

THE CORPORATION OF THE TOWNSHIP OF TAY

BY-LAW NO. 2019-49

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**A By-law to provide for Rules and Regulations for
the Care and Maintenance of Cemeteries owned by
the Township of Tay**

WHEREAS the Funeral, Burial and Cremation Services Act, 2002, S.O., 2002, c.33 (the "Act"), regulates the operation of cemeteries in Ontario; and

WHEREAS The Corporation of the Township of Tay owns and operates various cemeteries; and

WHEREAS Council of the Corporation of the Township of Tay deems it desirable to enact a By-Law to regulate the operation, care and control of cemeteries owned and operated by the Corporation of the Township of Tay; and

WHEREAS public notice of Council's intention to pass this By-Law was provided in accordance with the Act;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF TAY HEREBY ENACTS AS FOLLOWS:

1. THAT the Rules and Regulations for the Victoria Harbour Union Cemetery attached hereto as Schedule A form part of this by-law;
2. THAT any current by-laws and any other by-laws or resolutions or parts of by-laws or resolutions relating to the rules and regulations for the operation, care and control of municipality owned cemeteries inconsistent with this by-law are hereby repealed,
3. THAT this By-Law shall come into force and take effect on the date of approval of the Registrar appointed under the Act.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY
PASSED THIS 26th DAY OF JUNE, 2019**

THE CORPORATION OF THE TOWNSHIP OF TAY


MAYOR, Ted Walker


CLERK, Alison Gray

SCHEDULE A
BY-LAW NO. 2019 -49

Regulations for the Operation of Victoria Harbour Union
Cemetery, owned and operated by the Township of Tay

These rules and regulations governing cemeteries owned and operated by the Corporation of the Township of Tay have been approved by Council and the Registrar, FBCSA, Bereavement Authority of Ontario (BAO).

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A. DEFINITIONS

Act: Funeral, Burial & Cremation Services Act (FBCSA), 2002, S.O. 2002, c.33, including any provincial Regulations made pursuant to said Act, and specifically Ontario Regulation 30/11 and 184/12 as amended.

Burial/Internment: The opening and closing of an in-ground lot or plot for the disposition of human remains or cremated human remains.

Care and Maintenance Fund: It is a requirement under the FBCSA and O. Reg. 30/11 and 184/12 that a prescribed amount or a percentage of the purchase price (excluding tax) of all interment and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.

Cemetery: Land, owned and operated by the Corporation of the Township of Tay, that has been established as a cemetery under the Act, a private Act or a predecessor of one of them that related to cemeteries, or land that was recognized by the Registrar as a cemetery under a predecessor of the Act that related to cemeteries and includes land that in the prescribed circumstances has been otherwise set aside for the interment of human remains.

Cemetery Operator: The Corporation of the Township of Tay which reserves full control over the cemetery operations and management of land within the cemetery grounds.

Contract: For purposes of the Cemetery By-Laws, all purchasers of interment rights, or other cemetery supplies and services must receive a copy of the contract they and the cemetery operator have signed 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. Contract shall mean the interment rights contract.

Corner Posts: Shall mean 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.

Corporation: The Corporation of the Township of Tay.

Council: The Council of The Corporation of the Township of Tay.

Custodian: Cemetery Custodian as appointed from time to time by the Township.

Disinterment: The removal of human remains from a grave.

Fees & Charges: The list of Cemetery Fees & Charges established and approved by Council. Also referred to as Price List.

General Maintenance Account: The account that has been set aside for maintenance of the Cemetery and for services rendered in connection with its operation.

Grave: (Also known as Lot); any in-ground burial space intended for the interment of a child, adult or cremated human remains.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, lot, or crypt and to authorize the associated memorialization.

Interment Rights Certificate: The document issued by the Custodian of the Cemetery to the purchaser once the interment rights have been paid in full, identifying ownership and authority over the interment rights.

Interment Rights Holder: Any person or persons designated to hold the right to inter human remains in a specified lot, and "Rights Holder" shall have the same meaning.

Lot: For the purposes of these rules and regulations a lot is a single grave space.

Marker: Shall mean any permanent approved granite or bronze memorial structure that is set flush and level with the ground, and used to mark the location of a burial or lot.

Monument: Any permanent approved granite memorial projecting above the ground installed within the designated space to mark the location of a burial or lot.

Plot: For the purposes of this By-Law, a plot is a parcel of land, sold as a single unit, containing multiple lots.

Pre-need supplies or services: Cemetery supplies or services that are not required to be provided until the death of a person alive at the time the arrangements are made.

Township: The Corporation of the Township of Tay.

Transfer of Interment Rights: An inter vivos (during lifetime) or post mortem (after death) transfer made without any consideration or receipt of funds for such transfer. Such transfer is to be distinguished from a re-sale which is prohibited except to the Cemetery Operator on the terms and conditions as hereinafter set out.

B. GENERAL INFORMATION

Hours of Operation

Visitation Hours: Dawn to Dusk

Burial Hours:	Monday to Friday	9:00 a.m. – 4:30 p.m.
	Saturday	9:00 a.m. – 4:00 p.m.

General Conduct:

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

No person shall cause damage, destroy, remove or deface any property within the cemetery. No person may play any sport, commit a nuisance, discharge firearms except at a military funeral, and bring any dog or other animal, other than a working animal.

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

Children under the age of 12 must be accompanied by an adult who will be responsible for their conduct.

By-Law Amendments:

The cemetery shall be governed by this Cemetery By-Law, and all procedures will comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11 and 184/12, which may be amended periodically.

All By-Law amendments must be:

- a) published once in a newspaper with general circulation in the locality in which the cemetery is located;
- b) conspicuously posted on a sign at the entrance of the cemetery; and
- c) delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or by-law amendment pertains to markers of their installation.

All By-Laws and By-Law amendments are subject to the approval of the Registrar, Cemeteries and Crematoriums Regulation Unit and Bereavement Authority of Ontario (BAO).

Liability:

The Cemetery Operator will not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God or vandals) to, any lot, plot, columbarium niche, mausoleum crypt, 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.

Public Register:

Provincial legislation - Section 110 of Ontario Regulation 30/11 requires all cemeteries and crematoriums to maintain a public register that is available to the public during regular office hours.

Pets or Other Animals:

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

Right to Re-Survey:

The Cemetery Operator has the right at any time to re-survey, enlarge, diminish, replot, 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.

Winter Interments:

No winter interment shall take place between December 1st and April 1st, unless weather permits and such interment is approved, in writing, by the Cemetery Custodian.

Notice of Resale and Transfer of Interment:

The Cemetery Operator prohibits the resale of interment rights to a third party and will repurchase these rights from the interment rights holder or such other person to whom the interment rights have been assigned, at the price listed on the current price list, less any Care and Maintenance contribution amount previously made.

The Cemetery Operator is not required to repurchase unused interment rights in a plot (more than one lot) if one of the interment rights in the plot has been exercised.

C. SALE OF INTERMENT RIGHTS

Interment Rights to a lot, plot, may be purchased from the cemetery at the rate as set out in the Cemetery Fees & Charges (Price List) and in accordance with approved plans. The prices for Interment Rights include the applicable portion for deposit to the Cemetery's Care and Maintenance Fund.

The purchase of supplies or services will be made directly through the Cemetery Operator.

A Funeral Director may, on behalf of a cemetery customer, make full payment for cemetery services at the time of need and may accept full payment for the services.

A monument company may submit and or accept and submit payment payable to the cemetery operator for monument/marker care and maintenance.

All payments for Interment Rights shall be made to the Cemetery Operator prior to any burial in the lot.

The Township shall provide the following to the Interment Rights Holder upon full payment:

- a) Interment Rights Certificate
- b) Invoice marked paid
- c) Copy of the Cemetery By-law Rules and Regulations
- d) Price List
- e) Consumer Information Guide to Funeral, Burials and Cremation Services

The purchase of interment rights is not a purchase of Real Estate or real property.

D. CANCELLATION OF INTERMENT RIGHTS

Purchasers of interment rights holders acquire only the right to direct the burial of human remains and of cremated human remains, and the installation of monuments, markers and inscriptions, subject to the conditions set out in the Cemetery By-law.

In accordance with the Cemetery By-law, 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.**

Cancellation of Interment Rights within 30 Day Cooling-Off Period:

- A purchaser has the right to cancel an interment rights contract within thirty (30) days of signing the interment rights 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.

Cancellation of Interment or Scattering Rights after the 30-Day Cooling-Off Period:

- Upon receiving written notice from the purchaser of the interment rights, the Cemetery Operator will cancel the contract and issue a refund to the purchaser for the amount paid for the interment rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund. 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.
- If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to cancel the contract or re-sell the interment rights.

Care and Maintenance Fund Contributions:

- It is a requirement under the FBCSA and O. Reg. 30/11 and 184/12 that a prescribed amount or a percentage of the purchase price (excluding tax) of all interment rights sold; and prescribed amounts for monuments and markers is contributed into the care and maintenance fund. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery. Contributions to the care and maintenance fund are not refundable except when interment rights are cancelled within the 30-day cooling off period.

Prohibit resale of interment rights to a third party:

- If an interment rights holder wishes to re-sell the interment rights and the Cemetery Operator's By-law prohibit the third-party resale of interment rights, the rights holder must make the request to the cemetery operator in writing. The Cemetery Operator will repurchase the interment right at the price listed on the cemetery operator's current price list less the Care and Maintenance Fund contribution made at the time of purchase. The re-purchase and payment to the rights holder requesting the sale must be completed within 30 days of the request.
- The interment rights holder requesting the resale of the rights must return the interment rights certificate to the Cemetery Operator and the rights holder(s) must endorse the interment rights certificate, transferring all rights, title and interest back to the cemetery operator. The appropriate paperwork must be completed before the Cemetery Operator reimburses the rights holder(s).

E. BURIAL/INTERMENT OF REMAINS

- Interment rights holder must provide written authorization prior to a burial, or an entombment taking place. Should the interment rights holder be deceased, authorization to the satisfaction of the Custodian must be provided in writing by the person authorized to act on behalf of the interment rights holder in keeping with the *Succession Law Reform Act* (i.e. Personal Representative, Estate Trustee, Executor or next of kin).

- A Burial Permit issued by the Registrar General or equivalent document showing the death has been registered with the province must be provided to the Cemetery Operator's Office prior to a burial or entombment taking place. A Certificate of Cremation must be submitted to the Cemetery Operator prior to the burial of cremated remains taking place.
- In accordance with the Act, the purchaser of interment rights must enter into a cemetery contract, providing such information as may be required by the Cemetery Operator for the completion of the contract and the public register prior to each burial or entombment of human remains or cremated human remains.
- Full payment must be made to the Cemetery Operator before a burial or interment can take place in any grave.
- The Cemetery Operator shall be given 48 business hours of notice for each burial of human remains.
- The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery.
- Cremated remains are not permitted to be scattered on a grave.
- Cremated remains may be interred in lots other than cremation lots including family plots.
- Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the Cemetery Operator and the prior notification of the Medical Officer of Health. A certificate from the local Medical Officer of Health must be received at the Cemetery Operator's office before the removal of casketed human remains may take place. A certificate from the local Medical Officer of Health is not required for the removal of cremated remains.
- In special circumstances the removal of human remains may be ordered by certain public officials without the consent of the interment rights holder and/or next of kin(s).
- **No more than one casket shall be interred in a single grave.**
- **No more than one cremated remain interments shall be permitted with one casket in a single grave.**
- **No more than six cremated remain interments shall be permitted in a single grave.**

F. MEMORIALIZATION – MONUMENTS & MARKERS

- No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full and/or a permit is obtained from the Cemetery Operator.
- No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the cemetery operator.

- Memorial trees and memorial benches will only be at a location derived and approved by the Cemetery Operator.
- A memorial vase may be placed on a grave, in a stand at the corner of the mark or as part of a marker.
- Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered normal wear and tear.
- 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.
- 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.
- The Cemetery Operator reserves the right to determine the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments.
- All foundations for monuments and markers shall be built by, or contracted to be built for, the Cemetery Operator at the expense of the interment rights holder.
- 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 to remove the risk.
- 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 Township.
- 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.
- In keeping with the cemetery by-law only one monument shall be erected within the designated space on any lot.
- All monuments and markers shall be constructed of bronze or monumental grade granite.
- No monument shall be delivered to the cemetery for installation until the monument foundation has been completed, and the interment rights holder(s) and/or marker retailer have been notified by the Cemetery Operator.

- The minimum thickness for flat markers including footstones is 4 inches or 10 cm. Flat bronze markers only must have a concrete apron around the marker to a depth of 4 inches to prevent the marker from cracking.
- Pillow monuments may have up to an 8" to 5" slope when on a concrete or granite pad and shall be placed at the head of the grave only; otherwise they must be flat.
- One footstone with a flat surface set flush with the ground may be placed at each grave (in addition to the monument). This footstone shall be placed at the end of the grave the farthest from the monument, and may be a maximum size of 30" x 18".
- All monuments taller than 1 foot shall have a minimum 4-foot deep foundation at the owner's expense.
- Markers and footstones of bronze or monument grade granite are permitted with size and quantity restrictions according to this cemetery by-law and the placement of such memorials shall not interfere with future interments.

Single lot maximum:

One headstone, one footstone and four corner posts may be erected on a single lot.

Upright including base	Width 24"	Height 48"	Depth 18"
Pillow including pad	Width 24"	Depth 24"	
Flat markers	Width 24"	Depth 24"	

Double lot maximum:

One headstone, two footstones and four corner posts may be erected on a double lot.

Upright including base	Width 60"	Height 48"	Depth 18"
Pillow including pad	Width 60"	Depth 24"	
Flat markers	Width 60"	Depth 24"	

Triple lot maximum:

One headstone, three footstones and four corner posts may be erected on a triple lot.

Upright including base	Width 72"	Height 48"	Depth 18"
Pillow including pad	Width 72"	Depth 24"	
Flat markers	Width 72"	Depth 24"	

The minimum thickness of a die shall be 8" (20.32cm)

Width set to allow for placement of corner stones within a lot.

G. CARE AND PLANTING

A portion of the price of interment or scattering rights is trusted into the Care and Maintenance Fund. The income generated from this fund is used to maintain, secure and preserve the cemetery grounds and markers.

Services that can be provided through this fund include:

- Re-levelling and sodding or seeding of Lots
- Maintenance of cemetery roads, sewers and water systems
- Maintenance of perimeter walls and fences
- Maintenance of cemetery landscaping
- Repairs and general upkeep of cemetery maintenance buildings and equipment

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

No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the cemetery.

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

H. ITEMS THAT ARE PROHIBITED AND PERMITTED

The Cemetery Operator reserves the right to regulate the articles placed on lots or plots which may pose a threat to the safety of all interment rights holders, visitors to the cemetery and cemetery employees, or which prevent the cemetery from performing general cemetery operations, or which are not in keeping with the respect and dignity of the cemetery.

Prohibited articles include non-heat resistant glass, ceramics, corrosive metals, loose stones, sharp objects, trellises, arches or benches, will be removed and disposed of without notification or compensation.

The Cemetery Operator reserves the right to disallow or remove quantities of memorial wreaths or flowers considered by the Cemetery Operator to be excessive or that diminishes the otherwise tidy appearance of the cemetery.

No flower beds, or shrubs or trees may be planted on the ground.

All flowers must be potted and placed in a stand at the corner of the marker.

I. CONTRACTOR/MONUMENT DEALERS

Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the cemetery operator before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of monuments and markers, inscriptions, designs, drawings, plans and detailed specifications relating to the work, proof of all applicable government approvals and permits, the location of the work to be performed. It is the responsibility of all contractors to provide the necessary approvals before commencing work at any location on the cemetery property.

Prior to the start of any said work, contractors must provide proof of:

- WSIB coverage
 - Occupational Health and Safety compliance standards
 - Environmental Protection
 - WHMIS
 - Evidence of liability insurance of not less than \$2 million
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- All cemetery by-laws apply to all contractors and all work carried out by contractors within the cemetery grounds.
 - Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, weekends or statutory holidays, unless

approval has been granted by the cemetery operator.

- No work will be performed at the cemetery except during the regular business hours of the cemetery.
- Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The cemetery reserves the right to temporarily cease contractor operations at their sole discretion if the noise of the work being performed by the contractor is deemed to be a disturbance to any funeral or public gathering within the cemetery.
- Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved to protect the surface from damage.

BAO		BEREAVEMENT AUTHORITY OF ONTARIO
L'AUTORITÉ DES SERVICES FUNÉRAIRES ET CIMETIÈRES DE L'ONTARIO		
APPROVED	APPROUVÉ	
In accordance with the <i>Funeral, Burial and Cremation Services Act,</i> 2002	Conformément à la Loi de 2002 sur les services funéraires et les services d'enterrement et de crémation	
Date of Approval/ Date de l'approbation	July 8, 2019	
File/Licence No. Numéro de Fiche/Permis	3301339	
By/ Par	Caryn Smith	