

# THE CORPORATION OF THE MUNICIPALITY OF LAMBTON SHORES

## BY-LAW NUMBER 31 of 2018

### BEING A BY-LAW TO PROVIDE RULES AND REGULATIONS FOR THE GOVERNANCE OF THE CEMETERIES UNDER THE JURISDICTION OF THE MUNICIPALITY OF LAMBTON SHORES

**WHEREAS** it is deemed necessary to provide rules and regulations governing the management, maintenance and control of the Cemeteries under the jurisdiction of the Municipality of Lambton Shores in order to comply with the Funeral, Burial & Cremation Services Act, 2002 S.O. 2002, Chapter 33, and Ontario Regulation 30/11;

**THEREFORE** the Council of the Corporation of the Municipality of Lambton Shores enacts as follows:

That this by-law contains the rules and regulations that govern Arkona Cemetery, Baptist Cemetery, Beechwood Cemetery, and Ward Cemetery and will come in force and effect once it has been approved by the Bereavement Authority of Ontario,

#### **Definitions**

**Burial** means the opening and closing of an in-ground lot or plot for the disposition of human remains or cremated remains.

**By-laws** means the rules and regulations under which the Cemetery operates.

**Care and Maintenance Fund** means the percentage of the purchase price of all Interment Rights, and set amounts for marker and monument installations that is contributed into the Care and Maintenance Fund; the interest earned on which is used to provide care and maintenance of plots, lots, markers, and monuments at the Cemetery.

**Cemeteries** means Arkona Cemetery, Baptist Cemetery, Beechwood Cemetery, and Ward Cemetery

**Cemetery Operator** means the Municipality of Lambton Shores or those designated for the purpose of overseeing the cemetery on behalf of the municipality.

**Cemetery Owner** means the Municipality of Lambton Shores.

**Columbarium** shall mean a structure containing individual compartments or Niches, designed for the purpose of interring cremated human remains in each sealed compartment.

**Contract** means that agreement that purchasers of interment rights must sign with the cemetery, detailing obligations of both parties and acceptance of the cemetery by-laws.

**Corner Posts** means any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.

**FBCSA** means Funeral, Burial & Cremation Services Act, 2002

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

**Interment** shall mean interment, inurnment or scattering of human remains.

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

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

**Interment Rights Holder** means any person designated to hold the right to inter human remains in a specified lot.

**Inurnment** shall mean the placing of cremated remains in a Niche.

**Inurnment Rights Holder** shall mean the any person designated to hold the right to inter cremated human remains in a niche.

**Lot** means a single grave space.

**Marker** means any permanent memorial structure that is set flush and level with the ground and used to mark the location of a burial lot.

**Monument** means any permanent memorial structure projecting above the ground installed within the designated space to mark the location of a burial or lot.

**Niche** is an individual compartment in a Columbarium for the inurnment of cremated human remains.

**Plot** means a parcel of land, sold as a single unit, containing either one or multiple lots.

**Resident** means a land owner or resident of the Municipality of Lambton Shores

**Scattering** shall mean the act of spreading cremated human remains over a designated area within the cemetery, with the knowledge and permission of the cemetery operator and in keeping with the cemetery bylaws.

**Scattering Grounds** are an area within the cemetery designated for the scattering of cremated human remains.

**Scattering Rights Holder** shall mean any person designated to hold the right to direct the scattering of cremated human remains in the designated area of the cemetery.

## **General Information**

### **Hours of Operation**

Hours of operation at the Lambton Shores' Cemeteries shall be

1. Visitation Hours 8 a.m. to dusk, every day
2. For Sales and Burial arrangements – the Municipality of Lambton Shores Office is open Monday to Friday 8:30 a.m. to 4:30 p.m.
3. Burial Hours: 8 a.m. to 5 p.m. Monday through Saturday, excluding Statutory Holidays. At the Arkona Cemetery only, Sunday burials are permitted.

### **General Regulations:**

**By-Law Amendments** The cemeteries shall be governed by this bylaw, and all procedures will comply with the Funeral, Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, which may be amended periodically. This bylaw repeals Bylaw 61 of 2012, Bylaw 65-2013, and Bylaw 65-2016 and any previous bylaws relating to Arkona Cemetery, Baptist Cemetery, Beechwood Cemetery, and Ward Cemetery.

**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, monument, marker or other article that has been placed in relation to an interment right, save and except for the direct loss or damage caused by gross negligence of the cemetery operations.

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

**Right to Re-Survey** The cemetery 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.

**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 cemeteries.

All visitors should conduct themselves in a quiet manner that shall not disturb any service being held. Any persons disturbing the peace may be expelled from the cemetery.

Young children are not permitted on the cemetery grounds except when accompanied by an adult, who shall be responsible for the children's conduct and shall see that they do not run over the graves.

Vehicles in the cemetery shall be driven at a moderate pace and shall not leave designated roadways. Recreational vehicles, such as ATV's and snowmobiles, are not allowed. Drivers shall be held responsible for any damage they cause while in the cemetery.

Dogs are not allowed in the cemetery.

That all contractors employed to do any work in a Lambton Shores' Cemetery submit the required application in the prescribed form, signed by the lot owner or his/her representative, requesting permission to employ such contractor to do the work therein specified, and that the contractor provide to the Municipality proof of liability insurance coverage and W.S.I.B. coverage, if applicable

Minor exemptions to this bylaw may be granted by the cemetery operator.

## **Plots - Sizes, Sale and Resale**

### **Arkona Cemetery**

- a) Map 1, 2, 3 and 4 – no further sales allowed
- b) Map 3A and 5 - consist of plots measuring 8 ft. (2.34m) by 10 ft. (3.05 m) and contains two (2) lots, each of which may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains, with the exception of Map 5 Range U which consists of plots measuring 8 ft. (2.34 m) by 6 ft. (1.83 m) and may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains.
- c) Map 6 - consists of plots measuring 3 ft. (.91 m) by 4 ft. (1.22 m) and may hold up to two (2) interments of cremated remains. Full interments are not permitted in Map 6. This plot size includes the concrete monument base of 36 in (91 cm) x 18 in (45.7cm).
- d) Map 7 will consist of plots measuring 4 ft. (1.22 m) by 10 ft. (3.05 m) each of which may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains, a columbarium and scattering ground.

### **Beechwood Cemetery**

- a) Division A consists of plots measuring 8 ft (2.34 m) by 16 ft (4.88 m) and contains four (4) lots, each of which may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains.
- b) Division B which consists of plots measuring 4 ft (1.22 m) by 10 ft (3.05 m) and may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains.
- c) Division C which consists of plots measuring 2 feet by 5 feet and may hold up to three (3) interments of cremated remains. Full interments are not permitted in Division C.
- d) Division D consists of a Columbaria and scattering grounds.

## **Baptist Cemetery**

- a) Plot or lot sales are permitted in the new 2013 section only. This section consists of plots measuring 4 ft. (1.22 m) by 10 ft. (3.05 m) and may hold one (1) full interment and one (1) interment of cremated remains, or up to six (6) interments of cremated remains.

## **Ward Cemetery**

No further plot or lot sales are permitted.

## **Columbarium**

This section applies to any Columbaria in Arkona Cemetery, Beechwood Cemetery, Baptist Cemetery & Ward Cemetery.

All general rules and regulations of the cemetery bylaws shall apply to the Columbaria as far as the nature of the situation permits.

Each niche in the columbarium will allow for the inurnment of the cremated remains of no more than two people.

Only the Cemetery Operator may open and seal niches for inurnments. This applies to the inside sealer and the niche front.

Landscaping in this area is done exclusively by the Cemetery Owner.

Except for at the time of inurnment flowers may not be placed on the ground near the columbarium.

No glass vases or other breakable items shall be placed around the Columbarium.

To ensure the quality control, desired uniformity and standard of workmanship, the Cemetery Owner reserves the right to inscribe all niche fronts or install lettering, adornments or any other approved attachments.

## **Scattering Rights**

This section applies to any Scattering Grounds in Arkona Cemetery, Beechwood Cemetery, Baptist Cemetery & Ward Cemetery.

All general rules and regulations of the cemetery bylaws shall apply to the Scattering Grounds as far as the nature of the situation permits.

A scattering right contract allows for the scattering of the cremated remains of one person. Only the person named in the scattering rights certificate may be scattered.

Only the Cemetery Operator may perform or oversee the scattering of ashes.

Cremated remains may only be scattered within a designated area of the cemetery.

Once scattered; Cremated remains cannot be retrieved.

Landscaping in this area is done exclusively by the Cemetery Owner.

Except for at the time of inurnment flowers may not be placed on the ground near the columbarium.

Memorialization will be in the form of an inscription on the side of the columbarium located near the scattering grounds, or other such marker as provided by the Cemetery Operator for the purpose of memorialization.

**Purchase of Interment Rights** Purchasers of interment rights acquire the right to direct the burial, inurnment, or scattering of human remains, and the installation of monuments, markers and inscriptions, subject to the conditions set out in this by-law.

In accordance with cemetery by-laws, no burial, inurnment, scattering or installation of any monument, marker, inscription, or memorialization is permitted until the interment rights have been paid in full. The purchase of interment rights does not convey any ownership in any Real Estate or real property. The purchaser, upon payment in full of the interment rights will be provided with the following documents by the cemetery operator

- a) An interment rights certificate
- b) A copy of the cemetery's current by-laws
- c) A copy of the cemetery's current price list

**Payment** Lots, Plots, Niches, and Scattering Rights must be paid in full at the time of purchase, unless alternate terms are agreed upon by all parties. The cost of the interment rights is set out in a price list which will be provided to the purchaser at the time of purchase.

**Care and Maintenance Fund Contributions** As required by Sections 166 and 168, of Regulation 30/11, a percentage of the purchase price of all interment rights and a prescribed amount for monuments and markers is to be contributed into the "Care and Maintenance Fund". Interest income from this fund is to be used only to provide general care and maintenance of the cemetery. Contributions to the care and maintenance fund are not refundable except when the interment rights are cancelled within the thirty (30) day cooling off period.

**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 or scattering 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 request 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.

**Cancellation of Interment Rights after the 30 day Cooling-Off period** Once payment for the interment rights has been made in full, and an interment rights certificate has been issued, the interment rights holder(s), as recorded in the cemetery records, has the right to re-sell the interment rights. Any resale of the interment right shall be in accordance with the requirements of the cemetery bylaw and in keeping with the FBCSA. If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to re-sell the interment rights.

**Transfer of Interment Rights** The transfer of interment rights must be carried out through the cemetery operator and is subject to a transfer fee. The interment rights holder(s) intending to transfer their rights shall provide the following documents to the cemetery operator so that the operator can confirm the ownership of the right to sell and provide the third party purchaser with the required certificate:

- a) A current interment rights certificate.
- b) A written request for the transfer of the interment rights, which includes the names and addresses of the current rights holder(s), the third party purchasers, and the exact location of the interment rights.
- c) Any other documentation in the interment rights holder(s) possession relating to the rights
- d) If any portion of the interment rights has been exercised, the purchaser, or the interment rights holder(s) are not entitled to transfer the interment rights.

**Resale of Interment Rights** Interment rights holders may first offer the interment rights to the cemetery operator. If the cemetery operator does not wish to re-purchase the interment rights for the current price less the original Care & Maintenance amount paid at the time of purchase, then the interment rights may be sold to a third party for no more than the current price listed on the cemetery price list. The sale must be conducted through the cemetery operator and the purchaser must meet the qualifications and requirements as outlined in the cemetery operator's by-laws. All resales of interment rights are subject to a transfer fee.

**Resale to a Third Party** The interment rights holder(s) intending to sell their rights shall provide the following documents to the cemetery operator so that the operator can confirm the ownership of the right and provide the third party purchaser with the required certificate:

- a) A current interment rights certificate.
- b) A written request for the transfer of the interment rights, which includes the names and addresses of the current rights holder(s), the third party purchasers, and the exact location of the interment rights.
- c) Any other documentation in the interment rights holder(s) possession relating to the rights.

Once the required information has been received by the cemetery operator from the current rights holder, the cemetery operator will issue a new interment rights certificate to the third party purchaser. Upon the issuance of the new interment rights certificate

and payment of the transfer fee, the third party purchaser shall be considered the current interment rights holder and the transfer shall be considered complete

The third party purchaser will be provided with the following documents by the cemetery operator:

- a) An interment rights certificate endorsed by the current rights holder
- b) A copy of the cemetery's current by-laws
- c) A copy of the cemetery's current price list
- d) Any other documentation in the interment rights holder(s) possession relating to the rights.

**Resale of Interment Rights to the Cemetery Operator** The cemetery operator may repurchase the interment rights from the rights holder(s) if the cemetery operator so desires and may negotiate a purchase price so long as the seller acknowledges being aware of the cemetery operators current price list amounts for interment rights. The negotiated price shall be the original purchase price less the portion paid into the care and maintenance fund, exclusive of all taxes.

### **Interment, Disinterment and Re-interment**

**Authorization** The interment rights holder(s) must provide written authorization prior to the burial taking place. Should the interment rights holder be the deceased, authorization must be provided by the person authorized to act on behalf of the interment rights holder. When interment rights are jointly held by more than one person, an order from either or any of them or their authorized representative will be accepted.

**Required Documentation** A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province must be provided to the cemetery office prior to a burial taking place. A certificate of cremation must be submitted to the cemetery office prior to the burial, inurnment, or scattering of cremated remains taking place.

**Payment** All opening costs must be made to the cemetery within one (1) week of the burial taking place.

**Notice** The cemetery operator shall be given 48 hours notice prior to a burial of human remains or cremated human remains.

**Opening and Closing** The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on the behalf of the cemetery.

### **General Provisions**

- 1) Cremated remains are not allowed to be scattered on a grave.
- 2) Double depth burials are not allowed.
- 3) No interment shall be permitted in any lot where outstanding charges exist, with the exception of at time of need lot purchases.



4) No interment shall be made on Sunday or statutory holiday except on a doctor's certificate that the interment must be made within 24 hours of death in accordance with the regulations of the Ontario Ministry of Health for the control of communicable disease.

**Disinterment** Human remains may be disinterred from a lot provided that the written authorization from the interment rights holder has been received by the cemetery operator and the notification of the Medical Officer of Health. A certificate from the local Medical Officer of Health must be received at the cemetery office before the removal of the casketed remains may take place. A certificate from the local officer of health is not required for the removal of cremated remains, whether buried or in a niche.

### **Monuments and Markers**

No monument, footstone, marker or memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.

No monument, footstone, marker or memorial of any description shall be placed, moved, altered or removed without the permission of the cemetery operator.

Interments are not allowed inside privately owned monuments.

The cemetery operator will take reasonable precautions to protect the property of the interment rights holder, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof. Minor scraping of the monument base of an upright monument due to grass and lawn maintenance is considered to be normal wear.

Should any monument or marker present a risk to public safety because it has become unstable, the cemetery owner shall do whatever it deems necessary by way of repairing, resetting, laying down of the monument or marker or any other remedy so as 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.

A monument shall only be erected in a location and within the designated space on a lot, as approved by the cemetery operator.

All monuments shall be constructed of bronze or natural stone.

No monument shall be delivered to the cemetery for installation until the monument foundation has been completed.

Charges for the care and maintenance of the monument or marker will be collected before the installation of the monument or marker and placed in a trust account.

The cemetery operator reserves the right to determine the maximum size of monuments, and the number and the location on each lot or plot. Monuments must not be of a size that would interfere with any future interments.

In Arkona Cemetery, in Maps 1, 2, 3, 3A, 4, and Map 5, with the exception of Range U, there shall be only one (1) monument erected per each plot consisting of two (2) graves plus one (1) flat marker per lot. A monument shall not exceed 4 ft. (1.22 m) in height and 5 ft. (1.52 m) in width.

In Arkona Cemetery, in Map 6, one monument is allowed per plot. The monument must be placed on the existing concrete base (36" x 18") (91cm x 45.7 cm), which is on a portion of the plot. The monument is not to exceed 32 in (81.2 cm) in length and 14 in (35.5 cm) in width and 10 in (25.4 cm) in height.

In Arkona Cemetery, in Map 5 Range U and in Map 7, one (1) upright monument and one (1) flat marker will be allowed per lot. A monument shall not exceed 4 ft. (1.22 m) in height and 5 ft. (1.52 m) in width.

In Beechwood Cemetery, Division A, there shall be only one monument erected on each plot consisting of four lots plus one flat marker per lot. In Division B there is one monument allowed per lot, with the exception of Division B, Range 1 to 8, Lots 1 to 30, where only one flat marker per grave shall be allowed.

A marker shall not exceed 24 in. (60.96 cm) by 18 in. (45.72 cm) on the surface and must not be built above ground level.

The minimum thickness for flat markers including footstones is 4 inches (10 cm).

War Memorial markers placed in veterans graves by the Royal Canadian Legion will be permitted to remain as a permanent marker, in addition to other markers and monuments allowed.

Memorial benches must be approved by the Cemetery Operator and may only be placed in designated locations. Once donated, the memorial bench becomes the property of the cemetery owner. Inscription is paid for by the donor of the bench.

Monuments to be erected shall be set upon an adequate concrete base and a foundation shall be no less than 4 ft. (1.22 m) in depth. All foundations shall be constructed by the monument company at the expense of the interment rights holder.

No base shall be closer than 2 in (5.08 cm) to the plot or lot side lines. All bases shall be a minimum of 1 in (2.54 cm) wider on all sides than the monument placed upon it. No base shall be wider than 2 ft (.61 m).

No foundation shall be placed between November 1 and April 1 of any year.

### **Cemetery Care and Plantings**

Grassed roadways may be closed to vehicular traffic at any time.

A portion of the price of interment rights is trusted into the Care and Maintenance Fund. The interest income generated from this fund is used to maintain, secure and preserve the cemetery grounds. Services that can be provided through this fund include:

- a) Re-leveling and sodding or seeding of lots
- b) Maintenance of cemetery roads and water systems
- c) Maintenance of perimeter walls and fences
- d) Maintenance of cemetery landscaping
- e) Repair and general upkeep of cemetery maintenance buildings and equipment.

All maintenance work at the cemetery may be conducted only by cemetery staff or those designated to do work on the behalf of the cemetery.

The erection of borders, fences, railings, walls and hedges is prohibited.

No person shall plant trees, flower beds or shrubs or in any way change the surface of a burial lot in the cemetery except with the written approval of the cemetery.

If any trees or shrubs situated in any lot, in the opinion of the cemetery operator, become detrimental to the adjacent lots or detrimental to the general appearance of the cemetery by means of their roots, or branches, or in any other way, the cemetery staff or those designated to do work on behalf of the cemetery may, without notice, remove such trees, shrubs or parts thereof.

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.

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 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 notice.

Upon the approval of the Ministry of Consumer Services, this by-law will come into force and effect and all sections of previous by-laws providing rules and regulations governing the management, maintenance and control at the Arkona Cemetery, Baptist Cemetery, Beechwood Cemetery, Ward Cemetery are repealed.

**READ A FIRST, SECOND AND THIRD TIME, AND FINALLY PASSED** this 24<sup>th</sup> day of April, 2018.

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Mayor

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Clerk

Approved by the Bereavement Authority of Ontario June 1, 2018