.1 Every operator of a cemetery must have a set of by-laws, approved by the Registrar, that are in compliance with the FBCSA and O. Reg. 30/11 and 184/12, are in the public interest, and do not give the cemetery operator or supplier an unreasonable or unfair advantage over another supplier, and relate to the current functioning of the cemetery.
- 1.2 Clarington has had a “cemetery by-law”, in one form or another since 1960.
- 1.3 Arising out of [Report OPD-007-12](#), Council passed By-law 2012-061, [Clarington’s current Cemetery By-law](#). At the time, the review was prompted by changes to the [Funeral, Burial and Cremation Services Act, 2002](#).
- 1.4 Since 2012, the Cemetery By-law has been amended seven times.
- 1.5 In addition to the [33 abandoned cemeteries](#), Clarington manages five active cemeteries (Bowmanville, Bond Head, St. George’s, Hampton Union, and Orono), with Hampton (2013) and Orono (2020) being recent acquisitions.
- 1.6 The cemetery business is managed jointly between the Clerk’s Division Staff (from an administrative, interments/sales/transfers side) and the Public Works Department (from the hands-on burial side) and is a partnership that has worked well for dozens of years.
- 1.7 As the industry and our community evolves, Staff felt it necessary to review the by-law to ensure that it addresses practices and rules for the smooth operation of Clarington’s cemeteries. To that end, Clerk’s Division Staff and the Public Works Department have met several times to review all aspects of the Cemetery By-law.

## 2. Definition of Infant Graves

- 2.1 The current Cemetery By-law includes the following definition:

“Baby Land” means a part of a cemetery designated for infants with a grave no bigger than 24” x 36” (61 cm X 91.5 cm).
- 2.2 Over the years, Staff have received some comments that this definition can be disturbing to those who have recently lost an infant.

- 2.3 Staff have surveyed other cemeteries to determine a more appropriate name for the area and recommend changing the definition to “Infant Baby Land” and the block will be known as “IBL”. Additionally, the size needs to be corrected to match the price list (1.5’ x 3’).
- 2.4 Public Works staff will look at replacing the current monument/sign, which currently says “Baby Land”, with a graphic sign instead of the name at the Bowmanville Cemetery. The cost for this change will also be included in the 2023 budget.

### **3. Limitations and Permissions**

#### **Limit of 12 Graves Per Person**

- 3.1 Arising out of [Report OPD-003-20](#), Council amended the Cemetery By-law to add subsection 4.6 as follows:

“That the sale of Interment Rights shall be limited to a maximum of 12 lots/graves to each individual.”
- 3.2 This maximum number of lots/graves was recommended to support the existing cemetery layout plan and also help to ensure that space in Clarington’s Cemeteries will continue to be available to all members of the public for generations to come. Since the by-law amendment was made, Staff have been concerned that the change does not support the industry standard of “in-filling” of the sales of graves and the public may be misled to think that they can purchase large plots together.
- 3.3 Additionally, Staff have been concerned that 12 niches might be purchased by a single individual and may not be required for many years. This would limit the public’s ability to purchase the limited number of niches available.
- 3.4 To that end, Staff are recommending that the grave limit be changed from 12 to 6 graves per person, including niches, and further that six niches cannot be continuous (in a row), effective for any future purchases. NOTE: This doesn’t prevent one person purchasing graves/niches up to the max, and another person in the same family purchasing more. It will not prevent families from getting plots together, but we will ensure that they are in the names of the people who intend to use them. This will discourage overconsumption of burial rights that result in a later re-sale.

#### **Ashes Scattered in Graves**

- 3.5 Section 7.7 of the current Cemetery By-law states:

“No person shall scatter cremated remains on any Grave.”

- 3.6 There have been requests to scatter human cremated remains within (not atop) an existing grave. The current Cemetery By-law is silent on this matter and Staff have held the opinion that human cremated remains should be contained in a vessel in case they need to be moved. The scattering of human cremated remains does not dissipate into the soil and remains visible for a long period of time. Additionally, the remains will be disturbed during maintenance and there are health concerns with staff possibly breathing in the remains.
- 3.7 Staff are recommending that Subsection 7.7 be changed to also prohibit the scattering of human cremated remains either atop or within a grave.

### **Niche Occupancy**

- 3.8 We currently have two different prices for the single niche and the double niche (despite the niches being the same size and having the ability to hold two urns). We do not offer a lower price when purchasers wish to place two urns in a regular plot.
- 3.9 Therefore, for consistency, Staff are recommending that there be no distinction between single or double niches – and only the one price (the current price for a double niche) for any niches sold after the effectivity date of the new cemetery by-law.
- 3.10 For clarity, the purchase of a niche is a separate cost from the opening of a niche to insert an urn.

### **Decorations**

- 3.11 Section 10.1 of the current Cemetery By-law states:
- “The Cemetery Operator reserves the right to regulate the articles placed on Lots or Plots that: pose a threat to the safety of all Interment Rights Holders, visitors to the Cemetery, and Cemetery employees; prevents the Cemetery Operator from performing general cemetery operations; or are not in keeping with the respect and dignity of the Cemetery. Prohibited articles will be removed and disposed of without notification.”
- 3.12 There are further sections regulating flowers and shrubs.
- 3.13 However, the Cemetery By-law is silent on trinkets/mementos placed on niches and columbariums. For example, people will use artificial flowers to hold up a necklace or a small chain. When the artificial flowers are worn, and weathered, it is hard to remove since that is what is holding up the necklace/chain but we don't want to throw those out since they can seem as if they are somewhat sentimental.

- 3.14 Additionally, there are instances of placements of flowers and pots at the base of the columbarium. Staff are recommending adding a prohibition to these for columbariums.
- 3.15 In the future, niches will be built without a vase, but there will be a central location to place flowers for the columbarium, to avoid this problem.
- 3.16 Additionally, the current by-law is also silent on items that aren't necessarily a threat, but might be inappropriate, such as alcohol containers or discretionary items (i.e. mouldy stuffed animals). The current by-law contains the following wording "Prohibited articles will be removed and disposed of without notification" which, in general, Staff wish to see remain in the by-law. Although, new wording surrounding inappropriate items is recommended as well as changing "Prohibited items will be removed" to "Items will be removed".
- 3.17 Therefore, Staff are recommending that "niches and columbariums" be added to the above section. Wording has been added to prohibit people from hanging items from the niche and they should not impede any other niche. For clarity, columbarium decorations should be no more than 4" in any direction from the opening of the holder and the groundskeeper reserves the right to determine if decorations are acceptable.
- 3.18 Although the above is straightforward, the prohibition poses some problems with definitions of "articles" and enforcement. Since there have been many years of tradition among existing grave owners that need to be balanced. To balance expectations, Staff are recommending a "go forward" approach where no personal objects will be allowed in the Bowmanville Cemetery for sections DD and beyond (i.e. new sections) and no personal objects to be allowed on newly constructed columbariums. In order to not disturb current traditions, this will be a go forward approach in new sections only (i.e. Sections A, D, and G in the Orono Cemetery).

## **4. Sale and Transfer of Interment Rights**

### **Care and Maintenance Fund**

- 4.1 Subsection 4.1 of the current Cemetery By-law states:

"Subject to availability of Lots, Interment Rights may be purchased from the Municipality at the rates set out in Schedule A. The rates for Interment Rights include the portion specified by the Act for deposit to the Cemetery's Care and Maintenance Fund."

- 4.2 Prior to 1955, graves were purchased without the “care and maintenance” fee. Additionally, for the Hampton and Orono cemeteries – prior to Clarington taking over these cemeteries, purchasers have been charged the “care and maintenance” fee at the time of purchase.
- 4.3 To address this, Staff are recommending adding the following wording “except for transactions with a grave (i.e. transfer, interment or installation of a marker/monument) that was purchased previously and included the “care and maintenance” at the time of purchase.”

## **5. Clarifications**

### **Interment Without Payment**

- 5.1 Section 2.6 and 2.7 of the current Cemetery By-law state that:

“No interment shall be made on a Statutory holiday without payment of an extra charge as set forth in Schedule “A”, save and except in the case of a written order of the Medical Officer of Health and in such case the extra charge, set out in Section 5 of Schedule A, shall not apply.

No Interment shall be made on a Saturday or Sunday without payment of an extra charge as set forth in Schedule “A”, save and except in the case of a written order of a Medical Officer of Health and in such case the extra charge shall not apply.”

- 5.2 In reality, in order to provide good customer service, an interment can take place when an agreement has been arranged with a Funeral Home Operator, i.e. an out-of-town Funeral Home Operator will attend the opening and hand in the cheque at that time.
- 5.3 Additionally, these two sections were meant to convey that there would be an extra payment for Statutory Holiday or Saturday/Sunday interments. The only exception to the extra fee was if it was ordered by the Medical Officer of Health for those days.
- 5.4 Public Works Staff are working on Saturdays and the current Price List states “no charge” for Saturday niche interments. This wording is misleading so Staff are recommending that the wording be changed to “no additional charge” (other than the regular interment fee) for Saturdays in the fee schedule. The “Saturday Plot Interment” charge will still remain as the work requires a second person who isn’t normally working Saturdays.

- 5.5 In order to further clarify this in the by-law, Staff recommend changing these sections to be: “No interment shall be made on a Statutory Holiday, or Sunday, without payment of an extra charge as set forth in the Fee By-law. This extra charge is not applicable when there is a written order, from a Medical Officer of Health, for interment.”

### **Memorial Services**

- 5.6 Section 2.8 of the current Cemetery By-law states:

“Before any memorial service is held in the Cemetery, the Cemetery Operator shall be given at least 10 days notice in writing, together with a satisfactory undertaking that the cost of repairing any damage which may be occasioned, will be paid.”

- 5.7 The 10 days notice is obsolete, and some memorial services may occur without any notification to the Municipality and may be smaller gatherings. Additionally, any service that results in damages due to large attendance or other causes (i.e., large trucks, motorcycles), will be cost recoverable.
- 5.8 Staff recommend that the above section be changed to, “Memorial Services greater than 75 people shall require advance notice to the Cemetery Operator.”

### **Shrubs & Trees**

- 5.9 Subsection 3.1(b) and Subsection 9.3 contradict Subsection 10.4 of the current Cemetery By-law regarding the planting of shrubs and flowers. Subsection 3.1 was meant to refer to the Municipality planting new trees and shrubs throughout the cemetery (e.g. ash tree replacement). Subsections 9.3 and 10.4 were to provide permission to the rights holders to add plants not exceeding a garden size of 12”.
- 5.10 Staff recommend Subsection 9.3 be changed to only include the planting of flower beds (i.e. trees and shrubs are not allowed, and add that any other live plants are allowed but they are not to exceed 12”.)

### **Disinterments**

- 5.11 Subsections 3.3 and 3.4 of the current Cemetery By-law states:

“Unless otherwise directed by the Medical Officer of the Department of Health, no human remains may be disinterred from the Grave without written consent of the Interment Rights Holder.

No disinterment or removal of any casketed human remains shall be allowed except under the supervision and direction of the Medical Officer of the Department of Health and in the presence of the Cemetery Operator, and upon due observance of all other requirements of the Act and regulations.”

- 5.12 The industry has changed the Medical Officer of Health is no longer present, the funeral home operator is present.
- 5.13 Section 102.1 of the Funeral, Burial and Cremation Services Act, states that the Court, the Attorney General, the Solicitor General, or the Coroner may order a disinterment.
- 5.14 Staff recommend that the words, in the second paragraph, “under the supervision and direction of the Medical Officer of the Department of Health” be changed to “as ordered by those defined in the Act”, including a similar change to the first paragraph.

### **Limits on Full Casket Burials and Cremations**

- 5.15 Sections 7.8 to 7.10 of the current Cemetery By-law state:

“Due to the instability of the soil, the top of any interment container shall be 36” (91.5 cm) below ground surface for safety reasons. Regardless of the manner in which the Grave is prepared only one fully Human Remains is to be interred in any single Lot.

For those purchasing Lots or Plots prior to the enactment of this By-law, double interments will be honoured, but no more than two interments shall be allowed in one Lot. Both Interments in one Lot must each have Caskets.

Cremated remains shall be allowed to be interred with fully Human Remains. The limit shall be three (3) cremated remains with one (1) fully Human Remains in any single Lot. For those Lots purchased prior to the enactment of By-law 2005-067 requesting a double interment in one Lot, the limit shall be two (2) cremated remains with two (2) full Human Remains in any single Lot.”

- 5.16 Although repealed by By-law 2005-067, [By-law 89-219](#) amended the By-law 79-04, the Cemetery By-law, as follows:

“Not more than two casket burials shall be allowed in one lot. Up to six ash burials at single depth will be permitted in a vacant lot or a lot occupied by a single or double casket burial. A burial initially used for ash burial may not later be used for casket burials.”

- 5.17 The reasoning behind the more recent limits had to do with concerns about too many monuments and the instability of the ground.

5.18 With the recent acquisitions of other cemeteries, the wording of “prior to enactment of this by-law” (which used to refer to the Bowmanville cemetery only) no longer applies. Additionally, there needs to be clarity on the “grandfathering”.

5.19 Staff are recommending the existing wording be replaced with the following:

“Due to the instability of the soil, the top of any interment container shall be 36” (91.5 cm) below the ground surface for safety reasons. Regardless of the manner in which the Grave is prepared, only one full-body human remains is to be interred in any single Lot.

Human cremated remains shall be allowed to be interred with full-body human remains. The limit shall be three cremated remains with one full-body human remains in any single Lot or, four cremated remains if there is no full-body human remains.

Notwithstanding Subsection XX[above], if the lot is being used for both full-body burials and cremated remains, full-body burials must be in place prior to placing cremated remains in any single lot.

Notwithstanding Subsection XX [above], for those who purchased Lots or Plots:

- In the Bowmanville Cemetery prior to July 1, 2005, requesting a double interment in one Lot, the limit shall be two cremated remains with two full Human Remains in any single Lot;
- In the Orono Cemetery prior to June 1, 2019, six cremations will be permitted with the approval of the Cemetery Operator;
- In the Hampton Cemetery, six cremations will be permitted in all graves (as all graves were sold prior to Clarington assuming the cemetery).

## Markers

5.20 “Markers” are defined as “any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot.” The current Price List for markers are:

Description	2022 Rate (excluding taxes)
Monument foundation (flat fee)	\$454.71
Flat Marker Foundations (flat fee)	285.52
Cremation / Baby Markers (flat fee)	126.90
Removal of Monuments	89.88

The difference in price is due to the different sizes of markers, however, this distinction is not made clear in the by-law. Therefore, Staff are recommending clarification wording and a change to the Price List.

- 5.21 Staff recommend that the description of flat markers include the maximum size in the fee schedule, by grave type. Additionally, a new item be added, “foot marker” (no care & maintenance) with a maximum size included, at the same cost as the flat markers for Block IBL.
- 5.22 Staff also recommend that the costs be determined by grave type, as shown below:

Monument Foundation or Marker Setting Type	Grave Type	Maximum Size	Care & Maintenance Flat Fee	Price	HST	Total
Monument	Regular	Height: 4 ft See body of By-law for details on size	\$200.00	\$454.71	\$85.11	\$739.82
Flat Marker	Regular	24 ½” x 18 ½”	\$100.00	\$285.52	\$50.12	\$435.64
	Cremation	22” x 16”	\$100.00	\$126.90	\$29.50	\$256.40
	Block IBL	16 ½” x 10 ½”	N/A	\$126.90	\$16.50	\$143.40
Foot Marker	All	16” x 10”	N/A	\$126.90	\$16.50	\$143.40
Removal of Monuments	All	N/A	N/A	\$89.88	\$11.68	\$101.56

## 6. Monuments

### Assisted Burials

- 6.1 “Assisted Burials” are commonly known as “Social Services burials” and occur when the deceased’s estate is unable to cover the cost of burial and Social Services pays for the grave and interment. This is legislated and allows for the provision of financial assistance for funerals and burials to ensure that individuals who are in receipt of social assistance, indigent persons, and persons in financial need may have their remains interred or cremated in a respectful and dignified manner. The current maximum cost that Social Services pays is \$1300.
- 6.2 Section 4.17 of the current by-law states:

“Notwithstanding sub-sections 4.1 to 4.15, inclusive, burial rights for graves provided for assisted burials cannot be transferred or sold and shall remain vested with the Municipality in perpetuity.”

- 6.3 The Municipality of Clarington (and Social Services) does not provide a marker for “assisted burials”. To do so, would be a large cost to the Municipality.
- 6.4 However, for monuments on “assisted burials”, we informally allow a person (either at the time of passing or in the future) to sign an indemnity declaration on the Monument Order Form and pay for a marker/monument on an “assisted burial grave” despite grave ownership being retained by Clarington.
- 6.5 Similarly, there are instances where the rights holder is the deceased, but a relative wishes to place a marker/monument. Staff have been informally allowing this, with the use of an indemnity form.
- 6.6 Therefore, Staff are recommending that we add a definition for “assisted burials” and a section permitting persons to place a marker/monument on an “assisted burial grave” or if the deceased is the rights holder, to codify the informal practice.
- 6.7 Additionally, in order to provide recognition of burials, buried without a marker, Staff will investigate the cost and feasibility to provide a digital record, to be available on Clarington website, of all burials in Clarington’s cemeteries.

### **Markers in Addition to Monuments**

- 6.8 Section 8.9 of the current Cemetery By-law states:

“Only one Monument shall be erected within the designated space on any Lot.”

- 6.9 However, there is no language around how many (and size of) “markers” may be added. Although this is not usually an issue because most names are included in the monument, Staff are suggesting a limit of one monument, with the possibility of additional markers, at the discretion of the Cemetery Operator. Staff are also suggesting that the current by-law be changed to define monuments as either upright or as a pillow style both require a foundation and a base. And further, add to the definition of “marker” that “no foundation is required”.

### **Cleaning of Monuments**

- 6.10 The current Cemetery By-law is silent on the cleaning of monuments. The industry recommends that monuments not be cleaned as it deteriorates the material.
- 6.11 Staff recommends adding a section, within the Memorialization section, that states “The Cemetery Operator is not responsible for the cleaning of any monuments and/or markers.”

## Flower Stands/Hangers

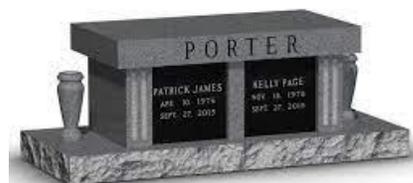
- 6.12 There is currently no prohibition against hanging flowerpot holders/stands and they can be a hazard if they are caught by maintenance equipment. However, in the Bowmanville Cemetery Lots A-CC are the existing sections and the loved ones have certain expectations and traditions.
- 6.13 In order to balance existing traditions, with the protection of property, Staff recommend adding the following section to the “Decorations” section:

“Pot hangers/holders/stands are prohibited.”

Notwithstanding section XX [above], pot hangers/holders/stands are allowed in St. Georges Cemetery, Hampton Cemetery, Bond Head Cemetery, Bowmanville Cemetery lots A-CC, and the Orono Cemetery lots excluding A, D, and G.”

## Cremation Monuments

- 6.14 We have had inquiries about cremation monuments that have niches built-in. See the image for example.
- 6.15 Staff have concerns about it looking too much like a personal columbarium (i.e. monuments are owned by family and therefore can't have privately owned niches within the cemetery); who would have access; who would hold the keys/opening devices for each one; the nameplate may be subject to deterioration/damage during maintenance with it being so low to the ground.
- 6.16 Therefore, Staff are recommending that a definition for a niche monument (with a cavity) be added and that niche monuments be prohibited in all cemeteries.
- 6.17 Similarly, Staff are recommending that bench monuments be prohibited.



## 7. Price List

### Charges for Corner Stones

- 7.1 Although it happens infrequently, sometimes customers wish to place cornerstones at the corners of the graves. They may include an initial of a loved one that is included in the grave. These cornerstones are small in size (6” x 6”), and sit flush with the ground, but still require oversight by Staff.
- 7.2 The Cemetery By-law currently does not include a reference to cornerstones either in the definition or in the fee section.

- 7.3 These cornerstones can become problematic for maintenance as they can be susceptible to frost heave.
- 7.4 Staff are recommending that the following be included in the by-law:
- Change the definition of “corner posts” to “corner stones”.
  - A section stating that, as of the effective date of the by-law, no further corner stones are permitted, but the current corner stones are “grandfathered in”.

### **Replacement Granite Niche Plaque Fees**

- 7.5 All replacement plaques are ordered and administered through Clarington. The current rate charged to the customer for the replacement of a granite niche plaque is  $\$317.24 + \text{HST} = \$358.48$ . The monument company charges Clarington \$310 (as of March 2022) at Orono Cemetery because of the uniqueness of the plaques in the Orono Cemetery. This leaves only \$7 to cover the cost of administration and installation. However, the cost charged by the monument company, for the other cemeteries, is lower and there is a larger margin.
- 7.6 Staff have reviewed the pricing and believe that, given the few instances per year of Orono replacement plaques, the pricing can remain the same for all cemeteries.

### **Opening Fees for Orono and Hampton Cemeteries**

- 7.7 When Clarington assumed the responsibility of the Hampton and Orono cemeteries, best efforts were made to harmonize the previous cemetery by-laws with Clarington’s. However, it has come to Staff’s attention that Hampton and Orono niches purchased “prior to Clarington assuming responsibility” included an opening fee, whereas Clarington’s by-law reflects the sale and opening costs separately. Staff have been dealing with this informally by waiving the opening fee for these circumstances.
- 7.8 To address this disconnect, Staff are recommending that the Cemetery by-law include a section making it clear that niches purchased prior to the Hampton and Orono acquisitions include an opening fee and therefore will not be charged an additional opening fee.

### **Provincial License Fee**

- 7.9 In accordance with the Act, as part of the interment fee process, every deceased requires a Provincial License Fee, as prescribed by the Act. However, the current by-law is silent on this, except that it is listed in the Price List.

- 7.10 Staff recommend that wording be added to the current section 7.5, as follows, “including the Provincial License Fee, for each individual interred.”

### **Disinterment for Niches**

- 7.11 Although the Cemetery By-law contains a fee for the disinterment of graves, the by-law is silent on disinterments for niches or opening of niches.
- 7.12 The definition of “interment right” in the current Cemetery By-law is “the right to require or direct the interment of human remains or cremated human remains in a grave, lot, or niche and direct the associated memorialization.”
- 7.13 Staff regularly have requests to open niches to add “personal objects/treasures”. Although the by-law is silent on this, Staff have held the position that the niches should only be opened for the movement of human remains, which is in line with the “interment right”.
- 7.14 Since a niche disinterment involves the same staff time as an interment of a niche, Staff are recommending that a fee equal to the niche interment fee be added as a disinterment fee (\$206.21) equal to the fee for an interment. To achieve this change, a definition/prohibition of niche disinterment/opening will be added to make it clear that it is for the “removal of human remains” (not for the purpose of adding personal objects, which is not permitted). This would also address the trinkets/treasures concern. Additionally, Staff are recommending a provision that the “removal of a joint urn to add a second set of human cremated remains (work performed by a funeral home) would not be considered a disinterment”.
- 7.15 Although there is a definition for interment and disinterment, these definitions are for full casket burial and cremation graves, but we do not have wording surrounding interment and disinterment for niches.
- 7.16 Staff are recommending that the interment and disinterment definitions be expanded to include niches and the disinterment fees be structured similar to the interment fees.

### **Burial Permit Fees**

- 7.17 Currently, Clarington charges \$25 to the Funeral Homes, for processing burial permits. The fee has remained the same for many years.
- 7.18 Staff have reviewed other area municipalities’ burial permit fees and, to be consistent with the majority of Durham Region, recommend keeping it at \$25 (although outside of Clarington, the price widely varies).

7.19 The following table shows the charges within Durham Region:

Municipality	Registration Fee
Ajax	\$25
Whitby	\$25.00 or \$125 for after-hours
Brock	\$20.00 or \$50.00 for after-hours
Scugog	\$20.00
Uxbridge	\$20.00
Pickering	\$25.00
Oshawa	\$30

### Timing of CPI as Basis for Increases

7.20 In accordance with the amending By-law 2019-045, the Price List, commencing on May 1st, 2020, increased in accordance with the November over November, Ontario All-Items Consumer Price Index (CPI).

7.21 This means that Staff must wait until the third week of December for the November CPI to be released, then make the necessary changes in the system prior to the Christmas shutdown.

7.22 Staff are recommending that the increase be based on the October CPI (which is released in the third week of November) to take effect on January 1<sup>st</sup>.

### Capping the CPI Increase

7.23 As we experienced in 2020, due to the effect of the COVID-19 pandemic on the CPI in 2020, the CPI can be a negative. Similarly, it could be zero increase or wildly high. The following table illustrates the fluctuations, using the CPI:

Date	CPI
March 2022	6.7
November 2021	4.7
November 2020	1.0
November 2019	2.2
November 2018	1.7

7.24 Staff, in consultation with the Deputy CAO/Treasurer, are recommending that, in the event that the CPI is a negative, the prices be kept the same. In the event that the CPI is more than 5%, the price increases be capped at 5%.

## Rounding

- 7.25 As outlined in [Report OPD-006-19](#), for ease of quotation to the customer, it was recommended that, after the CPI has been applied, the resulting price would be rounded to the nearest five-dollar increment.
- 7.26 This has resulted in an unintended larger percentage impact on some of the smaller prices.
- 7.27 Staff are recommending that the increases be based on the actual “pre-rounded” price from the previous year and rounded to the nearest dollar for the current year.

## Move Price List to Fee By-law

- 7.28 Since 1960, when the first Cemetery By-law was established, the Price List have been included in the Cemetery By-law. Since that time, Council has established a Fee By-law and has been slowly moving the fees to the Fee By-law to provide for a consolidated by-law for ease of reference.
- 7.29 Staff have consulted with the Bereavement Authority of Ontario (BAO) and they recommend that the “price list remain separate from your by-laws so that price increases do not necessitate a by-law change as price increases are not required to be sent in for a stamp/approval by the BAO”.
- 7.30 Therefore, Staff are recommending that the Cemetery Price List be moved to the Fee By-law by approving the attached Fee By-law Amendment (Attachment 2), including all references to “Schedule A”, the Tariff of Rates, being changed to the “Fee By-law”.

## 8. Housekeeping

- 8.1 The proposed by-law also includes the following housekeeping items (all references to sections refer to sections in the current by-law):
- a) Change references to his/her to “their” throughout by-law.
  - b) Change references to “Municipal Clerk’s Department” to “Clerk’s Division”.
  - c) Change reference from “fully human remains” to “full-body human remains”.
  - d) Updating and addition of various definitions to be more in line with the [sample by-laws provided by the BAO](#).
  - e) Update definition of “Director” from “Director of Operations” to “Director of Public Works”

- f) Update definition of “Treasurer” from “Director of Finance/Treasurer” to “Deputy CAO/Treasurer”.
- g) Subsection 2.1 – “September to June” to the regular hours of operation.
- h) Subsection 2.1.1 of the current Cemetery By-law states:

“No person shall enter or remain in a Cemetery between sundown and 8:00 PM without the permission of the Cemetery Operator.”

The “PM” is an error and is corrected in the proposed by-law to “a.m.”, which also makes it consistent with the hours of operation listed in subsection 2.1.

- i) Subsection 3.1, regarding the supply of cemetery services, changed to add “other than those authorized by the Cemetery Operator.”
- j) Subsection 4.3, regarding the documents provided to the purchaser, add subsection 4.3(d) “any other documents as required under the Act” (to cover the requirement for providing a copy of the Consumer Information Guide).
- k) Subsection 7.2, regarding the issuance of burial permits, change “A burial permit issued by the Registrar General” to ‘A duly issued burial permit’ (since it is the Municipality that issues the burial permit not the Registrar General).
- l) Subsection 10.8, regarding breakable materials, add “porcelain and clay items” to this section, which currently reads:

“Lettered boards, signs, items made of glass in whole or in part, crockery items or wind chimes are prohibited.”
- m) Renumbered, and change references to sections, as appropriate.
- n) Other minor wording, grammar, spelling, or changes necessary to be in conformity with sample wording from the BAO.

## 9. Timing

- 9.1 In accordance with Section 151 of Regulation 30/11 of the Act, no cemetery by-law or by-law amendment is effective until, the cemetery operator has filed it with the registrar, performed the notice requirements, and the by-law has been approved by the Registrar of the BAO.

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- 9.2 Regarding the notice requirements, the Act requires the Cemetery Operator to publish in the newspaper, post on a sign at the cemetery for four weeks and notify all monument companies.
- 9.3 The BAO has indicated that the normal business standard for the BAO review of by-laws is 45 days.
- 9.4 The review of the by-law has taken some time, but Staff are recommending that the new by-law be approved soon to allow for the four-week notice period, then the passing of the by-law, and the BAO review.
- 9.5 There is no requirement to send the fee by-law amendment to the BAO for approval, however, the price changes require lead time for notification to the local funeral homes and their customers. Section 69(2) of O. Reg. 30/11 states:
- The cemetery operator shall provide the copies required by subsection (1) at least 30 days before the effective date of any changed price.
- 9.6 Staff are therefore recommending that the fee by-law amendment be in place for the October CPI change affecting the next price change.

## **10. Concurrence**

This report has been reviewed by the Director of Public Works and the Deputy CAO/Treasurer who concur with the recommendations.

## **11. Conclusion**

It is respectfully recommended that Council approve the attached draft by-laws regarding Cemetery Operation.

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Staff Contact: June Gallagher, Municipal Clerk, 905-623-3379 ext., 2102 or [jgallagher@clarington.net](mailto:jgallagher@clarington.net).

Attachments:

Attachment 1 – Proposed Cemetery By-law

Attachment 2 – Proposed Fee By-law Amendment By-law

Interested Parties:

The following interested parties are to be notified of Council's decision:

Funeral Homes dealt with in the past 12 months:

- Ainsworth Funeral Home
- Allison Funeral Home
- Armstrong Funeral Home
- Barnes Memorial Funeral Home
- Brock & Visser Funeral Home
- Chapel Ridge Funeral Home
- Courtice Funeral Home
- Fallis & Shields Funeral Home
- McIntosh-Anderson-Kellam Funeral
- Mackey Funeral Home
- Morris Funeral Home
- Newcastle Funeral Home
- Nisbett Funeral Home
- Northcutt Elliott Funeral Home
- Oshawa Funeral Home

Monument Companies dealt with in the past 12 months

- Campbell Monuments
- Kawartha Monuments
- Oshawa Monument Company
- Peterborough Monument Works
- Stafford Monument Company

If this information is required in an alternate format, please contact the Accessibility Co-ordinator at 905-623-3379 ext. 2131

## The Corporation of the Municipality of Clarington

### By-law 2022-0XX

Being a by-law to provide for the maintenance, management, regulation, and control of the cemeteries in the Municipality of Clarington.

Whereas The Corporation of the Municipality of Clarington owns, and operates, the following municipal cemeteries:

- Bowmanville Cemetery, located at 1330 Haines Street, Bowmanville;
- Bond Head Cemetery, located at 44 Queen Victoria Street, Newcastle;
- St. George's Cemetery, located at 2 Browview Road, Bowmanville;
- Hampton Union Cemetery, located at 5810 Old Scugog Road, Hampton;
- Orono Cemetery, located at Lot 28, Mill Lane, Orono.;

And whereas the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002 c.33 regulates the operations of cemeteries in Ontario;

And whereas the Council of The Corporation of the Municipality of Clarington deems it desirable to enact a By-law to regulate the operation of municipal cemeteries;

Now therefore the Corporation of the Municipality of Clarington hereby enacts as follows:

#### 1. Approval

These by-laws are the rules and regulations that govern the Bowmanville Cemetery, Bond Head Cemetery, St. George's Cemetery, Hampton Union Cemetery, and Orono Cemetery, and have been approved by the Registrar, Funeral, Burial and Cremation Services Act, 2002 (FBCSA), Bereavement Authority of Ontario (BAO).

#### 2. Definitions

**“Act”** means the Funeral, Burial and Cremation Services Act, 2002 (FBCSA), S.O. 2002 c.33.

**“Ashes”** means the cremated or aquamation remains of a deceased human body.

**“Assisted Burial”** means a burial when the deceased's estate is unable to cover the cost of the burial and Social Services pays for the grave and interment, to ensure that individuals who are in receipt of social assistance, indigent persons, and persons in financial need may have their remains interred or cremated in a respectful and dignified manner.

## Cemetery By-law 2022-xxx

**“Burial”** means the opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.

**“Care and Maintenance Fund”** means the requirement under the Act and Regulations 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.

**“Casket”** means the container/coffin in which human remains are interred.

**“Cemetery”** means those areas inside the Bowmanville Cemetery, St. George’s Cemetery, Bond Head Cemetery, Hampton Union Cemetery and Orono Cemetery set aside for the interment of human remains or ashes.

**“Cemetery Operator”** means the Municipality of Clarington.

**“Columbarium”** means a structure (a niche wall) designed for the purpose of interring and preserving of cremated remains in sealed compartments (niches).

**“Contract”** means the signed contract between the purchaser of Interment Rights and the Cemetery Operator detailing the obligations of both parties, and acknowledging receipt and acceptance of the cemetery by-laws, a copy of the Consumer Information Guide and the Price List.

**“Corner Stones”** means any stone or other land markers, usually 6”x 6”, set flush with the surface of the ground and used to indicate the location of a lot or plot.

**“Corporation”** means the Corporation of the Municipality of Clarington.

**“Cremation Monument”** see “Niche Monument”.

**“Director”** means the Director of Public Works of the Municipality of Clarington or their designate.

**“Disinterment”** means the digging/removal and re-interment of a casket, vault or urn from a burial lot or niche.

**“Grave”** (Also known as Lot) means any inground burial space intended for the interment of a child, adult, or cremated human remains.

**“Holiday”** means a Statutory or Declared Holiday as well as any day designated in a collective agreement approved by the Municipality of Clarington.

**“Human remains”** means the remains of a deceased human body.

**“Infant Baby Land”** = IBL = means a part of a cemetery designated for infants with a grave no bigger than 18” x 36”.

## Cemetery By-law 2022-xxx

**“Interment”** means the opening of a lot and then the placing of dead human remains or cremated human remains 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.

**“Interment Right”** means the right to require, or direct, the interment of human remains or cremated human remains in a grave, lot, or niche and direct the associated memorialization.

**“Interment Rights Certificate”** means the document issued by the Cemetery Operator to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.

**“Interment Rights Holder”** means any person authorized, or entitled, to inter human remains in a specified lot.

**“Lot”** (also known as Grave) means a single grave space.

**“Marker”** means any permanent memorial structure that is set flush and level with the ground, where no foundation is required and used to mark the location of a burial.

**“Memorial Bench”** means a bench (typically granite) personalized with lettering/dates/artwork placed on a burial lot.

**“Monument”** means any permanent memorial projecting above the ground installed to mark the location of a burial or lot. This may include an upright or pillow style requiring a foundation and a base.

**“Municipal Clerk”** means the Clerk of the Municipality of Clarington or their designate.

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

**“Niche Monument”** means a permanent memorial installed by individuals to mark the location of a particular burial, or a lot, which includes individual compartment(s) intended for the entombment of cremated human remains.

**“Plot”** means a parcel of land, sold as a single unit, containing multiple lots.

**“Register”** means an up-to-date record (within five days of interment) of the name and address of each Interment Rights Holder and the location of the lot. The name and address of the original Interment Rights Holder, any date of transfer, and to whom the rights were transferred. The name of each person interred, the location within the Cemetery, and the date of interment, particulars regarding disinterments including the name of the person disinterred, date of disinterment, who authorized the disinterment, where the remains were re-interred, or the person who took possession of the remains.

**“Registrar”** means the Registrar of the Bereavement Authority of Ontario (BAO).

# Cemetery By-law 2022-xxx

“**Social Services Burial**” see “Assisted Burial”.

“**Third Party Purchaser**” means any person who purchased Interment Rights from a source other than the Cemetery Operator, in accordance with the provisions of this by-law.

“**Urn**” see Vessel.

“**Vault**” means a manufactured fiberglass or concrete shell that the casket is placed into prior to an Interment.

“**Vessel**” means a container for cremated remains.

## 3. General

### 3.1 Hours of Operation

Visitation Hours: 8:00 a.m. to Sundown  
Office Hours: 8:30 a.m. to 4:30 p.m. (September to June)  
8:00 a.m. to 4:00 p.m. (July and August)  
Interment Hours: 8:00 a.m. to 4:00 p.m.

Note, the Office for the Cemeteries is the Municipal Clerk’s Division, 40 Temperance Street, Bowmanville.

3.2 No person shall enter or remain in a Cemetery between sundown and 8:00 a.m. without the permission of the Cemetery Operator.

3.3 The hours of operation shall not apply to a police constable and employees of the Municipality of Clarington in the performance of their duties.

### 3.4 Conduct

The Cemetery Operator reserves full control over the Cemetery operations and management of land within the Cemetery grounds.

No person may damage, destroy, remove, or deface any property within the Cemetery.

All visitors shall conduct themselves in a quiet manner that shall not disturb any service being held.

### 3.5 Liability

The Cemetery Operator shall not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to any lot, plot, columbarium niche, monument, marker, or other article that has been placed in relation to an Interment, save and except for direct loss or damage caused by gross negligence of the Cemetery Operator.

# Cemetery By-law 2022-xxx

## 3.6 Public Register

Section 110 of O. Reg. 30/11 requires all cemeteries and crematoriums to maintain a public register that is available to the public during regular office hours. The Public Register shall be available to the public through the Municipal Clerk's Division during regular office hours.

## 3.7 Pets or Other Animals

Pets or other lower animals, including cremated animal remains, are not allowed to be buried on Cemetery grounds.

## 3.8 Right to Re-Survey

The Cemetery Operator 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.

## 3.9 Interments on a Statutory Holiday or Sundays

No interment shall be made on a Statutory Holiday, or Sunday, without payment of an extra charge as set forth in the Fee By-law. This extra charge is not applicable when there is a written order, from a Medical Officer of Health, for interment.

## 3.10 Memorial Services

Memorial Services greater than 75 people shall require advanced notice to the Cemetery Operator.

## 4. Cemetery Services

### 4.1 Cemetery services available from the Municipality of Clarington shall not be allowed to be supplied by any person, other than those authorized by the Cemetery Operator.

"Cemetery Services" shall include:

- a) cutting grass and general care of lots;
- b) planting trees, shrubs and grass;
- c) setting grave markers, and memorials;
- d) construction of a foundation for monuments and markers;
- e) opening and closing of graves; and
- f) disinterment or removal of human remains.

## Cemetery By-law 2022-xxx

### 5. Disinterment or Removals

- 5.1 Unless otherwise directed by the Medical Officer of the Department of Health, no human remains may be disinterred from the Grave without written consent of the Interment Rights Holder.
- 5.2 No disinterment or removal of any casketed human remains shall be allowed except as ordered by those defined in the Act and in the presence of the Cemetery Operator, and upon due observance of all other requirements of the Act and regulations.
- 5.3 No opening of a niche is permitted except for the addition or removal of human remains.
- 5.4 Removal of a joint urn to add a second set of human cremated remains (work performed by a funeral home employee) would not be considered a disinterment.
- 5.5 A certificate from the local Medical Officer of Health is not required for the removal of cremated remains.

### 6. Oversized Vaults

- 6.1 Where a Vault has a width of more than 2' 6" (0.762 metres), or a length of more than 7' 6" (2.286 metres), the Cemetery Operator shall not be obliged to permit the interment unless there is sufficient space to accommodate it; and the Cemetery Operator shall not be obliged to permit the erection of any Monument where there is insufficient room left for the foundation.

### 7. Sale and Transfer of Interment Rights

- 7.1 Purchasers of interment rights holders 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 cemetery by-laws, no burial, entombment, 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) when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or real property.
- 7.2 Subject to availability of Lots, Interment Rights may be purchased from the Municipality at the rates set out in the Fee By-law. The rates for Interment Rights include the portion specified by the Act for deposit to the Cemetery's Care and Maintenance Fund except for transactions with a grave (i.e. transfer, interment or installation of a marker/monument) that was purchased previously and included the "care and maintenance" at the time of purchase.

## Cemetery By-law 2022-xxx

- 7.3 Payments for Interment Rights shall be made payable to the Municipality of Clarington, through the Municipal Clerk's Division.
- 7.4 Upon payment in full, the Municipality shall provide each purchaser of Interment Rights with:
- a) a copy of the Contract;
  - b) a copy of the Cemetery By-law;
  - c) a Certificate of Interment Rights; and
  - d) any other documents as required under the Act
- 7.5 Purchasers of lots acquire only the right and privilege for the interment of human remains and the placing of markers, subject to this By-law.
- 7.6 To ensure accuracy of the Register, no transfer of any Interment Right or any interest therein shall be binding upon the Municipality, unless application for the Transfer has been submitted, including necessary supporting documentation, and the original Certificate of Interment Rights returned, as required under Subsection 4.9 a). Upon receipt of such application and payment of the prescribed fee, the Transfer shall be made and a new Certificate of Interment Rights issued.
- 7.7 The sale of Interment Rights shall be limited to a maximum of six lots/graves/niches to each individual.
- 7.8 For sales after the effective date of this by-law, the sale of six niches shall not be continuous (i.e. not a whole row).

### **Third Party Purchases/Re-Sales**

- 7.9 An interment rights holder wishing to resell their interment rights may advise the cemetery operator of their intention prior to seeking a third-party buyer for their interment rights.
- 7.10 Subject to the provisions of this By-law and the Act, and provided that no part of the Interment Rights have been exercised, an Interment Rights Holder may sell, or transfer, their Interment Rights to a Third Party Purchaser at no more than the current price, so long as the sale or transfer is conducted through the Cemetery Operator and the interment rights holder and purchaser meet the qualifications and requirements.
- 7.11 If an Interment Rights Holder is unable to find a third Party Purchaser at the current purchase price, the Municipality may buy the rights back at a negotiated price.

## Cemetery By-law 2022-xxx

- 7.12 No person shall purchase Interment Rights for the sole or primary purpose of reselling the Rights with a view to making a financial gain. The Interment Rights may not be sold to Third Party Purchasers for more than the price set out in the current Price List (contained in Clarington's Fee By-law) as the case may be.
- 7.13 An Interment Rights Holder intending to sell their Interment Rights to a Third Party Purchaser shall provide the Municipality with the following documentation so that the Municipality can confirm the ownership of the Rights and provide the Third Party Purchaser with the required documentation:
- a) an Interment Rights certificate endorsed by the current Rights holder;
  - b) if the resale involved Interment Rights, a written statement of the number of Lots that have been used in a Plot and the number of Lots that remain available; and
  - c) any other documents in the Interment Rights Holder's possession relating to the Rights.
- 7.14 To complete the sale of the Interment Rights to a Third Party Purchaser the Municipality may also require:
- a) a statement signed by the Interment Rights Holder(s) selling the Interment Rights acknowledging the sale of the Rights to the Third Party Purchaser;
  - b) confirmation that the person selling the Interment Rights is the person registered on the Cemetery records and that they have the right to re-sell the Interment Rights;
  - c) a record, setting out the date of the transfer of the Interment Rights to the Third Party Purchaser; and
  - d) a statement of any money owing to the Municipality in respect of the Interment Rights.
- 7.15 The Third Party Purchaser will be provided with the following documents by the Municipality:
- a) a new Certificate of Interment Rights;
  - b) a copy of this By-law;
  - c) a copy of the current Price List (contained in Clarington's Fee By-law);
  - d) If the resale involves Interment Rights, a written statement of the number of Lots that have been used in a Plot and the number of Lots that remain available; and
  - e) any other documentation in the Interment Rights Holder's possession relating to the Rights.

## Cemetery By-law 2022-xxx

- 7.16 Upon completion of the procedures detailed in the “Third Party Purchaser” section of this by-law, and at the approval of the Municipal Clerk, the Third Party Purchaser shall be considered the current Interment Rights Holder and the resale or Transfer of the Interment Rights shall be considered completed.

### **Transfer by Will or Bequest**

- 7.17 In cases of Transfer by will or bequest, the Municipal Clerk shall have the right, in their sole discretion, to require the production of a notarized copy of the will or other evidence sufficient to prove ownership.

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

- 7.18 In accordance with the Act, any Interment Rights Holder may cancel the Interment Rights within thirty (30) days of signing the Contract by providing written notice of the cancellation to the Cemetery Operator. The Cemetery Operator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
- 7.19 Upon receiving written notice from the purchaser, the Cemetery Operator will cancel the contract and issue a refund to the purchaser for the amount paid for the interment or scattering rights. This 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(s), the certificate must be returned to the Cemetery Operator along with the written notice of cancellation.
- 7.20 No refund will be made for any Lot if any portion of the Interment Rights have been exercised.
- 7.21 Notwithstanding subsections 7.1 to 7.17, inclusive, burial rights for graves provided for assisted burials cannot be transferred or sold and shall remain vested with the Municipality in perpetuity.

## **8. Care and Maintenance Fund Contributions**

- 8.1 Interest earned from this fund is used to provide care and maintenance of lots, plots, markers, and monuments.
- 8.2 Contributions to the Care and Maintenance Fund are not refundable except when Interment Rights are cancelled within the 30 day cooling off period.
- 8.3 Where interment rights were sold before 1955 and no trust funds were collected for the purpose of care and maintenance (or perpetual care as was often the term used pre-1955), the Municipality shall charge the interment rights holder care and maintenance fees, at the time the rights are either transferred or at the time the rights are executed (including erecting a monument). The rate shall be based on the approved rates.

# Cemetery By-law 2022-xxx

## 9. Errors

- 9.1 In the event that an error on the part of the Municipality is discovered with an Interment Right prior to the use of the lot/niche for Interment, and that niche is no longer available, the Municipality shall:
- a) promptly notify the Interment Rights Holder of the error;
  - b) amend the affected Contract and Certificate of Interment Rights of that lot/niche, or other Interment Right made prior to the enactment of this By-law, so as to provide a lot/niche of equal or greater value and similar location acceptable to the Interment Rights Holder; or
  - c) cancel the Interment Rights and refund the full amount paid as evidenced in the Municipality's records.
- 9.2 The Interment Rights Holder shall notify the Municipality of their preference within 30 days of the notification of the error; otherwise, the Municipality shall be entitled to make the decision.

## 10. Interments

- 10.1 Interment Rights Holders must provide written authorization prior to an Interment. 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, succession Rights holder, or next of kin).
- 10.2 A duly issued burial permit, or equivalent document showing that the death has been registered with the Province, must be provided to the Cemetery Operator prior to an Interment taking place.
- 10.3 A Certificate of Cremation must be submitted to the Cemetery Operator prior to the Interment of cremated remains.
- 10.4 The Cemetery Operator shall be given 24 business hours of notice for each Interment.
- 10.5 Payment for Interment, and the Provincial License Fee for each individual interred, must be made to the Cemetery Operator, payable to the Municipality of Clarington through the Municipal Clerk's Division before an interment can take place.

## Cemetery By-law 2022-xxx

- 10.6 Notwithstanding subsection 10.5, an interment can take place, without payment for interment for niches purchased in the:
- Hampton Cemetery prior to June 28, 2013; and
  - Orono Cemetery prior to June 1, 2019.
- 10.7 Notwithstanding subsection 10.5, an interment can take place for an assisted burial prior to receipt of payment for the Interment, provided the Municipal Clerk has received written confirmation from Social Services of a commitment to pay for the services.
- 10.8 The opening and closing of Graves or Niches may only be conducted by Municipal staff or those designated to do work on behalf of the Cemetery Operator.

### **Scattering**

- 10.9 No person shall scatter cremated remains on, or within, any Grave.

### **More than Two in One Lot**

- 10.10 Due to the instability of the soil, the top of any interment container shall be 36" (91.5 cm) below ground surface for safety reasons. Regardless of the manner in which the Grave is prepared, only one full-body Human Remains is to be interred in any single Lot.
- 10.11 Human cremated remains shall be allowed to be interred with full-body Human Remains. The limit shall be three cremated remains with one full-body Human Remains in any single Lot or, four cremated remains if there is no full human remains.
- 10.12 Notwithstanding Subsection 10.11, if the lot is being used for both full-body burials and cremated remains, full-body burials must be in place prior to placing cremated remains in any single lot.
- 10.13 Notwithstanding Subsection 10.11, for those who purchased Lots or Plots:
- In the Bowmanville Cemetery prior to July 1, 2005, requesting a double interment in one Lot, the limit shall be four cremated remains with two full-body Human Remains in any single Lot;
  - In the Orono Cemetery prior to June 1, 2019, six cremations will be permitted with the approval of the Cemetery Operator;
  - In the Hampton Cemetery, six cremations will be permitted in all graves (as all graves were sold prior to Clarington assuming the cemetery).

## Cemetery By-law 2022-xxx

### 11. Memorialization

- 11.1 No memorial or other structure shall be erected or permitted on a Lot until all setup and foundation fees have been paid in full including markers requested to be installed for graves provided for assisted burials.
- 11.2 No Monument, footstone, marker, or memorial of any description shall be placed, moved, altered, or removed without permission of the Cemetery Operator.
- 11.3 Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear and tear.
- 11.4 The cemetery operator will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- 11.5 Memorials – monuments, markers, plaques etc. are owned by the interment rights holder and the cemetery operator is not responsible for their loss or deterioration. These memorials should be protected by the interment rights holder's own insurance coverage.
- 11.6 Monuments, footstones, markers, or memorials may be purchased and placed on an assisted burial grave by a person, or by a relative of a deceased person where the deceased person is the rights holder, provided they sign an indemnity declaration on the Monument Order Form.
- 11.7 The Cemetery Operator is not responsible for the cleaning of any monuments and/or markers.
- 11.8 Memorials – monuments, markers, plaques etc. are owned by the interment rights holder and the Cemetery Operator is not responsible for their loss or deterioration. These memorials should be protected by the interment rights holder's own insurance coverage.
- 11.9 All foundations for Monuments and Markers shall be built by or contracted to be built for, the Cemetery Operator at the expense of the Interment Rights Holder.
- 11.10 Should any Monument or Marker present a risk to public safety because it has become unstable, the Cemetery Operator shall do whatever it deems necessary by way of repairing, resetting, or laying down the Monument or Marker or any other remedy so as to remove the risk.
- 11.11 The Cemetery Operator reserves the right to remove at its sole discretion any Marker, Monument, or inscription which is not in keeping with the dignity and decorum of the Cemetery as determined by the Cemetery Operator.
- 11.12 No niche/cremation monuments are permitted on a burial lot.

## Cemetery By-law 2022-xxx

- 11.13 No memorial benches are permitted.
- 11.14 No corner stones are permitted to be installed after the effective date of passing of this by-law.
- 11.15 All Monuments shall be mounted only on a stone or concrete base or footing and the base or footing shall be constructed by the Cemetery Operator and set flush with the level of the adjoining ground.
- 11.16 A Monument or other structure shall be erected only after the specific design plans have been approved by the Cemetery Operator including dimensions, material of structure, construction details, and proposed location.
- 11.17 The minimum thickness for flat markers, including footstones, is 4 inches or 10 cm.
- 11.18 Only one Monument shall be erected within the designated space on any Lot.
- 11.19 Notwithstanding subsection 11.18, additional markers may be permitted, at the discretion of the Cemetery Operator.
- 11.20 Every Monument shall be made of bronze, natural stone (granite or marble or other durable stone used for that purpose) with no vertical joint and no ornament of stone, metal or other material attached thereto.
- 11.21 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 Monument supplier have been notified by the Cemetery Operator.
- 11.22 Every Marker for a single Grave shall be of a size as nearly as practicable, of 18" X 24" (45.7 cm X 61 cm) width, with a thickness of from 3" to 8" (7.6 cm to 20.3 cm).
- 11.23 No Monument shall exceed 48" (122 cm) in height, including base or footing, above the level of the adjoining ground, and when located on a Lot shall not exceed 10% of the Lot area. When located on a Plot, the base shall not exceed 14" X 38" (35.5cm x 96.5 cm).

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### 12. Care and Planting

- 12.1 The interest generated from the Care and Maintenance Fund shall be used to maintain, secure and preserve the Cemetery grounds, including:
- a) re-leveling and seeding of Lots or scattering grounds;
  - b) maintenance of cemetery roads, sewers, and water systems;
  - c) maintenance of perimeter walls and fences;
  - d) maintenance of cemetery landscaping;
  - e) maintenance of mausoleum and columbarium; and
  - f) repairs and general upkeep of cemetery maintenance buildings and equipment.
- 12.2 No person, other than the Cemetery Operator, shall remove any sod or in any other way change the surface of the Cemetery.
- 12.3 No person shall plant flower beds or live plants that exceed 12”.
- 12.4 No person shall install plant/garden borders of any kind.

### 13. Decorations

- 13.1 The Cemetery Operator reserves the right to regulate the articles placed or hung, on Lots, Plots, columbariums, or niches that: pose a threat to the safety of all Interment Rights Holders, visitors to the Cemetery, and Cemetery employees; prevents the Cemetery Operator from performing general cemetery operations; or are not in keeping with the respect and dignity of the Cemetery. Items will be removed and disposed of without notification.
- 13.2 Notwithstanding subsection 13.1, no articles will be allowed in new areas, specifically:
- In sections DD and any new sections in the Bowmanville Cemetery;
  - In Sections A, D, and G in the Orono Cemetery; and
  - Columbariums constructed after the passing of this by-law.
- 13.3 Columbarium decorations should be no more than 4” in any direction from the opening of the holder.
- 13.4 The Cemetery Operator reserves the right to disallow or remove quantities of memorial wreaths or flowers considered to be excessive and that diminish the otherwise tidy appearance of the Cemetery.

## Cemetery By-law 2022-xxx

- 13.5 Memorial wreaths may be placed in the Cemetery between the last day of October and the first day of April. In order to prepare the grounds for spring, wreaths must be removed prior to the first day of April. Wreaths not removed by the first day of April will be removed and disposed of by the Cemetery Operator without notification.
- 13.6 The following are permitted at the front of a Grave, not more than 12” (30.5 cm) from the Marker or Monument:
- a) unbreakable flowerpots; and
  - b) planted flowers
- 13.7 Floral stands are to be of a single leg support type and may not exceed 48” (122 cm) with no more than two stands per Monument. The arms of the stand must not project more than 12” (30.5cm) from the Marker or Monument. Stands not in compliance will be removed by the Cemetery Operator.
- 13.8 Pot hangers/holders/stands are prohibited.
- 13.9 Notwithstanding subsection 13.8, pot hangers/holders/stands are allowed in St. Georges Cemetery, Hampton Cemetery, Bond Head Cemetery, Bowmanville Cemetery lots A-CC and the Orono Cemetery lots excluding A, D, and G.
- 13.10 Flowers placed on a Grave for a funeral shall be removed by the Cemetery Operator after a reasonable time to protect the sod and maintain the tidy appearance of the Cemetery.
- 13.11 Planted items must be in alignment with, and in close proximity to, the Marker. Flowering plants must be grown only in front of the Marker and shall not extend more than 12” (30.5 cm) from the Marker. Maintenance involves pruning to limit height of trees to 48” (122 cm), and laterally to within the boundaries of the Interment Rights Holder’s Lot. Flowering plants must be weeded and watered. The plants may be removed and discarded at the discretion of the Cemetery Operator.
- 13.12 Lettered boards, signs, items made of glass, porcelains and clay items, in whole or in part, crockery items or wind chimes are prohibited.
14. Contractor/Monument Dealer
- 14.1 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 commencement of the work. Work requiring pre-approval includes 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, and the location of the work to be performed.

## Cemetery By-law 2022-xxx

- 14.2 All contractors shall report to the Cemetery Operator and provide the necessary approvals before commencing work at any location in the Cemetery.
- 14.3 Prior to the start of any said work, contractors must provide proof of:
- a) WSIB coverage;
  - b) Occupational Health and Safety compliance standards;
  - c) Environmental Protection;
  - d) WHMIS; and
  - e) evidence of liability insurance of not less than \$2 million.
- 14.4 All contractors and all work carried out by contractors within the Cemetery shall comply with the requirements of this By-law.
- 14.5 No contractor, monument dealer or supplier shall enter the Cemetery outside of the Interment Hours unless approval has been granted by the Cemetery Operator.
- 14.6 No work shall be performed at the Cemetery except during the regular Interment Hours.
- 14.7 Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The Cemetery Operator, at their sole discretion, reserves the right to temporarily cease contractor operations, 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.
- 14.8 Contractors, monument dealers and suppliers shall lay wooden planks on the Lots and paths over which heavy materials are to be moved in order to protect the surface from damage.
15. Columbarium
- 15.1 Only the Cemetery Operator may open and seal Niches for Interments. This applies to the inside sealer and the Niche front.
- 15.2 To ensure quality control, desired uniformity, and standard of workmanship, the Cemetery Operator reserves the right to inscribe all Niche fronts or install all lettering, vases, adornments, or any other approved attachment.
- 15.3 No person, other than the Cemetery Operator, shall remove or alter niche fronts.

# Cemetery By-law 2022-xxx

## 16. By-Law Amendments

- 16.1 The Cemetery shall be governed by this By-law, and all procedures will comply with the Act and Ontario Regulation 30/11, 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;
- c) delivered to each supplier of markers who has delivered a marker to one of the Clarington cemeteries during the previous year, if the by-law or by-law amendment pertains to Markers or their installation; and
- d) posted on the municipal website.

- 16.2 All by-laws and by-law amendments are subject to the approval of the Registrar.

## 17. General

- 17.1 By-laws 2012-061, 2013-006, 2013-065, 2015-037, 2016-002, 2016-072, 2019-045, 2020-044 are hereby repealed.

- 17.2 In the event that any provisions of this By-law are deemed to be invalid or void, in whole or in part, by any court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

- 17.3 This By-law shall be effective the date that it is approved by the Registrar.

By-Law passed in open session this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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Adrian Foster, Mayor

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June Gallagher, Municipal Clerk

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The Corporation of the Municipality of Clarington

By-law 2022-0XX

Being a By-law to add Schedule "H", the Cemetery Price List, to the Fee By-law 2010-142.

Whereas the Council for the Municipality of Clarington adopt the recommendations in Report LGS-012-22 to move the price list from the Cemetery By-law to the Fee By-law.

Now therefore be it resolved that The Council of the Corporation of the Municipality of Clarington enacts as follows:

1. That a Cemetery Price List, Attachment A to this by-law, be added to the Fee By-law, By-law 2010-142 as Schedule "H".
2. That this By-law shall come into effect on the date of passing.

By-Law passed in open session this XX<sup>th</sup> day of \_\_\_\_\_, 2022.

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Adrian Foster, Mayor

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June Gallagher, Municipal Clerk

By-law 2010-142  
Schedule "H"  
Cemetery Price List

## 2022 & Beyond

The Cemetery Price List, beginning with the 2023 Price List, shall be adjusted, without amendment to this By-law annually on January 1st in each year, in accordance with the October over October, Ontario All -Items Consumer Price Index (CPI) with a lower limit of zero (when the CPI is negative) and upper limit of 5% (when the CPI exceeds 5%); rounded to the nearest dollar based on the actual "pre-rounded" price from the previous year.

Definitions and regulations shall be found in the Cemetery By-law.

The following are the 2022 rates:

### 1. Sale of Plots

Type of Lot	Dimension Bowmanville	Dimension Bondhead	40% Care & Maintenance	Cost	HST	Total
Single	3' X 9'	3' X 9'	\$818.48	\$2,046.20	\$266.01	\$2,312.21
Infant	1.5 ' X 3'	1.5 ' X 3'	N/A	No Charge	N/A	N/A
Cremation	2' X 2'	2' X 2'	\$272.83	\$88.67	\$88.67	\$770.74

### 2. Sale of Cremation Niches

Columbarium	Niche Size	15 % Care & Maintenance	Cost	HST	Total
Niche (including Plaque)	12" X 12" X 12"	\$350.55	\$2,337.01	\$303.81	\$2,640.82

### 3. Interment

	Cost	HST	Total
Adult – Single Depth	\$1,078.62	\$140.22	\$1,218.84
Adult – Double Depth	\$1,342.99	\$174.59	\$1,517.58
Cremation	\$412.41	\$53.61	\$466.02
Niche	\$206.21	\$26.81	\$233.02
Infant / Child	No Charge	N/A	N/A

**4. Disinterment Charges**

NOTE: Does not include reinterment. Regular interment fees apply for reinterment within a Clarington Cemetery.

<b>Disinterment Type</b>	<b>Cost</b>	<b>HST</b>	<b>Total</b>
Adult – Single Depth	\$1,776.55	\$230.95	\$2,007.50
Adult – Double Depth	\$2,136.09	\$277.69	\$1,858.40
Cremation	\$486.44	\$63.24	\$549.69
Niche	\$206.21	\$26.81	\$233.02
Infant	\$486.44	\$63.24	\$549.68

**5. Additional Charges**

	<b>Cost</b>	<b>HST</b>	<b>Total</b>
Saturday Plot Interments	\$253.79	\$32.99	\$286.78
Saturday Cremation/Niche Interments	No Additional Charge	0	0
Sunday & Stat Holidays Plot Interments	\$597.47	\$77.67	\$675.14
Sunday & Stat Holidays Cremation/Niche Interments	\$216.78	\$28.18	\$244.96
Rental for lowering device, set up and dressing	\$137.47	\$17.87	\$155.34
Provincial Licence Fee	\$12.00	N/A	\$12.00
Granite Plaque Replacement	\$317.24	\$41.24	\$358.48

**6. Administrative Fees**

	<b>Cost</b>	<b>HST</b>	<b>Total</b>
Transfer Fee	\$37.01	\$4.81	\$41.82
Duplicate or Replacement Certificate	\$37.01	\$4.81	\$41.82
Third Party Sale Transfer	\$37.01	\$4.81	\$41.82
Transfer Back to Municipality	\$37.01	\$4.81	\$41.82

**7. Monument Foundations and Setting Markers**

<b>Monument Foundation or Marker Setting Type</b>	<b>Grave Type</b>	<b>Maximum Size</b>	<b>Care &amp; Maintenance Flat Fee</b>	<b>Price</b>	<b>HST</b>	<b>Total</b>
Monument	Regular	Height: 4 ft See body of By-law for details on size	\$200.00	\$454.71	\$85.11	\$739.82
Flat Marker	Regular	24 ½" x 18 ½"	\$100.00	\$285.52	\$50.12	\$435.64
	Cremation	22" x 16"	\$100.00	\$126.90	\$29.50	\$256.40
	Block IBL	16 ½" x 10 ½"	N/A	\$126.90	\$16.50	\$143.40
Foot Marker	All	16" x 10"	N/A	\$126.90	\$16.50	\$143.40
Removal of Monuments	All	N/A	N/A	\$89.88	\$11.68	\$101.56