

**THE CORPORATION OF THE UNITED TOWNSHIPS
OF DYSART, DUDLEY, HARCOURT, GUILFORD,
HARBURN, BRUTON, HAVELOCK, EYRE AND CLYDE**

BY-LAW NO. 2017-42

**BEING A BY-LAW TO PROVIDE FOR THE MAINTENANCE AND MANAGEMENT OF THE
EVERGREEN CEMETERY IN THE VILLAGE OF HALIBURTON**

WHEREAS the Funeral Burial & Cremation Services Act, 2002, provides that an owner of a cemetery must make rules and regulations that govern the cemetery,

AND WHEREAS the Municipality of Dysart et al owns and operates the Evergreen Cemetery located at 1216 Harburn Road, Haliburton.

NOW THEREFORE, the Council of the Corporation of the United Townships of Dysart et al hereby enacts as follows:

1. **DEFINITIONS**

For the purpose of this By-law the following terms shall have the corresponding meaning:

- (a) "Act" means the Funeral Burial & Cremation Services Act, 2002 (FBCSA).
- (b) "Administrator" means the person appointed by the Municipality to administer Cemetery services.
- (c) "Burial" means the opening and closing of an inground plot for the disposition of human remains or cremated human remains.
- (d) "Care and Maintenance Fund" is the requirement under the Act that a prescribed amount or a percentage of the purchase price of all Interment and Scattering Rights, and set amounts for marker and monument installations is contributed into the Care and Maintenance Fund. This fund is used to provide care and maintenance of the Cemetery.
- (e) "Caretaker" means the person or persons designated by Council to provide Cemetery services.
- (f) "Cemetery" means the Evergreen Cemetery.
- (g) "Clerk" means the Clerk for the Municipality of Dysart et al.
- (h) "Columbarium" means a structure designed for the purpose of interring cremated human remains in niches or compartments.
- (i) "Contract" means all purchasers of interment and scattering rights must sign a contract with the Municipality detailing obligations of both parties and acceptance of the Cemetery By-law.
- (j) "Corner Posts" mean any stone or other land markers set flush with the surface of the ground and used to indicate the location of a plot.
- (k) "Council" shall mean the Council of the Municipality of Dysart et al.
- (l) "Foundation" means a concrete base for a monument.
- (m) "Interment Right" means the right to require or direct the interment of human remains or cremated human remains in a plot or niche and direct the associated memorialization.

- (n) "Interment Rights Certificate" means the document issued by the Administrator to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.
- (o) "Interment Rights Holder" means any person designated to hold the right to inter human remains in a specified plot or niche.
- (p) "Marker" means any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a plot. All markers shall be made of granite or bronze.
- (q) "Monument" means any permanent memorial projecting above the ground installed with the designated space to mark the location of a plot. All monuments shall be made of granite, bronze or marble.
- (r) "Municipality" means the Municipality of Dysart et al.
- (s) "Niche" means an individual compartment in a columbarium for the entombment of cremated human remains.
- (t) "Plot" means a single grave space.
- (u) "Scattering Ground" means the land within the cemetery that is set aside to be used for the non-recoverable scattering of cremated human remains.
- (v) "Scattering Rights" means the right to require or direct the scattering of cremated remains in the designated scattering ground of the cemetery.
- (w) "Scattering Rights Holder" means the person designated to hold the right to scatter cremated human remains in the scattering ground of the cemetery.
- (x) "Treasurer" means the Treasurer for the Municipality of Dysart et al.

2. **RULES AND REGULATIONS**

The Cemetery shall be managed and governed by the Rules and Regulations set out in Schedule "A" attached to and forming part of this By-law.

3. **FEES AND CHARGES**

All fees and services pertaining to the Evergreen Cemetery are outlined in the Evergreen Cemetery Fees By-law.

4. **BY-LAW REPEALED**

Upon the coming into force of this By-law; By-law No. 2012-68 is hereby repealed.

5. This By-law shall come into force and effect upon receiving approval by Bereavement Authority of Ontario.

READ a first, second and third time, finally passed, signed and sealed, this 24th day of April, 2017.

REEVE: Murray Fearrey

CLERK: Cheryl Coulson

**SCHEDULE “A” TO BY-LAW NO. 2017-42
FOR THE MUNICIPALITY OF DYSART ET AL**

1.0 ADMINISTRATION

- 1.1 Hours of Operation:
Visitation Hours: 8:00 a.m. – sundown
Office Hours: 8:30 a.m. – 4:30 p.m. Monday to Friday
Burial Hours: 9:00 a.m. – 3:00 p.m. Monday to Friday
9:00 a.m. – 1:00 p.m. Saturdays
Extra fees apply to Saturday Services as noted in the approved Evergreen Cemetery Fees By-law.
No interment shall be made on a Sunday or Statutory Holiday, except based on a medical certificate that burial must be made within 24 hours of death in accordance with the regulations of the Ontario Ministry of Health for the control of communicable diseases.
Winter burials are not available.
- 1.2 The Municipality of Dysart et al reserves full and complete control and management of the Cemetery together with the records of the Cemetery and has complete authority to administer regulations through the Caretaker.
- 1.3 The general maintenance of the Cemetery and provision of Cemetery services shall be provided by, or arranged by, the Manager of Parks and Recreation and the Clerk subject to the advice and/or direction of Council. Except for the Evergreen Cemetery Fees By-law, the Municipality of Dysart et al shall maintain without charge to the interment or scattering rights holder, the grounds of the Cemetery to ensure the safety of the public and to preserve the dignity of the Cemetery.
- 1.4 The Clerk and/or Administrator shall be responsible for all sales of plots and Cemetery services, for the maintenance of the Cemetery records and shall administer all routine business subject to Council approval and an approved budget.
- The Clerk and/or Administrator shall maintain up-to-date records, which shall include:
- a) plans or surveys of the Cemetery;
 - b) the names of all interment or scattering rights holders and their addresses;
 - c) copies of all contracts for the purchase of Cemetery supplies and/or services;
 - d) transfers of interment or scattering rights;
 - e) the date of, and location of, all interments or scatterings within the Cemetery, and whether such interments are of cremated remains;
 - f) a copy of the consent of the interment or scattering rights holder for each interment or scattering; and
 - g) applications for each consent with respect to the placement of markers.
- 1.5 The Caretaker shall perform his/her duties pertaining to Cemetery services and maintenance as directed by Council, ensuring compliance of the Act and this By-law.

2.0 BY-LAW AMENDMENTS

- 2.1 The Cemetery shall be governed by this By-law, and all procedures shall comply with the Funeral Burial & Cremation Services Act, 2002 administered by the Bereavement Authority of Ontario on behalf of the Ministry of Government & Consumer Services.
- 2.2 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.
- 2.3 All By-laws and By-law amendments are subject to the approval of the Bereavement Authority of Ontario.

3.0 LIABILITY

- 3.1 The Municipality will not be held liable for any loss or damage, without limitation (including damage of the elements, Acts of Gods, or vandals) to, any plot, monument, marker, or other article that has been placed in relation to an interment or scattering, save and except for direct loss or damage caused by gross negligence of the Cemetery.

4.0 PUBLIC REGISTER

- 4.1 The Municipality shall maintain a public register that is available during regular office hours as per Section 110 of Ontario Regulation 30/11.

5.0 RIGHT TO RE-SURVEY

- 5.1 The Municipality 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.

6.0 SALE OF INTERMENT OR SCATTERING RIGHTS

- 6.1 All sales of interment or scattering rights and Cemetery services shall be made by the Administrator using a Contract and the person making application to purchase interment or scattering rights shall be entitled to a Certificate of Interment or Scattering Rights upon payment to the Administrator of the applicable price based on the fees, as set out in the Evergreen Cemetery Fees By-law.
- 6.2 Interment or scattering rights may be paid for by cash, debit or cheque to the Administrator. The applicant shall not be entitled to a Certificate of Interment or Scattering Rights and no interment or scattering of human remains shall be made until the purchase price hereunder has been paid in full.
- 6.3 The Administrator shall provide each interment or scattering rights owner at the time of sale with:
- a) a copy of the contract;
 - b) a copy of the Cemetery By-law;
 - c) upon payment in full, a Certificate of Interment or Scattering Rights.

- 6.4 Interment or scattering rights holders shall acquire only the right and privilege to require or direct the interment of human remains in the plot, niche or scattering ground and of erecting monuments and markers subject to the rules and regulations affecting the Cemetery as approved by the Registrar.
- 6.5 Plots, niches or the scattering ground shall not be used for any other purpose other than for the interment of human remains. Pets or other lower animals, included cremated animal remains, are not allowed to be buried or scattered within Cemetery grounds.

7.0 NOTICE OF RESALE AND TRANSFER OF INTERMENT OR SCATTERING RIGHTS

- 7.1 The Municipality prohibits the resale of interment or scattering rights to a third party and will repurchase these rights at the price listed on the fees as set out in the Evergreen Cemetery Fees By-law, less the Care and Maintenance Fund contribution made at the time of purchase.
- 7.2 An interment or scattering rights holder must request in writing to the Administrator that the Municipality repurchase the rights at any time before they are used. The repurchase and payment to the rights holder requesting the sale must be completed within 30 days of the request.
- 7.3 The interment or scattering rights holder requesting the resale of the rights must return the interment or scattering rights certificate to the Administrator and the rights holder(s) must endorse the interment or scattering rights certificate, transferring all rights, title an interest back to the Municipality. The appropriate paperwork must be completed before the Municipality reimburses the rights holder(s).
- 7.4 In cases of transfer of interment or scattering rights by will or bequest, the Municipality reserves the right to require the production of a notarized copy of the will or other evidence sufficient to prove ownership. Original certificates of interment or scattering rights shall be returned to the Administrator who may then issue a new certificate.

8.0 CANCELLATION OF INTERMENT OR SCATTERING RIGHTS WITHIN 30 DAY COOLING-OFF PERIOD

- 8.1 A purchaser of an interment or scattering rights contract has the right to cancel an interment or scattering rights contract within thirty (30) days of signing the contract, by providing written notice of the cancellation to the Administrator.
- 8.2 The Administrator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
- 8.3 If any portion of the interment or scattering rights has been exercised, the purchaser, will not be entitled to cancel the contract.

9.0 CANCELLATION OF INTERMENT OR SCATTERING RIGHTS AFTER 30 DAY COOLING-OFF PERIOD

- 9.0 Upon receiving written notice from the purchaser of the interment or scattering rights contract, the Administrator will cancel the contract and issue a refund to the purchaser for the amount paid for the interment or scattering rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund.

- 9.1 The Administrator will refund the monies within thirty (30) days from the date of the request.
- 9.2 If the interment or scattering rights certificate has been issued to the interment or scattering rights holder, the certificate must be returned to the Administrator along with the written notice of cancellation.
- 9.3 If any portion of the interment or scattering rights has been exercised, the purchaser, or the interment or scattering rights holder will not be entitled to cancel the contract.

10.0 CARE AND MAINTENANCE FUND CONTRIBUTIONS

- 10.1 As required by the Act, a prescribed amount or a percentage of the purchase price of all interment rights, scattering rights and a prescribed amount for monuments and markers is contributed into the Care and Maintenance Fund. Income from this fund is used to provide only general care and maintenance of the Cemetery.
- 10.2 Contributions to the Care and Maintenance Fund are not refundable except when interment or scattering rights are cancelled within the 30 day cooling-off period.
- 10.3 The Treasurer, subject to advice from the Clerk and Council shall be responsible for the management and investment of the Care and Maintenance Fund in accordance with the provisions of the Act and regulations there under.

11.0 INTERMENT OR SCATTERING OF CREMATED REMAINS

- 11.1 An interment or scattering rights holder must provide written authorization prior to a burial, scattering or an entombment taking place. Should the interment or scattering rights holder be deceased, authorization must be provided in writing by the person authorized to act on behalf of the interment rights holder i.e. Personal Representative, Estate Trustee, Executor or next of kin.
- 11.2 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 Administrator prior to a burial taking place.
- 11.3 A Certificate of Cremation must be submitted to the Administrator prior to a burial of cremated remains or scattering of cremated remains takes place.
- 11.4 In accordance with the Act the purchaser of interment or scattering rights must enter into a Cemetery contract, providing such information as may be required by the Municipality for the completion of the contract and the public register prior to each interment or scattering of cremated remains.
- 11.5 Payment must be made to the Administrator before an interment or scattering of cremated remains can take place.
- 11.6 The Caretaker shall be given at least forty-eight (48) hours notice for each interment or scattering of cremated remains.
- 11.7 The opening and closing of plots and niches or the scattering of cremated remains may **only** be conducted by the Caretaker.
- 11.8 Cremated remains are not permitted to be scattered on a plot.

- 11.9 Once scattered, cremated remains cannot be retrieved.
- 11.10 No interments shall be made on a Sunday or Statutory Holiday, except based on a medical certificate that burial must be made within 24 hours of death in accordance with the regulations of the Ontario Ministry of Health for the control of communicable diseases.
- 11.11 Spring burials must be completed by May 1st of each calendar year.
- 11.12 No winter burial shall take place after December 1st of each calendar year, unless weather or ground conditions permit.
- 11.13 Interment Rights in a plot four feet by eight feet (4' x 8") in size shall be limited to:
- One (1) casket burial and four (4) cremation burials; or
 - Four cremation burials.
- 11.15 Interment Rights in a columbarium niche measuring one (1) cubic foot shall be limited to two (2) cremated remains.

12.0 DISINTERMENTS

- 12.1 Human remains may be disinterred from a plot provided that the written consent (authorization) of the interment rights holder has been received by the Administrator and the prior notification of the Medical Officer of Health.
- 12.2 A certificate from the local Medical Officer of Health must be received by the Administrator before the removal of casketed human remains may take place.
- 12.3 A certificate from the local Medical Officer of Health is not required for the removal of cremated remains.

13.0 MEMORILIZATION

- 13.1 No memorial or other structure shall be erected or permitted on a plot or niche until all charges have been paid in full.
- 13.2 No monument, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Administrator.
- 13.3 Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
- 13.4 The Municipality will take reasonable precautions to protect the property of interment or scattering rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- 13.5 Should any monument or marker present a risk to public safety because it has become unstable, the Caretaker shall do whatever he deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- 13.6 The Administrator requires order forms from monument companies showing foundation size, monument size, base size, markers and property location, together with full payment for same before processing the work order and installation of the foundation.

13.7 A foundation shall be installed for all markers and monuments. All foundations are to be four inches (4") larger than the monument on all sides. All foundations are to be installed by the Caretaker.

Foundation sizes are as follows:

- 4" thick
- 12" x 24"
- 14" x 30"
- 14" x 36"
- 14" x 48"

13.8 Upright monuments must conform to the following height restrictions:

- Monuments up to 32" high must be at least 6" thick,
- Monuments from 32" to 40" high must be at least 7" thick,
- Monuments from 40" to 55" high must be at least 8" thick,
- Any Monument higher than 55" must have plans submitted for approval by the Administrator and may be denied for practical reasons.

13.9 No marker or monument shall be allowed to stand on interment space on any plot.

13.10 Each plot may have only one (1) monument or marker, regardless of the number of interments.

13.11 The Administrator and/or Caretaker 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 Municipality.

14.0 COLUMBARIUM NICHES

14.1 Payment must be made to the Administrator before an interment may take place.

14.2 Only the Caretaker may open and seal niches for entombments. This applies to the inside sealer and the niche front.

14.3 To ensure quality control, uniformity, and standard of workmanship, **only** the Administrator shall arrange for inscriptions on niche fronts.

14.4 No plaques, vases, adornments or emblems affixed to the columbarium or individual niches are permitted. Any such items shall be removed and disposed of without notification and at the expense of the Interment Rights Holder.

14.5 No articles are permitted in or around the ground in the vicinity of the columbarium. Any such article shall be removed and disposed without notification.

14.6 No person, other than employees or contractors of the Municipality shall remove or alter niche fronts.

15.0 SCATTERING GROUND

15.1 The scattering ground is a designated area within the Cemetery grounds designed as a garden where cremated human remains can be scattered amongst a collection of shrubs, plants and flowers.

15.2 Once scattered in the garden cremated human remains are non-recoverable.

15.3 Only the Caretaker shall maintain the garden.

15.4 Bronze memorials are available but not mandatory.

16.0 CARE AND PLANTING

16.1 A portion of the price of interment and 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. Services that can be provided through this fund include:

- Re-levelling and sodding or seeding of plots, or scattering grounds,
- Maintenance of Cemetery roads,
- Maintenance of perimeter walls and fences,
- Maintenance of Cemetery landscaping,
- Maintenance of columbarium,
- Repairs and general upkeep of Cemetery maintenance buildings and equipment.

16.2 No person other than the Caretaker shall remove any sod or in any other way, change the surface of the plot in the Cemetery.

16.3 All flowers must be potted and placed in headstone hangers.

16.4 No person shall install solar lights, plant trees, flower beds or shrubs in the Cemetery.

16.5 The erection of any border, fence, railing, wall, hedge or enclosure on, in or around plots is prohibited.

16.6 Flowers placed on a grave for a funeral will remain on the plot for a minimum of 5 days and will be removed by the Caretaker any time thereafter to protect the sod, allow for grass cutting and maintain the tidy appearance of the Cemetery.

17.0 CONTRACTOR/MONUMENT DEALERS

17.1 Any contract work to be performed within the Cemetery requires the written pre-approval of the interment or scattering rights holder and the Administrator before the work may begin.

17.2 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.

17.3 It is the responsibility of all contractors to report to the Cemetery office and provide the necessary approvals before commencing work at any location on the Cemetery property.

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

- WSIB coverage
- Occupational Health and Safety compliance standards

- Environmental Protection
- WHMIS
- Evidence of Liability Insurance of not less than \$2,000,000.

17.5 All Cemetery regulations apply to all contractors and all work carried out by contractors within the Cemetery grounds.

17.6 Contractors, monument dealers and suppliers shall not enter the Cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the Administrator.

17.7 No work shall be performed at the Cemetery except during the regular business hours of the Cemetery.

17.8 Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved in order to protect the surface from damage.

17.9 Contractors shall temporarily cease all operations until a funeral service has concluded.

18.0 RULES FOR VISITORS

18.1 Visitors are welcome to the Cemetery during daylight hours. Visitors are requested to respect the deceased and conduct themselves accordingly.

18.2 No parades other than funeral processions shall be admitted to or organized within the Cemetery.

18.3 Children under the age of twelve (12) years are not permitted on the grounds unless accompanied by an adult who shall be responsible for their conduct.

18.4 Pets are not permitted in the Cemetery.

18.5 Vehicles within the grounds shall not exceed 25 kilometres per hour and shall not allow wheels of any such vehicles to run on sod.

18.6 Any person defacing monuments or Cemetery property shall be prosecuted according to law.

18.7 The Caretaker responsible for the maintenance of the Cemetery is empowered by the Municipality to expel persons disturbing the good order of the Cemetery either by noise, improper conduct or violation of Cemetery rules.

19.0 MISCELLANEOUS

19.0 Notwithstanding the above rules and regulations, the Municipality of Dysart et al, may from time to time, by resolution of Council require certain works to be completed or other measures taken for the good of the Cemetery, which work or measures shall not conflict with the above rules and regulations.