

FACILITY

Chapter 227 CEMETERIES

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SCHEDULE

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WHEREAS The Corporation of the City of Brantford owns and operates several cemeteries within the City of Brantford;

AND WHEREAS the *Funeral, Burial and Cremation Services Act, 2002*, c. 33 provides, *inter alia*, that the operation, management and care of cemeteries is the responsibility of cemetery owners;

AND WHEREAS the subsection 150 (1) of Ontario Regulation 30/11 under the *Funeral, Burial and Cremation Services Act, 2002*, c. 33 authorizes cemetery owners to make by-laws governing the operation of the cemetery;

AND WHEREAS sections 8, 9 and 10 of the *Municipal Act, 2001*, c.25 provide municipalities with broad powers to provide any service or thing the municipality considers necessary or desirable for the public, and to regulate said services through by-laws respecting, among other things, the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property, including consumer protection;

AND WHEREAS section 425 of the *Municipal Act, 2001*, c. 25 authorizes municipalities to pass by-laws providing that any person who contravenes a by-law of the municipality passed under that Act is guilty of an offence.

Article 1 INTERPRETATION

227.1.1 Act - defined

“Act” means the *Funeral, Burial and Cremation Services Act, 2002*, S.O. 2002, c. 33 and the regulations thereunder.

227.1.2 At need supplies - defined

“at need supplies” means cemetery supplies or services that are required at the time of the death of a person.

227.1.3 At need lot - defined

“at need lot” means a lot that may only be selected as the next available lot in a row located in a designated at need section of the cemetery.

227.1.4 Burial vault - defined

“burial vault” means a sealed container (usually made of concrete) that is placed into a lot to house a casket.

227.1.5 Care and Maintenance Fund - defined

“Care and Maintenance Fund” means the trust fund(s) of the City established for the purpose of providing money for the maintenance of the cemeteries and the markers and structures therein as prescribed in the Act.

227.1.6 Casket - defined

“casket” means a container intended to hold a dead human body for funeral, cremation or interment purposes, but does not include a burial vault, burial container or a grave liner.

227.1.7 Cemetery - defined

“cemetery” means land set aside for the interment of human remains, which land has been established or recognized by the Registrar as a cemetery under the Act, a private act or a predecessor of one of them that related to cemeteries, and includes land that, in the prescribed circumstances under the Act, has been otherwise set aside for the interment of human remains, and includes a mausoleum, columbarium or other structure intended for the interment of human remains.

227.1.8 Cemeteries - defined

“cemeteries” means the Mount Hope, Greenwood, Oakhill, Tranquility and Batson cemeteries located in the City of Brantford.

227.1.9 Cemetery services - defined

“cemetery services” means services provided by a cemetery operator in respect of the interment of dead human bodies or the scattering of cremated human remains at a cemetery and includes all of the following:

- (a) opening and closing of a grave;
- (b) opening, closing and sealing of a crypt or compartment in a mausoleum and a niche or compartment in a columbarium;
- (c) interring or disintering human remains;
- (d) providing temporary storage in a receiving vault;
- (e) providing temporary storage in a vault or crypt in a mausoleum;
- (f) construction of a foundation for a monument;
- (g) providing a tent or canopy, carry and lowering devices and ground cover for an interment service;
- (h) preparing flowerbeds, planting flowers and shrubs;
- (i) all services provided by the owners of a crematorium at the crematorium; and
- (j) such other services as provided by the owner of a cemetery at the cemetery from time to time.

227.1.10 Cemetery supplies - defined

“cemetery supplies” includes burial vaults, markers, glowers, liners, urns, shrubs, trees, benches, artificial wreaths and other articles intended to be placed at a cemetery.

227.1.11 City - defined

“City” means The Corporation of the City of Brantford.

227.1.12 Columbarium - defined

“columbarium” means a structure designed for the purpose of interring cremated human remains in niches or compartments.

227.1.13 Committee - defined

“Committee” means the Parks, Recreation and Waterfront Advisory Committee as established by the City.

227.1.14 Crematorium - defined

“crematorium” means a building that is fitted with appliances for the purpose of cremating human remains and that has been approved as a crematorium or established as a crematorium in accordance with the requirements of the Act or a predecessor of it and includes everything necessarily incidental and ancillary to that purpose.

227.1.15 Crematorium services - defined

“crematorium services” means services provided in respect of the cremation of dead human bodies.

227.1.16 Crypt - defined

“crypt” means an individual compartment in a mausoleum for the entombment of human remains.

227.1.17 Designate - defined

“designate” means a staff person authorized by the Supervisor of Cemeteries for the City to carry out the duties of the Supervisor of Cemeteries as needed from time to time.

227.1.18 Director - defined

“Director” means the Director of Parks for the City.

227.1.19 Endorsed certificate - defined

“endorsed certificate” means an interment rights certificate endorsed by the interment rights holder for the purposes of selling the interment rights to a third party purchaser and which includes the following:

- (a) a statement, signed by the interment rights holder selling the interment rights, acknowledging the sale of the interment rights to the purchaser;
- (b) the signature of the Director, or his or her designate, along with a statement confirming that the interment rights holder is registered in the cemetery records as the person with the right to sell the interment rights to a third party;
- (c) the date on which the interment rights are to be sold;
- (d) the name and address of the third party purchaser; and

- (e) a statement showing the amount of money owing to the City with respect to the interment rights.

227.1.20 Funeral director - defined

“funeral director” means an individual involved in the business of funeral rites acting on behalf of a funeral establishment who is licensed to act as a funeral director under the Act.

227.1.21 Funeral establishment - defined

“funeral establishment” means a premise established for the purpose of temporarily placing human remains, so that persons may attend and pay their respects.

227.1.22 Funeral service - defined

“funeral service” means the care and preparation of dead human bodies, the coordination and provision of rites and ceremonies with respect to dead human bodies, but does not include cemetery services or crematorium services.

227.1.23 Human remains - defined

“human remains” means a dead human body or the remains of a cremated human body.

227.1.24 Income - defined

“income” means the interest or money earned, including its compounding, by the investment of funds, including any capital gains realized from the investment of funds held in trust pursuant to the Act.

227.1.25 Inter - defined

“inter” means the burial of human remains, and includes the placing of human remains in a lot or a mausoleum, and interment, interred, and interring shall have corresponding meanings.

227.1.26 Interment rights - defined

“interment rights” includes the right to require or direct the interment of human remains in a lot.

227.1.27 Interment rights holder - defined

“interment rights holder” means the person who holds the interment rights with respect to a lot whether the person be the purchaser of the rights, the person named in the certificate of interment or such other person to whom the interment rights have been assigned.

227.1.28 Liner - defined

“liner” means a container (usually made of concrete) that is placed into a lot to house a casket.

227.1.29 Lot - defined

“lot” means an area of land in a cemetery containing, or set aside to contain, human remains and includes a tomb, columbarium niche or compartment, mausoleum crypt or compartment and any other similar facility or receptacle.

227.1.30 Marker - defined

“marker” means a memorial made of granite slab, or similar material approved by the Supervisor of Cemeteries, set flush with the surface of the ground and used to mark the location of a lot.

227.1.31 Mausoleum - defined

“mausoleum” means a structure, other than a columbarium, used as a place for the interment of human remains in tombs, crypts or compartments.

227.1.32 Minister - defined

“Minister” means the means the Minister of Consumer Services or whatever other member of the Executive Council to whom administration for the Act is assigned under the *Executive Council Act*.

227.1.33 Ministry - defined

“Ministry” means the Ministry of Consumer Services for Ontario or the Ministry of the Minister to whom administration for the Act is assigned under the *Executive Council Act*.

227.1.34 Monument - defined

“monument” means any structure or ornament, including but not limited to any tombstone, headstone or cornerstone, projecting above ground level and affixed to or intended to be affixed to a lot for the purposes of marking the location of the lot.

227.1.35 Muslim burial area - defined

“Muslim burial area” means the eighty-six single lots located in ranges MR 5 through MR 8, inclusive, in the southern portion of section DW3 of Oakhill Cemetery in the City of Brantford, as further defined by the City and the Muslim Association of Brantford Inc. in their agreement dated May 4, 1998.

227.1.36 Niche - defined

“niche” means a sealed compartment of a columbarium intended for the interment of cremated human remains.

227.1.37 Operator - defined

“operator” means a person who is licensed to operate a cemetery and/or crematorium for which a licence may be required by regulation under the Act and includes an owner who is deemed to be an operator under the Act.

227.1.38 Original purchase price - defined

“original purchase price” means the price of interment rights paid to the City, or previous cemetery owner, preceding all others in time.

227.1.39 Owner - defined

“owner” means the owner of a cemetery or crematorium.

227.1.40 Plaque - defined

“plaque” means a permanent memorial made of bronze, or other material approved by the Supervisor of Cemeteries, and affixed to and used to mark the location of a niche.

227.1.41 Plot - defined

“plot” means two or more lots in which interment rights have been sold as a unit.

227.1.42 Pre-need interment rights - defined

“pre-need interment rights” means interment rights which are not required until the death of a person who was alive at the time that the arrangements for interment were made.

227.1.43 Pre-need supplies or services - defined

“pre-need supplies or services” means cemetery supplies or cemetery services or both that are not required until the death of a person who was alive at the time the arrangements for interment were made.

227.1.44 Registrar - defined

“Registrar” means the Registrar appointed under the Act.

227.1.45 Supervisor of Cemeteries - defined

“Supervisor of Cemeteries” means the staff person of the City responsible for the overall operation of the cemeteries owned by the City, and his or her designate.

227.1.46 Tariff of charges - defined

“tariff of charges” means the list of fees and charges, set out in Schedule ‘A’ as may be amended from time to time, for at-need supplies, plots, interment rights, cemetery supplies, lots, pre-need supplies or services, pre-need interment rights, cemetery services, and any other services provided by the City with respect to the cemeteries.

227.1.47 Transfer - defined

“transfer” means to make a gift or bequest of interment rights by any means other than by sale of said rights.

227.1.48 Transfer certificate - defined

“transfer certificate” means an interment rights certificate issued by the City to a transferee after a transfer is effected pursuant to Article 3 of this Chapter.

227.1.49 Measurements - metric and imperial - discrepancy

Measurements in this Chapter are provided in both the metric and imperial systems. In the event of any discrepancy between the metric and imperial measurements provided in this Chapter, the metric measurements shall govern.

**Article 2
GENERAL****227.2.1 Application - Chapter**

This Chapter shall apply to all cemeteries owned by the City.

227.2.2 Director of Parks - Administration of Chapter

The Director is responsible for the management of all cemeteries owned by the City and is hereby granted authority to administer and enforce the provisions of this Chapter.

227.2.3 Director - procedures and rules

The Director shall develop a manual of policies and procedures for the control, operation, and use of all cemeteries owned by the City. All policies and procedures established by the Director shall be provided to all employees and contractors of the City who perform work at the cemeteries.

227.2.4 Director - procedures and rules - amendment

The Director may amend or repeal any policy or procedure established by him or her from time to time, in his or her sole discretion. The Director may also temporarily suspend the enforcement of any policy if, in his or her opinion, said suspension can be done without detriment to the interests of others, including without detriment to the interests of the City.

227.2.5 Director - discretion

Where the Director is given authority under this Chapter to grant or refuse to grant permission or approval, the exercise of this authority shall be at the sole discretion of the Director.

227.2.6 Director - delegation of authority

The Director may delegate tasks or assign responsibilities given to the Director under this Chapter, whether in his or her absence or otherwise, as he or she sees fit.

227.2.7 Supervisor of Cemeteries - management of cemeteries

It shall be the responsibility of the Supervisor of Cemeteries to oversee the day-to-day operation of all cemeteries owned by the City, including, but not limited to, the sale of lots and interment rights, and the maintenance, improvement, and beautification of the cemeteries, in accordance with the terms and provisions of this Chapter and the Act.

227.2.8 Tariff of charges - amendments

The Tariff of charges set out in Schedule 'A' of this Chapter may be amended by the City from time to time upon recommendation of the Director and in accordance with the Act. Any such changes must be approved by the Municipal Council for the City and the Ministry.

227.2.9 Notices

Any notices required or permitted to be given by the City pursuant to this Chapter or the Act may be delivered personally or by regular or registered mail to the last known address of the person to whom the notice is due, or to his or her heir, executor, administrator or representative listed on file with the City. Notices required or permitted to be given to the City pursuant to this Chapter or the Act may be delivered personally or by regular or registered mail to the administrative offices of the City and addressed to the Director.

227.2.10 Use of cemetery - at own risk

The City disclaims any and all responsibility for losses or damage arising from circumstances beyond its control, including but not limited to, damages arising from acts of God, thieves, vandals, accidents, strikes, riots, or protests, whether damage is direct or collateral. Without limiting the generality of the foregoing, the City specifically disclaims any liability or responsibility for losses arising from or in any way related to any article that is placed or left on any lot or elsewhere in the cemetery.

227.2.11 Correction of errors

The City reserves the right to correct, at its sole expense, any error or omission made by it in the interment process, including, but not limited to, errors or omissions in the description of the lot, or the transfer or conveyance of interment rights. The City's remedies in the event of any such error or omission shall include, but are not limited to, the cancellation of any grant of interment rights and the substitution therefor of interment rights or a lot or plot of equal or greater value and similar location, in-so-far as this is reasonably possible, or the refund of all money paid to the City for said purchase. Should the City exercise its rights to correct any error or omission made by it, with the exception of typographical errors or similar errors, notice will be provided to the interment rights holder or their legal representative, at the last address of said interment rights holder or legal representative filed with the City.

227.2.12 Validity of Chapter

If any provision of this Chapter is declared invalid or unenforceable by a court of competent jurisdiction, the remainder of this Chapter shall continue to be of full force and effect, as if the offending provision was never a part hereof.

227.2.13 Schedules

All Schedules attached to this Chapter are integral to and form part of this Chapter.

**Article 3
INTERMENT RIGHTS****227.3.1 Sale of interment rights**

The Director is hereby granted the authority to sell interment rights at the cemeteries. No person shall sell interment rights except as authorized by the Director.

227.3.2 Interment rights - human remains only

No interment rights may be sold except for any purpose other than the burial of human remains.

227.3.3 Interment certificate - minor

No minor, unless he or she is the head of a family, shall be entitled to have the interment rights certificate registered in his or her name.

227.3.4 Interment cost - government assistance

If a government income supplement program is assisting in the payment of the cost of interment rights or interment, verification of the assistance, including the amount, must be provided by the government body or agency to the City prior to the sale being completed.

227.3.5 Interment rights certificate

Upon receipt of full payment for interment rights, the City shall provide to the interment rights holder a certificate of interment rights, in a form to be approved by the Director.

227.3.6 Interment rights - contract

The purchaser of interment rights shall enter into a contract with the City for the purchase and sale of interment rights, which contract shall be in a form and contain content satisfactory to the City and shall be binding on any transferee of the interment rights pursuant to this Chapter.

227.3.7 Interment rights - contract - copy

Upon full payment for all interment rights sold pursuant to this Chapter, the Supervisor of cemeteries shall provide the interment rights holder with a copy of the contract between the purchaser of the interment rights and the City, for the purchase and sale of said interment rights, along with a description of the location of the purchased lot and a copy of this Chapter.

227.3.8 Interment rights - contract - cancellation

A contract for the purchase and sale of interment rights from the City may be cancelled within thirty days of execution of said contract by the purchaser and the City, if the purchaser provides written notice of the cancellation to the Supervisor of Cemeteries. The City shall refund all monies paid by the purchaser, upon the cancellation of the contract in accordance with this provision. Notwithstanding the foregoing, the purchaser shall not be entitled to cancel the contract or re-sell the interment rights if any portion of the interment rights have been exercised.

227.3.9 Interment rights - Oakhill - Mount Hope

Interment rights for Oakhill and Mount Hope Cemeteries may only be sold in accordance with the lot lay-out on the site plan approved by the City.

227.3.10 Interment rights - Greenwood

In no event shall any interment rights be sold for Greenwood Cemetery, as these rights are no longer available for purchase.

227.3.11 Interment rights - tranquillity - batson

In no event shall any interment rights be sold for Tranquillity Cemetery or for Batson Cemetery.

227.3.12 Interment rights - fees

Fees for the purchase and sale of interment rights are set out in tariff of charges attached hereto at Schedule 'A'.

227.3.13 Pre-need interment rights - purchase

Pre-need interment rights may be purchased and paid for in full or on an instalment basis, subject to the following conditions:

- (a) a minimum of 25 percent of the purchase price is paid up-front at the time of the sale;
- (b) the remaining balance of the purchase price is paid in eleven equal, monthly instalments, with the final payment due within one year of the date of the contract;
- (c) the entire purchase price must be paid in full prior to any interment at the lot or plot, as the case may be;

- (d) a certificate of interment rights shall not be issued until the purchase price is paid in full; and
- (e) no marker or monument may be erected on the lot until the purchase price is paid in full.

227.3.14 Interment rights - transfer

An interment rights holder may transfer his or her interment rights to another person subject to the following:

- (a) written notice of the transfer, specifying the name and address of the proposed transferee and the date of the proposed transfer, has been given to the Supervisor of Cemeteries;
- (b) the original certificate of interment rights has been returned to the Supervisor of Cemeteries; and
- (c) the applicable transfer fee as set out in the tariff of charges has been paid in full.

227.3.15 Interment rights - transfer certificate

Upon satisfaction of all of the conditions set out in Section 227.3.14 above, a transfer certificate shall be issued to the transferee and a copy of the contract between the original interment rights holder and the Director, or his or her designate, shall be provided to the transferee, along with a description of the location of the lot and a copy of this Chapter.

227.3.16 Interment rights - resale

Private resale of interment rights will be permitted only if interment rights have not been exercised in the lot.

227.3.17 Interment rights - resale - disclosure

The interment rights holder shall disclose all of the following information to the purchaser of interment rights pursuant to Section 227.3.16 above:

- (a) the original interment rights certificate;
- (b) an endorsed certificate;
- (c) a current and complete copy of this Chapter and any amendments thereto; and
- (d) all other documentation in the possession of the interment rights holder relating to the interment rights to be sold.

227.3.18 Interment rights - resale - information for City

The interment rights holder wishing to sell the interment rights pursuant to this Article shall provide to the Supervisor of Cemeteries a copy of the endorsed certificate, a copy of the agreement of purchase and sale for the interment rights, and any other information that the Supervisor of Cemeteries deems necessary in order to issue a new interment rights certificate to the third party purchaser of said interment rights, and to register the sale in the City's records.

227.3.19 Interment rights - resale - certificate

Once the information required pursuant to Section 227.3.18 is received by the Supervisor of Cemeteries, and all fees for the interment rights have been paid in full, the Supervisor of Cemeteries shall issue a new interment rights certificate to the third party purchaser and shall register the sale in the City's records.

227.3.20 Interment rights - resale - failure - provide information

The City shall not be obligated or compelled to acknowledge or honour any sale or transfer of interment rights unless all of the provisions of this Chapter have been complied with, including, but not limited to, the provisions pertaining to the disclosure of information to the transferee, purchaser, and the City pursuant to this Article.

227.3.21 Interment rights - resale - price

In no event shall interment rights be sold or re-sold for an amount greater than the current value of interment rights as listed in the tariff of charges in effect at the time of the proposed sale.

227.3.22 Interment rights - lot - exercised

Where a casket and/or human remains are buried in a lot, the interment rights are deemed to be exercised and that lot may not be resold, except to the City pursuant to this Chapter.

227.3.23 Interment rights - plot - exercised

Where a casket and/or human remains are buried in one or more lots within a plot, all interment rights relating to the entire plot shall be deemed to be exercised and no interment rights for the plot or any lot therein may be sold except to the City pursuant to this Chapter.

227.3.24 Interment rights - repurchase by City

The City shall not be obligated to repurchase any interment rights relating to any lot, plot, niche, or crypt that have been exercised, but may choose to repurchase the interment rights from the interment rights holder at a mutually agreeable price, which price may be less than the price listed in the tariff of charges.

227.3.25 Interment rights - price - exemption

Interment rights purchased in the Muslim Burial Area of Oakhill Cemetery shall be exempt from the Tariff of Charges but shall be made in accordance with the agreement executed on May 4, 1998 between the City and the Muslim Association of Brantford Inc.

Article 4**CARE AND MAINTENANCE FUND****227.4.1 Care and Maintenance Fund - established**

A Care and Maintenance Fund, as prescribed by the regulations under the Act, shall be established by the Treasurer for the City who shall receive and transfer to the applicable cemetery all interest received from the Care and Maintenance Fund investments and all other interest and other income from money invested, or from other property given, devised, bequeathed, or set aside for the purpose of the upkeep or care of any lot, plot, or portion of the cemetery.

227.4.2 Care and Maintenance Fund - control

The Care and Maintenance Fund established pursuant to this Chapter, and all investments relating to same, shall be under the control and management of the Treasurer for the City, subject to the approval of the Municipal Council for the City, and in accordance with the provisions of the Act.

227.4.3 Percentage of purchase price - deposited to fund

A percentage of both the purchase price for the sale of interment rights and the fee for the instalment of markers and monuments shall be contributed to the Care and Maintenance Fund, in accordance with the Act, which percentage is set out in the tariff of charges and may be amended from time to time.

Article 5**INTERMENT****227.5.1 Interment - Direction of Supervisor**

All funeral services and interments within the cemeteries shall be conducted under the direction of the Supervisor of Cemeteries.

227.5.2 Interment - orders - funeral directors

All orders provided to the City from a funeral director shall be deemed by the City to be orders from the interment rights holder, unless the City receives written notice from the interment rights holder to the contrary, prior to the opening of the lot.

227.5.3 Interment - costs

The fees for interments are set out in the tariff of charges. Persons ordering or making arrangements for interments or cemetery services shall be responsible for all costs incurred for said interment and other cemetery services provided.

227.5.4 Interment - contract - cemetery services

Prior to an interment taking place, an original burial permit or certificate of cremation must be provided to the Supervisor of Cemeteries, and the interment rights holder, or his or her heir, executor, administrator, or representative, shall enter into a contract for cemetery services in a form and with content provided by and approved by the Director.

227.5.5 Interment - limit - prior to January 1, 2002

Only one dead human body and a maximum of two cremated human remains shall be permitted to be interred in an adult burial lot for which the interment rights were purchased prior to January 1, 2002.

227.5.6 Interment - limit - on or after January 1, 2002

Only one dead human body and one cremated human remains shall be permitted to be interred in an adult burial lot for which the interment rights were purchased on or after January 1, 2002. Should the interment of cremated human remains occur prior to a full interment, being the placement of the casket, burial vault, and liner in the lot, the container with the cremated human remains must be constructed of permanent material such as plastic, marble, or ceramic.

227.5.7 Interment - limit - cremation

Up to two cremated human remains may be interred in one adult cremation lot or one niche.

227.5.8 Interment - equipment

Only equipment provided by the City may be used in the interment, except when an above-ground vault is being used.

227.5.9 Interment - hours of operation

Interments and funeral services may take place between the hours of 8:30 a.m. and 4:00 p.m. from Monday to Friday, and between the hours of 8:30 a.m. and 11:00 p.m. on Saturday, provided that Interments may take place on any day and at any time upon:

- (a) receipt by the City of an order or certificate from the Medical Officer of Health;
- (b) receipt by the City of an order from the Coroner's Office; or
- (c) permission from the Director following a request from the Beth David Congregation for an interment in the Beth David Cemetery which is located in the Mount Hope Cemetery.

227.5.10 Interment - late arrivals - fee

Funeral services or interments occurring after the hours listed in Section 227.5.9 above shall be deemed to be late arrivals and shall be charged the late arrival fee as set out in the tariff of charges.

227.5.11 Interment - Saturday - additional fee

Persons holding funeral services or interments on a Saturday shall be charged an additional fee as set out in the tariff of charges; however, where the Monday following the Saturday on which the funeral service or interment is held is a statutory holiday, no additional fee will be charged but regular rates shall apply.

227.5.12 Interment - Muslim Burial Area

All interments which take place at the Muslim Burial Area shall be made in accordance with Muslim burial rights.

227.5.13 Lots - Muslim Burial Area

All lots in the Muslim Burial Area shall be positioned at a 32 degree angle and shall be single lots with a pre-poured foundation for an upright monument.

227.5.14 Opening lot - notice

A minimum of twenty-four hours' notice must be provided to the Supervisor of Cemeteries prior to the City opening a lot.

227.5.15 Opening lot - authority

Only personnel authorized by the Supervisor of Cemeteries shall be permitted to open a lot.

227.5.16 Interment requests - facsimile

All verbal requests for interments from a funeral director must be followed by a facsimile transmission to the Supervisor of Cemeteries prior to the interment taking place.

227.5.17 Lots - filling

Lots may not be filled above the existing grade of the cemeteries unless temporarily required for maintenance by City staff.

227.5.18 Burial - incomplete

Every effort must be made to complete a burial; however, where a burial cannot be completed on the day of the funeral, the funeral service may be held at the mausoleum at Mount Hope Cemetery, upon approval of the Supervisor of Cemeteries. Where approval is granted by the Supervisor of Cemeteries, the body shall be placed in a temporary entombment in the mausoleum and the burial or commitment shall be made as soon as conditions permit. No additional charges will apply in this situation.

**Article 6
DISINTERMENT**

227.6.1 Disinterment - authority - fee

No disinterment may be carried out except in accordance with the Act and with prior authorization from the Supervisor of Cemeteries, after receipt by the City of all fees payable for a disinterment in accordance with the tariff of charges.

227.6.2 Disinterment - consent - interment rights holder

Disinterment shall only take place when the interment rights holder has provided his or her consent, in writing, to the disinterment, and when the medical officer of health has been notified, in writing, of the disinterment.

227.6.3 Disinterment - consent - exception

Consent of the interment rights holder for the disinterment shall not be required if the request for disinterment is made by:

- (a) order of a court of competent jurisdiction;
- (b) a coroner appointed pursuant to the *Coroners Act*;
- (c) the Attorney General or Solicitor General for Ontario; or
- (d) the Registrar, in accordance with the Act.

227.6.4 Disinterment - staff presence

Cemetery staff designated by the Supervisor of Cemeteries must be in attendance at all times during a disinterment.

227.6.5 Disinterment - vault - liner

If a burial vault or liner was not used for the initial burial, a new burial vault or liner must be supplied to ensure the safe and proper transport of the human remains. The cost of the new burial vault or liner, if required, shall be the responsibility of the interment rights holder or his or her heir, executor, administrator or representative.

**Article 7
CARE AND MAINTENANCE OF LOTS**

227.7.1 Lot decorations - prohibited

The following lot decorations are prohibited in cemeteries:

- (a) in-ground vases;
- (b) copings, fences, curbs, steps, glass;
- (c) structures of wood or equally perishable material;

- (d) stone chips or flowerbed borders;
- (e) symbols or signs constructed of any material, with the exception of those on approved monuments; and
- (f) candles, candle holders, or both.

227.7.2 Lot decorations - removal

Any lot decoration erected contrary to the provisions of this Chapter, or which is or becomes unsightly, neglected, or a maintenance hazard, shall be removed by City staff at the discretion of the Supervisor of Cemeteries. Any and all lot decorations so removed may be disposed of by the City at no cost and with no liability to the City whatsoever for said removal.

227.7.3 Shrubs - prohibited

The planting of shrubs, or flowerbeds, or both is prohibited on lots with flat markers in the cemeteries.

227.7.4 Shrubs - prohibited - Oakhill Cemetery

The planting of shrubs or similar plants on lots with upright monuments is prohibited at Oakhill Cemetery.

227.7.5 Lot decorations - approved - flat markers

The following lot decorations are approved for use during the times specified below on lots with flat markers:

- (a) pot stands (hanging or holder style) - from June 1 to October 1;
- (b) artificial wreaths on wire tripod stands - from November 1 to March 31;
- (c) in-ground saddle wreaths - from November 1 to March 31; and
- (d) potted plants - two days prior to and four days following Easter, Mother's Day, Father's Day and Christmas Day.

227.7.6 Lot decorations - approved - upright monuments

The following lot decorations are approved for use during times specified below on lots with upright monuments:

- (a) pot stands (hanging or holder style) - from June 1 to October 1;
- (b) artificial wreaths on wire tripod stands - from November 1st to March 31;
- (c) monument saddle wreaths - year round; and

- (d) potted plants - two days prior to and four days following Easter, Mother's Day, Father's Day and Christmas Day.

227.7.7 Flowerbeds - approved - upright monuments

Flowerbeds on lots with upright monuments may be no wider than the width of the monument and shall not extend any more than twelve inches out from the front of the monument. All plantings must be kept trimmed so that they remain within the perimeter of the flowerbed.

227.7.8 Shrubs - approved - upright monuments

Shrubs are permitted at Mount Hope and Greenwood Cemeteries only and must be chosen from a list of approved dwarf species which is available from the Supervisor of Cemeteries, upon request.

227.7.9 Shrubs - planting - maintenance

All approved shrubs must be kept in such condition that they do not exceed the height of the monument or encroach on any adjoining lot or path, and must be planted in pairs, with one shrub on either side of the monument.

227.7.10 Lot decorations - maintenance - responsibility

Unless arrangements have been made under a lot services program administered by the City, it shall be the responsibility of the interment rights holder to maintain any lot decorations, including shrubs and other plantings, which have been placed on the lot in accordance with this Chapter.

227.7.11 Cemeteries - general maintenance

The Supervisor of Cemeteries shall ensure that maintenance is performed on the grounds, including on all lots, structures and markers, to ensure the safety of the public and to preserve the dignity of the cemeteries.

227.7.12 Landscaping - City responsibility

All grading, sodding, top dressing, seeding, fertilizing and watering of lots shall be the responsibility of designated City staff.

227.7.13 Landscaping - approved - Supervisor of Cemeteries

All common ground landscaping at the cemeteries, including planting, pruning and the removal of trees and shrubs, must be approved by the Supervisor of Cemeteries prior to the work being carried out.

227.7.14 Damage - responsibility - City

The City shall not be responsible for any damage to lots or structures and objects thereon, or for flowers, shrubs, lot decorations or other articles placed on or removed from any lot. The City shall only be responsible for damage to lots, monuments or markers caused solely by City staff or contractors for whom the City is at law responsible.

Article 8
MAUSOLEUM

227.8.1 Crypt - limit - Mount Hope Cemetery

A limit of one full-size entombment or one cremated human remains may be placed in each crypt located at the mausoleum at Mount Hope Cemetery.

227.8.2 Crypt - permanently sealed

Each crypt shall be permanently sealed following entombment and may only be re-opened by order of a court of competent jurisdiction, a coroner of competent jurisdiction, the Attorney General for the Province of Ontario, or the Registrar, in accordance with the Act.

227.8.3 Compartments - opening - sealing - fee

Compartments located at the mausoleum at Mount Hope Cemetery shall be opened and sealed by the Supervisor of Cemeteries, or City staff designated by the Supervisor of Cemeteries, only upon payment of the fee for said services as set out in the tariff of charges.

227.8.4 Crypt - compartment - inscription

The design and content of any proposed inscription for any crypt or compartment in a mausoleum shall be submitted in writing to the Supervisor of Cemeteries, for approval by the Supervisor of Cemeteries, prior to any inscription being commenced on said crypt or compartment.

227.8.5 Mausoleum - access

At the time of entombment, a key to the mausoleum will be issued to the interment rights holder, or his or her heir, executor, administrator, or representative, at no charge. A fee shall be charged for any replacement key(s) issued in the event that a key is lost, stolen or misplaced.

227.8.6 Mausoleum - key - notification

Should any key issued for the purposes of accessing the mausoleum be stolen, lost or misplaced, the person to whom the key was issued shall notify the City forthwith.

Article 9
MARKERS, MONUMENTS, AND
COLUMBARIUM PLAQUES

227.9.1 Marker placement agreement - required

No marker, monument or plaque may be placed on a lot unless the owner of the lot and the City first enter into a marker placement agreement. The marker placement agreement must be submitted to and approved by the Supervisor of Cemeteries prior to a monument dealer commencing work on a monument, marker or plaque.

227.9.2 Markers - monuments - approved material

All markers and monuments marking the location of an interment shall be constructed of granite.

227.9.3 Markers - monuments - approved material - exception

Standardized bronze plaques may be used to mark the location of interments in the Eternal Peace Garden columbarium at Mount Hope Cemetery and in the Peace Plaza columbarium at Oakhill Cemetery. Said plaques may be purchased directly by the interment rights holder from a monument supplier.

227.9.4 Other structures - designated areas

Structures of any kind or material, other than those specified in this Chapter, may be permitted only in designated areas of the cemeteries where approval of the construction, material and integrity of said structures has been granted by the Supervisor of Cemeteries.

227.9.5 Markers - monuments - placement

All monuments and markers shall be placed at the centre and head of the lot and the location of the monument or marker must be approved by the Supervisor of Cemeteries before the monument or marker is set.

227.9.6 Markers - monuments - placement - exception

Where alignment with existing, nearby monuments or markers justified another location, the Supervisor of Cemeteries may approve of a location for the marker or monument that is not at the centre and head of a lot. Additionally, foot markers shall be permitted in sections of the cemeteries that are designated for upright monuments and on lots where an upright monument is already in place, subject to the approval of the location of the foot marker by the Supervisor of Cemeteries.

227.9.7 Foot markers - approval

Approval to place a foot marker on a lot must be obtained from the Supervisor of Cemeteries prior to placing an order with a monument dealer. Once approval has been granted, a completed marker placement agreement must be forwarded to the Supervisor of Cemeteries prior to the commencement of any work on the foot marker.

227.9.8 Foot markers - size

All foot markers must be no larger than (12 in. x 20 in.) 305 mm x 508 mm, of uniform thickness, not less than (3 in.) 76 mm thick, and not more than (4 in.) 100 mm thick.

227.9.9 Markers - size - general

All markers placed in the cemeteries shall be no larger than (12 in. x 20 in.) 305 mm x 508 mm, of uniform thickness, and not less than (3 in.) 75 mm thick and not more than (4 in.) 102 mm thick.

227.9.10 Markers - size - specific

Permitted marker sizes for lots are as follows:

- (a) infant lots (508 mm x 1219 mm) (20 in. x 48 in.) marker size shall be 152 mm x 300 mm (6 in. x 12 in.);
- (b) at-need cremation lots (508 mm x 1219 mm) (20 in. x 48 in.) marker size shall be 254 mm x 305 mm (10 in. x 12 in.);
- (c) preferred cremation lots (610 mm x 1219 mm) (24 in. x 48 in.) marker size shall be 305 mm x 508 mm (12 in. x 20 in.);
- (d) adult lots (1m x 3m) (3 ft. 4 in. x 10 ft.) and youth lots (.7 m x 1.8 m) (2 ft. 3 in. x 6 ft.) marker size shall be 305 mm x 508 mm (12 in. x 20 in.); and
- (e) Section CE (Veteran's Section of Mount Hope Cemetery only) marker size shall be 305 mm x 508 mm (12 in. x 20 in.)

It is preferred that all markers be a standard, gray, military design.

227.9.11 Memorials - photographs - prohibited

Photographs may not be attached to any memorials, markers, or monuments, or placed within the grounds at any of the cemeteries.

227.9.12 Flat markers - maximum

A maximum of one flat marker may be placed on any one grave in areas of the cemeteries designated for flat markers.

227.9.13 Markers - maximum

No marker shall mark more than one lot, other than in designated areas.

227.9.14 Flat Markers - Mount Hope -Greenwood Cemeteries

No markers or memorials, other than flat markers, may be set on any single lot or lot for cremated remains at Mount Hope and Greenwood Cemeteries.

227.9.15 Markers - payment

No marker shall be placed upon a lot unless said lot has been paid for in full.

227.9.16 Markers - surface attachments

Markers shall not have any surface attachments of any kind, including, but not limited to, photographs.

227.9.17 Corner markers - prohibited

Corner markers are prohibited in the cemeteries.

227.9.18 Markers - plaques - delivery

Markers and plaques must be delivered during business hours (Monday to Friday, 8:30 a.m. to 4:00 p.m., statutory holidays exempted) and shall be left in a secure area as directed by City staff. The supplier shall be responsible for any markers or plaques left in an unsecured location.

227.9.19 Markers - delivery - cut-off date

It shall be the responsibility of the supplier to contact the Supervisor of Cemeteries to determine the cut-off date for delivery of markers or plaques in the fall of every year. Any markers delivered after the cut-off date shall not be accepted by the City.

227.9.20 Markers - set - City staff - fee

All markers must be set by City staff and shall be set with the top surface flush with the level of the ground. A marker installation fee shall be charged in accordance with the tariff of charges.

227.9.21 Markers - monuments - inscriptions

All inscriptions on markers and monuments shall be in keeping with the dignity and decorum of the cemeteries. If an inscription is requested in a language other than English, a translation of said inscription shall be provided to the Supervisor of Cemeteries, for approval by the Supervisor of Cemeteries, prior to any work being commenced on the monument or marker, as the case may be.

227.9.22 Markers - Monuments - Inscriptions - City-owned

Any person contracted to complete an inscription on City-owned granite structures or monuments must:

- (a) enter into an agreement with the City prior to commencing the work;

- (b) ensure that a minimum 25 mm (1 in.) border outline is engraved and remains free of any part of the inscription work;
- (c) ensure that all engraving is a Roman “V” sunk style lettering;
- (d) ensure that all engraving is inset in order that the face of the granite remains consistent with its original surface; and
- (e) ensure that the placement of any engraved artwork be located at the upper left hand side and is limited to a maximum area of 11613 sq mm (18 sq. in.).

227.9.23 Peace Plaza - memorial inscriptions

All inscriptions proposed for the upright granite wall located behind the lots in the Peace Plaza at Oakhill Cemetery must be submitted in writing to the Supervisor of Cemeteries, must be approved by the Supervisor of Cemeteries prior to the inscription being commenced, and must meet all of the following requirements:

- (a) an area measuring 305 mm x 508 mm (12 in. x 20 in.) must be sandblasted;
- (b) the inscribed area must be bordered by a v-cut line, which line must be filled with black colour;
- (c) all lettering must be v-cut, filled with black, and be in Roman style font (either modified or condensed, as required by the number of letters); and
- (d) all lettering shall be restricted to a maximum of four lines.

227.9.24 Monuments - maximum

Not more than one monument shall be permitted on a cremation lot at Oakhill Cemetery, or at a two, three, four or six grave lot.

227.9.25 Monuments - inscription - cemeteries

In Mount Hope and Greenwood Cemetery, no family names or given names shall be permitted on the back of a monument unless the plot is owned by the same interment rights holder or unless the lettering forms part of an official or recognized crest or logo that is approved by the Supervisor of Cemeteries, or his or her designate, prior to being ordered through a monument dealer.

227.9.26 Monuments - inscription - Oakhill Cemetery

At Oakhill Cemetery, inscriptions are not permitted on the back of any monument that backs onto another monument.

227.9.27 Monument placement - fees paid

No monument shall be placed until the interment rights and foundation charges have been paid in full.

227.9.28 Foundation installation fees

Fees for foundation installation are set out in the tariff of charges. Foundation installation fees for Mount Hope and Greenwood Cemeteries must be paid at the time that the monument is ordered. Foundation installation fees for Oakhill Cemetery must be paid when the interment rights are purchased.

227.9.29 Monument - encroachment prohibited

No monument shall encroach on any grave space.

227.9.30 Monument - rock face

Rock face backs on monuments shall be permitted only if the monument is bevelled and the monument die is no more than (20 in.) 508 mm high and not less than 152 mm (6 in.) thick at the bottom.

227.9.31 Monuments - permitted sizes - cemeteries

The following restrictions apply to monuments erected or proposed to be erected at Mount Hope and Greenwood Cemeteries:

- (a) any monument over (12 in.) 305 mm high must have a base of uniform thickness and a foundation depth of (48 in.) 1,219 mm below surface grade;
- (b) monuments measuring (5 in.) 127mm or less in thickness shall not exceed (36 in.) 915 mm in height, including the base;
- (c) monuments measuring more than (5 in.) 127 mm but (6 in.) 152 mm or less in thickness shall not exceed (42 in.) 1067 mm in height, including the base;
- (d) monuments measuring more than (6 in.) 152 mm in thickness but (7 in.) 178 mm or less in thickness shall not exceed (48 in.) 1219 mm in height, including the base;
- (e) the maximum monument width for a plot containing two lots shall be (48 in.) 1219 mm;
- (f) the maximum monument width for a plot containing three lots shall be (72 in.) 1829 mm; and
- (g) for plots containing more than three lots, a detailed sketch of the proposed monument must be submitted to the Supervisor of Cemeteries for approval in writing, if the proposed monument exceeds (72 in.) 1829 mm in width.

227.9.32 Monuments - permitted sizes - Oakhill Cemetery

The following restrictions apply to monuments erected or proposed to be erected at Oakhill Cemetery:

- (a) all monuments for upright cremation lot sizes of (24 in.) 610 mm x (48 in.) 1219 mm shall consist of:
 - (i) a base size of (18 in.) 457 mm wide x (12 in.) 305 mm deep and (8 in.) 203 mm thick;
 - (ii) a die size of (16 in.) 406 mm wide x (16 in.) 406 mm high and (8 in.) 203 mm thick at the base with the face bevelled to (3 in.) 76 mm at the top of the monument; and
 - (iii) shall be placed back to back on a strip concrete foundation;
- (b) for all other lot sizes, any monument over (12 in.) 305 mm high must have a base of uniform thickness and a minimum foundation depth of (48 in.) 1,219 mm below surface grade;
- (c) monuments (5 in.) 127 mm or less in thickness shall not exceed (36 in.) 914 mm in height, including the base;
- (d) monuments greater than (5 in.) 127 mm and equal to or less than (6 in.) 152 mm in thickness shall not exceed (42 in.) 1067 mm in height, including the base;
- (e) monuments greater than (6 in.) 152 mm and equal to or less than (7 in.) 178 mm in thickness shall not exceed (48 in.) 1219 mm in height, including the base; and
- (f) allowable monument base sizes are:
 - (i) single lot: (30 in.) 762 mm wide x (13 in.) 330 mm deep;
 - (ii) double lot: (56 in.) 1422 mm wide x (13 in.) 330 mm deep; and
 - (iii) triple lot: (56 in.) 1422 mm wide by (13 in.) 330 mm deep.

227.9.33 Columbarium plaques

All Columbarium plaques shall be of standard design and shall consist of:

- (a) bronze niche wreath in dark finish (Oakhill Cemetery - black; Mount Hope Cemetery - brown);
- (b) “ribbon” style lettering;
- (c) last name; first name; year of birth; and year of death; and
- (d) mounting screws set at (6 in.) 15.254 cm centre to centre.

227.9.34 Columbarium plaques - installation - fee

Installation of all columbarium plaques shall be performed by City staff only. A plaque installation fee shall be charged in accordance with the Tariff of Charges.

**Article 10
CONDUCT IN CEMETERIES****227.10.1 Cemetery hours**

No person shall enter or remain within any cemetery before 8:00 a.m. or any time after one half hour prior to sundown, except as authorized by the Supervisor of Cemeteries or the Brantford Police Service.

227.10.2 Animals - prohibited

No person shall permit any animal to enter or remain in the cemeteries, with the exception of service animals required by persons with disabilities.

227.10.3 Littering - prohibited

No person shall deposit rubbish or debris on cemetery grounds except in the receptacles provided.

227.10.4 Soliciting - prohibited

Soliciting of any kind is strictly prohibited in the cemeteries.

227.10.5 Gratuities - prohibited

No gratuities may at any time be given to any employee, contractor, subcontractor, agent, or representative of the City, nor shall any reward be given to any of the aforementioned persons for personal services or attention.

227.10.6 Workers - conduct

All workers in any capacity performing work within the cemeteries shall be subject to the direction of the Supervisor of Cemeteries and shall strictly adhere to all laws applicable to their respective trade(s), including, but not limited to, all applicable health and safety legislation.

227.10.7 Prohibited activities

No person shall:

- (a) willfully destroy, mutilate, write upon, injure or remove any tomb, monument, gravestone, marker, or any structure placed within the cemeteries;
- (b) willfully destroy, cut, break or injure any tree, shrub or plant within the cemeteries;
- (c) play any game or sport;

- (d) discharge firearms, with the exception of authorized persons at a military funeral;
- (e) willfully or unlawfully disturb any person or persons assembled for the purposes of a funeral service or interment;
- (f) consume alcohol within the cemeteries;
- (g) commit any nuisance or behave in an unseemly manner in the cemeteries; or
- (h) pick or destroy wild or cultivated flowers growing within the cemeteries.

227.10.8 Motorized vehicles

No unauthorized motorized vehicles, including e-bikes and scooters, are permitted on pedestrian trails or walkways.

227.10.9 Pleasure vehicles - prohibited

Pleasure vehicles, including but not limited to, snowmobiles and four-wheelers, are strictly prohibited in the cemeteries.

227.10.10 Vehicles - restriction - speed

Vehicles in the cemeteries shall not exceed a speed of (12 miles per hour) 20 kilometres per hour and must remain on designated roadways.

227.10.11 Genealogical research

Genealogical research shall be permitted where at least forty-eight hours prior notice is provided to the Supervisor of Cemeteries and the fee for genealogical research, as set out in the tariff of charges, is paid in full. The person seeking to conduct the genealogical research must provide the Supervisor of Cemeteries with the first and last name of the deceased and the year of death of the deceased, prior to conducting any genealogical research.

**Article 11
ENFORCEMENT****227.11.1 Enforcement - officer**

The provisions of this Chapter may be enforced by the Director, a Provincial Offences Officer, a police officer, and any other person appointed by the Municipal Council for the City from time to time to administer or enforce this Chapter.

227.11.2 Authority - expulsion

The Director, Supervisor of Cemeteries, and any staff person of the City so designated by the Director or Supervisor of Cemeteries are hereby delegated the authority to expel from the cemeteries any person who does not comply with the provisions of this Chapter.

227.11.3 Offence

Every person who contravenes any provision of this Chapter is, upon conviction, guilty of an offence and is liable to a penalty as set out in the *Provincial Offences Act* where such penalty is not provided for in the Act.

227.11.4 Trespass to property

Nothing in this Chapter shall in any way restrict or limit the ability of the City to enforce any rule or regulation for conduct in the cemeteries pursuant to the *Trespass to Property Act*.

**Article 12
ENACTMENT****227.12.1 By-laws - previous**

Chapter 227 of the City of Brantford Municipal Code, as amended, By-law No. 54-93, section 3 of By-law No. 55-92, and By-law No. 164-2001 are repealed in their entirety as of the date that this Chapter comes into force.

227.12.2 Effective date

This Chapter shall come into effect when it is approved by the Registrar in accordance with the provisions of the Act. By-law 19-2014, 18 February, 2014.

227.12.32 Approval received

This Chapter received Registrar approval May 29, 2014.

227.12.32

CEMETERIES

227.12.32

SCHEDULE

Schedule 'A' - Rates and Fees -

Mount Hope - Greenwood Cemeteries

The 2014 Schedule of Rates and Fees may be viewed upon request in the office of the clerk during normal office hours.

BRANTFORD

227.37

APRIL 2014