

THE CORPORATION OF THE TOWN OF SHELBURNE

BY-LAW 40-2010

**A BY-LAW TO MAINTAIN, MANAGE,
REGULATE AND CONTROL SHELBURNE CEMETERY**

WHEREAS Section 50 of The Cemeteries Act, R.S.O. 1990 as revised, provides that by-laws may be passed by the owner affecting the operations of the cemetery;

AND WHEREAS it is expedient to pass a by-law for the maintenance, management, regulation and control of the Shelburne Cemetery, owned and operated by the Corporation of the Town of Shelburne;

THEREFORE the Council of the Corporation of the Town of Shelburne enacts as follows:

1. DEFINITIONS:

- a. "CEMETERY" means Shelburne Cemetery located East Part Lots 3 & 4, Concession 3, Old Survey, RP 751715 Part I, RP 7R2054 Part 1, Highway #10, Township of Melancthon, County of Dufferin, being land set aside to be used for the interment of human remains.
- b. "CEMETERY SERVICES" means in respect of a lot:
 - i. opening and closing of a grave
 - ii. interring or disinterring human remains
 - iii. construction of a foundation for a marker
 - iv. setting of corner posts
- c. "CEMETERY SUPPLIES" means interment vaults, markers, flowers, liners, urns, shrubs, artificial wreaths and other articles intended to be placed in the Cemetery.
- d. "COLUMBARIUM" means a structure designed for the interment of cremated human remains in sealed compartments.
- e. "HUMAN REMAINS" means a dead human body and includes a cremated human body.
- f. "INTER" means the burial of human remains and includes the placing of human remains in a lot.
- g. "INTERMENT RIGHTS" includes the right to require or direct the interment of human remains in a lot.
- h. "INTERMENT RIGHTS HOLDER" means a person with interment rights with respect to a plot and includes a purchaser of interment rights under the current Cemeteries Act or a predecessor of that Act.
- i. "LOT" means an area of land in the cemetery containing or set aside to contain human remains.
- j. "MARKER" means any monument, tombstone, plaque, headstone, cornerstone, or other structure affixed to a burial lot.
- k. "MINISTER" means the Minister of Consumer and Commercial Relations.
- l. "MUNICIPALITY" means the Corporation of the Town of Shelburne.
- m. "PLOT" means two or more lots in which the rights to inter have been sold as a unit.
- n. "PRE-NEED SUPPLIES OR SERVICES" means 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.
- o. "PRICE LIST" means the price list for the Corporation of the Town of Shelburne Cemetery.
- p. "REGISTRAR" means the registrar appointed under The Cemeteries Act.
- q. "CAO/CLERK" means the person appointed by the Municipality in charge of the cemetery or designate
- r. "TRUST FUND" means a Trust Fund established for the purpose of this Act.

2. SALE AND TRANSFER OF LOTS:

- a. Interment rights (lots) may only be sold by The Corporation of the Town of Shelburne. When interment rights are purchased, a contract shall be completed and signed by the purchaser or a personal representative of the deceased.
- b. Interment rights holder acquire only the right and privilege of burial of the dead and of constructing monuments, subject to the rules and regulations in force and approved by the Ministry of Consumer Services.
- c. Payments for interment rights or cemetery supplies or services shall be made at the Administration office of the Municipality.
- d. The Municipality shall provide each rights (lot) owner at the time of sale with:
 - i. copy of the contract
 - ii. copy of the Cemetery By-Law(s)
 - iii. upon payment in full an Interment Rights Certificate
- e. All prices for cemetery lots and services shall be as set out in the most recent Price List filed with the Ministry of Consumer Services. Prices for lots shall include the applicable portion for deposit to the Cemeteries Care and Maintenance Fund as well as corner markers.
- f. The deposit to the Care and Maintenance Fund shall be as specified in the regulations made under the Cemeteries Act revised:
 - i. In the case of an in-ground grave for the burial of an adult, the greater of 40% of the selling price or \$150.00.
 - ii. In the case of an in-ground grave for the burial of a child or of cremated remains 40% of the selling price.
 - iii. In the case of a niche, the greater of 15% of the selling price or \$100 applies.
- g. Lots previously sold, for which provision for maintenance of lots has not been made may be placed under this plan by the payment of the charges set forth in the Price List which have been approved by the Registrar.
- h. An Interment Rights Holder shall not transfer ownership of a lot or any interest therein without first advising the Municipality in writing of intentions to do so and submitting the appropriate transfer fee, and relinquishing the original Interment Rights Certificate to the Shelburne Cemetery. Only vacant cemetery lots shall be permitted to be transferred.
- i. In the case of transfer of ownership by will or bequest of a lot, the Municipality reserves the right to require the production of a copy of the will or other evidence sufficient to prove ownership.
- j. In the case of transfer of ownership the cost of new corner markers will be borne by the new owner.

3. CREMATION COLUMBARIUM :

- a. The cremated remains of not more than two persons will be interred in any one niche.
- b. The niche plate used shall be lettered and installed by the Cemetery, and the cost will be collected at the time of the sale of the niche.
- c. Photograph cases will not be allowed to be attached to the niche.
- d. The Cemetery staff reserves the right to remove deteriorated or excessive quantities of flowers from the niche or surrounding areas.
- e. The inside dimensions of the niche are twelve (12) inches by twelve (12) inches, by twelve (12) inches.
- f. The niches will be sold according to the numbering system shown in diagrams provided.
- g. The niches shall have the greater of \$100 or 15% of the selling price placed in the Perpetual Care Fund of the cemetery.
- h. The interment charge shall be as shown on the tariff of rates. This price will be subject to change upon approval of the Ministry of Consumer Services- Cemeteries Regulations Section.
- i. Nothing may be placed on the niche and only human remains are permitted in the niche.

- j. Should a niche be sold back to the cemetery, the original purchase price, less the amount set aside for care and maintenance will be paid.
- k. Sample Lettering example below as the stone surface is very limited:

NAME
 1930 - 2000
 BELOVED SPOUSE OF
 NAME
 1931 - 200-
 IN LOVING MEMORY

4. INTERMENTS:

- a. Only human remains shall be permitted to be interred in the Shelburne Cemetery.
- b. No interment shall be made without the written permission of the rights holder or his/her authorized representative.
- c. No interment shall take place without a burial permit, or certificate of cremation, nor until the person making the arrangements for the interment has complied with all laws, rules and regulations relative to burials.
- d. No burial shall be allowed in any lot against which there are unpaid charges.
- e. The CAO/Clerk or his designate shall attend at all interments and supervise the same.
- f. In each case of burial a written statement giving the name, late residence, age, place of birth, place of death, date of death, name of deceased's nearest relative or friend, date of interment, description of where interred, and the name of the funeral director shall be provided so that an accurate register may be kept.
- g. The Municipality shall not be responsible for any error occurring from want of precise and proper instructions regarding the location of any burials, nor where such instructions are not given in writing, any such erroneous instructions shall be the sole responsibility of the person or persons giving the same.
- h. Notice of each interment to be made shall be given to the CAO/Clerk or designate, 48 hours previous thereto except under special circumstances.
- i. No interment shall be permitted from 11:00 a.m. Saturday until 8:00 a.m. the following Monday, except by an order of the Medical Officer of Health.
- j. No interment shall be made on a Sunday or legal holiday, except by an order of the Medical Officer of Health.
- k. No interment of cremated remains shall be permitted on Saturdays, Sundays, or legal holidays.
- l. No grave or niche shall be opened for interment by any person not in the employ of the Municipality except under special circumstances.
- m. Only one interment in any one grave shall be permitted, except in special circumstances where the CAO/Clerk has approved a double depth burial; or in a single plot four (4) urns (cremated remains) may be buried or two (2) urns (cremated remains) above another interment, or two urns (cremated remains) allowed in any one plot in the urn gardens; or in one (1) columbarium.
- n. Orders from funeral directors shall be construed as orders from owners.
- o. The setting up and removal of artificial grass, lowering devices, and other interment accessories at a grave site are the responsibility of the funeral director.
- p. All funeral flowers and containers to be removed from the grave site within seven days or the same will be removed by the cemetery staff.
- q. The interment fee includes the opening and closing of the grave, and earth cover.
- r. All interment charges are payable in advance or at the time of interment.

- s. No interment shall take place without the use of a proper cement crypt or vault as per order of the Medical Officer of Health.
- t. The spreading of cremated remains on top of the ground is strictly prohibited.
- u. From November 1 of one year to May 1 of the next year, the Shelburne Public Cemetery will cease normal operations and will not be staffed on a day-to-day basis. During this period the mortuary shall be used until after May 1, unless weather conditions and staff availability allow interment in the normal manner.
- v. Notwithstanding the provisions of the previous subparagraph, when the interment rights holder requests immediate interment and the CAO/Clerk or his designate is of the opinion that the weather conditions and staffing availability permit interment in a safe, dignified and appropriate manner, he shall so advise the interment rights holder, and the charges for the services shall be 150% of the normal charges provided for in Schedule "A". Upon the direction of the interment rights holder, the interment then shall take place as expediently as possible, failing which the mortuary shall be used until after May 1 or until weather conditions and staffing allow interment in the normal manner.
- w. Burials may take place after November 1 of a given year until the CAO/Clerk or his designate is of the opinion that weather conditions and manpower do not allow for a safe, appropriate and dignified interment in the normal manner. At such time, the mortuary shall be used for all interments until weather conditions and staffing powers return to normal after May 1 of the following year, and the interment shall then take place as expediently as possible.
- x. Niche burials may occur Monday to Friday 9 a.m. to 3 p.m. year round except holidays or if emergency situations, such as weather or staff availability warrants the CAO/Clerk to not permit burial on a particular date.

5. DISINTERMENTS:

- a. Disinterment of a body, once properly interred, shall not be made without the written consent of the local Medical Officer of Health and the owner of the lot, or a court order, and upon due observance of all requirements of the Cemeteries Act and the regulations thereunder.
- b. Any markers or monuments designating the location of an interment shall be removed at the time a disinterment is made.
- c. The charges for disinterment shall be three times the normal interment fee, payable in advance.

6. CARE OF LOTS:

- a. No lot or grave shall be defined or enclosed by a fence, railing, coping, hedge, or any enclosure or markers, other than corner posts or grave markers. Any enclosure shall be removed by the municipality.
- b. Ornamental dwarf evergreen shrubs are permitted only on lots larger than five (5) feet in width and having a monument. One shrub shall be permitted on either side of the monument. Shrubs will not be permitted to exceed the height of the monument. Lot owners must provide adequate maintenance. If any trees or shrubs situated on any lot have, become by means of their roots, or branches, or in any way detrimental to the adjacent lots, drains, roads, or walks, or prejudicial to the general appearance of the grounds or inconvenience to the public, the CAO/Clerk may remove such trees or shrubs or parts thereof.
- c. No urns, hanging baskets, or any other decorations, or objects are permitted and shall be removed.
- d. No person shall do any work upon a burial lot without the permission of the CAO/Clerk.
- e. Flower beds are permitted only on lots having a monument. No flower bed shall exceed eighteen inches in depth from the head stone to the base of the plot and shall not exceed the length of the base of the monument on the lot. Planting of borders around lots is prohibited.

- f. Annual flowers only may be planted in the cemetery. Flower beds required to be cleared after the first frost in the autumn.
- g. In order to preserve the proper appearance of the grounds and safety within the cemetery, artificial flowers, wreaths, or any form of decorations are prohibited on graves from October 31st to April 1st of each year. If these decorations are not removed by October 31st they shall be considered abandoned and may be removed and disposed of by cemetery staff. Saddle type arrangements or stone top wreaths shall be allowed to remain on the top of upright markers until such time as they are unsightly, when they shall be removed.
- h. Rubbish shall not be thrown on roads, walks, or any part of the cemetery grounds.
- i. No lot owner shall change the grading of a lot, and in case of any such change, the Municipality may restore the lot to its original grade at the expense of the owner.
- j. No unauthorized person shall sod or move corner posts or grave markers.
- k. The Municipality shall not be responsible for any damage to lots and structures or objects thereon, or for flowers or articles removed from any lot or grave.
- l. Owners are required to operate within the cemetery in accordance with by-laws approved by the Registrar

7. MARKERS AND MONUMENTS:

- a. All markers and monuments of any kind erected in the cemetery shall be constructed of granite and/or bronze; structures of any other kinds of material are prohibited.
- b. No marker, monument or other structure shall be erected or permitted on a lot until any accrued charges have been paid in full.
- c. The dimensions and particulars of a marker shall be submitted in writing to the Municipality prior to the placing of the marker within the Cemetery.
- d. Corner posts and markers shall be dressed on the upper surface and level with the ground and shall be placed by the Municipality or under the supervision of cemetery staff.
- e. Sizes of flush markers permitted:
 - i. single grave 18" x 24" max.
 - ii. double grave 18" x 24" max.
 - iii. cremation lot 18" x 24" max.
 All markers shall be of a uniform thickness not more than four (4) inches nor less than three (3) inches.
- f. Stones or markers in the Urn Gardens (for cremated remains) must be flush (except in the St. Lawrence Ward cremated remain plots only that had been sold prior to May 31, 2010 and are considered grandfathered).
- g. Stones and monuments shall be free from visible defects with respect to endurance and no tablet, monument or other structure composed in whole or in part of wood or iron shall be erected.
- h. All bases of monuments must be level on the bottom and the stonework next to the foundation shall have the surface squared, so as to allow full bearing upon the foundation, and no building up or under pinning with spalls or chips will be allowed. The base shall have a rock edge and be a minimum of six (6) inches high and not more than eight (8) inches.
- i. Foundations of monuments shall extend not less than five feet below the surface of the ground; shall be level on the top and constructed of concrete by the Municipality, or authorized contractor, and paid for by the company erecting the monument. Foundations must be as large in area as the base of the monument, but the Municipality reserves the right to require a larger foundation, if deemed necessary.

- j. The dimensions and particulars of the required foundation for a monument shall be submitted in writing to the Municipality, or authorized contractor, prior to the placing of the foundation so it may be properly constructed.
- k. Not more than one monument shall be erected on any one lot and this must be placed at the centre of the head, at the end of a plot, except where alignment with existing nearby monuments justifies another location; approved by the CAO/Clerk.
- l. No monument shall cover more than ten per cent (10%) of the total area of the lot or lots on which it is erected.
- m. Die thickness shall be a minimum of six (6) inches up to the total monument height of three (3) feet. Over three feet will be one (1) inch per every foot, to a maximum die thickness of eight (8) inches.
- n. No monument shall be erected or removed without the knowledge and supervision of cemetery staff. No monumental work shall be delivered to the cemetery until the foundation is completed and the contractor is ready to proceed with the work of erection.
- o. Any monument or other structure, or any inscription of a monument or structure upon any lot shall be in keeping with the dignity and decorum of the Cemetery.
- p. The deposit to the care and maintenance fund payable when a marker is installed in the cemetery shall be as specified in the regulations made under The Cemeteries Act:
 - i. Installing a flat marker measuring less than 173 square inches (1116.3 square centimetres) \$0.00.
 - ii. Installing a flat marker measuring at least 173 square inches (1116.3 square centimetres) \$50.00.
 - iii. Installing an upright marker measuring four feet (1.22 metres) or less in height and four feet or less in length (1.22 metres) including the base \$100.00.
 - iv. Installing an upright marker measuring more than four feet (1.22 metres) in either height or length including the base \$200.00.
- q. The Municipality shall only be responsible for damage to monuments and markers caused by cemetery staff.
- r. Notwithstanding any of the provisions of this section, crosses as supplied by the Royal Canadian Legion shall be permitted, provided written authority has been obtained by the Royal Canadian Legion from the plot owner.

8. THE MORTUARY

- a. No body shall be received for storage in the mortuary unless properly embalmed by the Funeral Home in charge.
- b. No graves shall be opened during the winter, or when frost is in the ground and the top sod cannot be removed and replaced without destruction, the CAO/Clerk being the sole judge of this condition.
- c. The CAO/Clerk shall have the power to order the spring interment of any committal from the Mortuary at anytime he may seem fit, and shall give seven (7) days notice of same.

9. CONDUCT WITHIN THE CEMETERY

- a. No person shall enter the cemetery except through an established entrance. No person shall enter or be within the cemetery grounds before one half hour after sunrise, nor shall they be within the cemetery grounds later than one half hour before sunset, except police officers or authorized personnel of the Municipality.

- b. No person or persons under sixteen years of age shall enter the cemetery unless attended by an adult or adults responsible for their conduct or unless permission has been granted by the Municipality.
- c. No picnic, party or alcoholic beverage shall be permitted in the cemetery.
- d. No person shall wilfully destroy, mutilate, deface, write upon, injure, or remove any tomb, monument, gravestone, or any structure placed within the cemetery, or any fence, railing or other work for the protection of the cemetery, nor shall any person wilfully destroy, cut, break, or injure any tree, shrub, or plant within the limits of the cemetery, or play at any game of sport, or discharge firearms (save at a military funeral) nor wilfully or unlawfully disturb any person or persons assembled for the purpose of burying any body therein; nor shall any person commit any nuisance or behave in an unseemly manner in the cemetery; nor shall any person in any way violate, desecrate, or disfigure such cemetery, or any grave, tomb, tombstone, vault or other structure within the same, and no person shall pick or destroy flowers (wild or cultivated) growing in the cemetery.
- e. All work personnel in any capacity within the cemetery whether as contractors, masons, stone-cutters, erectors, helpers, etc. are subject to the direction and control of the CAO/Clerk. Any workman who causes damage or injury; and in addition thereto, his employer shall be liable therefore.
- f. Contractors, mason, stone-cutters, erectors, etc., shall lay planks on the lots and paths over which heavy materials are to be moved, in order to protect the surface from injury. All work sites shall be left in a clean and orderly condition to the complete satisfaction of the CAO/Clerk.
- g. When the roads in the cemetery are soft from spring thaw, rain or other cause, the CAO/Clerk may restrict vehicular traffic.
- h. No parades, other than funeral processions or memorial services, shall be admitted to or organized within the cemetery.
- i. No vehicle shall exceed a speed of 10 miles per hour (16 km) nor shall any vehicle leave the roadways within the cemetery.
- j. Any enquiries or complaints by lot owners or visitors shall be made to the Municipal Offices or the CAO/Clerk and not to the work personnel.
- k. Any person disturbing the quiet and good order of the cemetery by noise or other improper conduct or who violates any provision of these policies and procedures may be expelled from the cemetery.

10. PRICE LIST:

- a. Subject to The Cemeteries Act and the regulations stated therein, the Municipality shall adopt a Price List to regulate the fees and charges to be paid by persons purchasing interment rights or cemetery supplies or services as shown in Schedule "A" attached hereto and forming part of this by-law and amended from time to time.

11. PENALTY

- a. Where a specific penalty is not provided for an offence under The Cemeteries Act, every person who contravenes any provision of this Chapter is guilty of an offence and is liable upon conviction, to a fine not exceeding five thousand (5,000.00) dollars, exclusive of costs, for each offence, recoverable under the Provincial Offences Act.

12. OTHER

- a. The plan and layout of the Shelburne Cemetery shall be as shown on Plan of Survey.
- b. This by-law shall come into force and take effect upon being filed and approved by the Registrar appointed pursuant to the Cemeteries Act.

- c. That all by-laws or parts of by-laws inconsistent with this by-law are hereby repealed being By-law 21-1998, By-law 27-2003, By-law 10-2005, and By-law 25-2007.

BY-LAW READ A FIRST AND SECOND TIME THIS 28TH DAY OF JUNE, 2010

BY-LAW READ A THIRD TIME AND ENACTED THIS 12TH DAY OF JULY, 2010

.....
MAYOR

.....
CAO/CLERK

SCHEDULE "A"

BY-LAW 40-2010

THE CORPORATION OF THE TOWN OF SHELBURNE

CEMETERY PRICE LIST

GRAVES

	Interment Rights	Care & Maintenance	Total Rate
Single Grave	\$567.00	\$378.00	\$ 945.00
Cremation Plot	\$235.20	\$156.80	\$ 392.00
Niche	\$850.00	\$150.00	\$1,000.00

INTERMENT CHARGES (Opening & Closing Grave)

Adult Standard Vault Opening	\$620.00
Adult Saturday Opening (casket only)	\$910.00
Child Standard Opening (casket only)	\$325.00
Child Saturday Opening (casket only)	\$450.00
Urn Burial (cremated remains)	\$200.00
Mortuary	\$120.00
Niche	\$120.00
Niche (Winter)	\$180.00

TRANSFER OF OWNERSHIP

Transfer of Plot Ownership	\$ 75.00
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CORNER MARKERS (for ownership transfer only)

Supply and Installation of Corner Markers (1 set = 3 markers)	\$ 120.00
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CARE and MAINTENANCE FUND

The deposit to the care and maintenance fund payable when a marker is installed in the cemetery shall be as specified in the regulations made under the Cemeteries Act:

- i) Installing a flat marker measuring less than 173 square inches (1116.3 square centimetres) \$0.00
- ii) Installing a flat marker measuring at least 173 square inches (1116.3 square centimetres) \$50.00
- iii) Installing an upright marker measuring four feet (1.22 metres) or less in height and four feet or less in length (1.22 metres) including the base \$100.00
- iv) Installing an upright marker measuring more than four feet (1.22 metres) in either height or length including the base \$200.00