



CEMETERIES

Diocese of Ontario

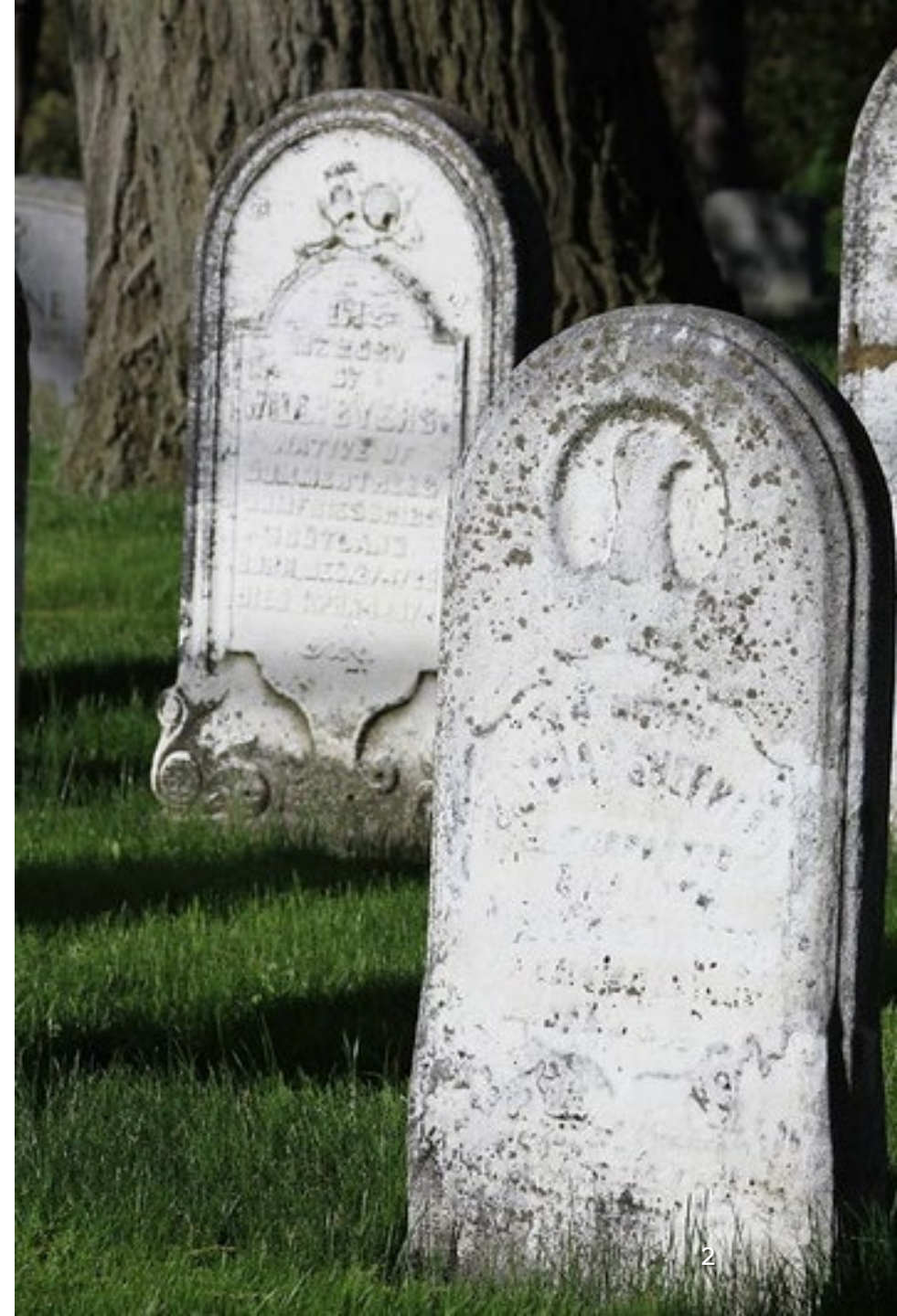
Wardens, Treasurers & Clergy

May 19, 2022

COMMUNITY RESPONSIBILITY

“SHOW ME THE MANNER IN WHICH ANY
COMMUNITY CARES FOR ITS DEAD, AND
I WILL MEASURE WITH MATHEMATICAL
EXACTNESS THE TENDER SYMPATHY OF
ITS PEOPLE, THEIR RESPECT FOR THE
LAWS OF THE COMMUNITY AND THEIR
LOYALTY TO HIGH IDEALS”

BRITISH PRIME MINISTER GLADSTONE



REGULATORY OVERSIGHT

All cemeteries are regulated under the Funeral Burial and Cremation Service Act and associated Regulations (FBCSA)

All cemeteries within Ontario are required to be licensed by and are under the compliance oversight of the Bereavement Authority of Ontario (BAO)

Regardless of Size

Regardless of numbers of new burials

Regardless of ownership



WHO IS THE BAO

The BAO is a not-for-profit corporation established by the Province of Ontario

- Administer & Enforce the BFCSA
- Overseen by Ministry of Government and Consumers Services

Mandate:

- Protect Consumer Rights
- License, inspect and Oversee Operators and Operations
- Support compliance



DIOCESE OF ONTARIO

Canon 22

Every parish or church in the Diocese with a cemetery, scattering garden or columbarium (hereinafter referred to as a “cemetery”), adjacent to or affiliated with such parish or church shall have a Cemetery Board (the “Board”).

Should any parish or church to which this Canon may apply, fail to elect a Board at the Annual Meeting, then the Churchwardens and Treasurer thereof shall serve as a Board.





CLEAR REGULATIONS

LICENSE

No person or entity can operate a cemetery without a license to do so

HUMAN REMAINS

No person shall inter human remains in a place other than a licensed cemetery

SCATTERING

No person shall permit the scattering of cremated human remains (or charge a fee) unless it takes place within a licensed cemetery

PRIVATE PROPERTY

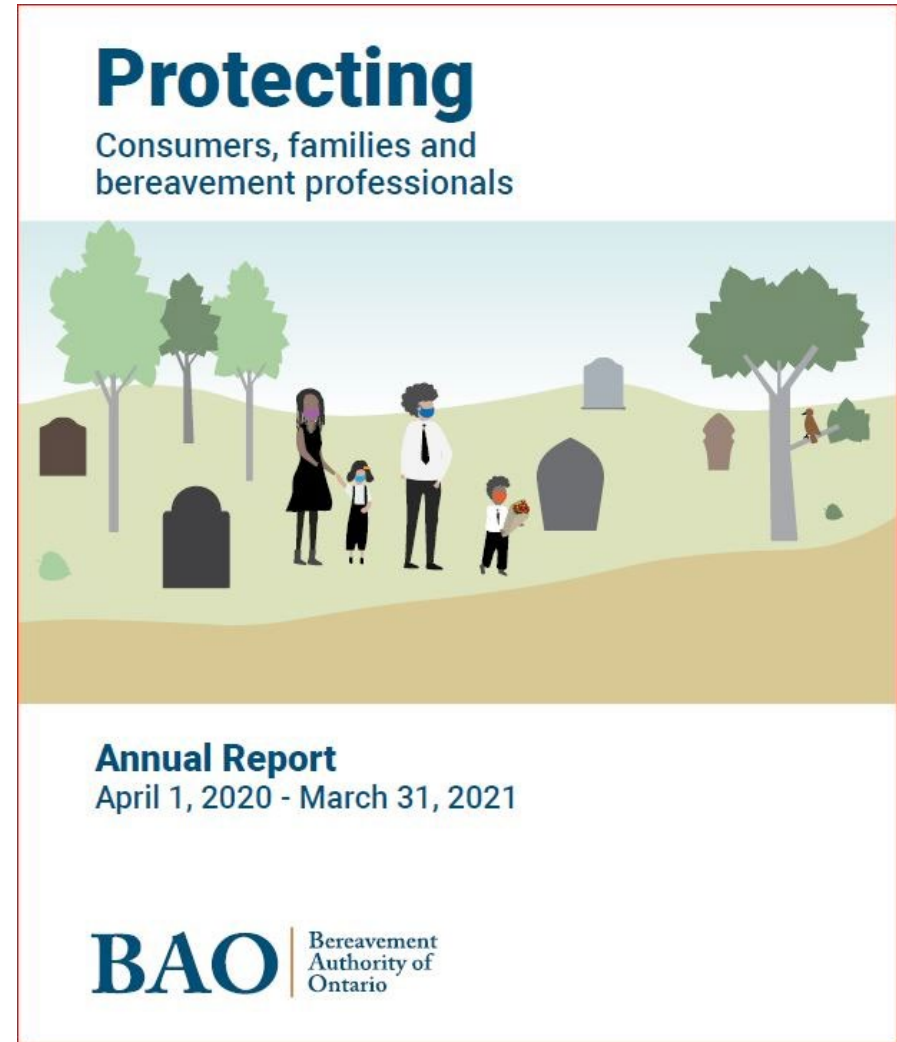
Scattering is permitted on private property (with permission), on provincial Crown Lands or Water and on Municipal lands (where not prohibited). No fee can be charged

CEMETERY DUTIES

Any Interment or Scattering of human remains are carried out in a decent and orderly manner

Maintain a public record of all burials or scatterings

Maintain all Interment Rights, Memorials and Buildings to ensure Public Safety and preserve dignity in perpetuity



REQUIREMENTS OF ALL CEMETERIES



PRICE LIST

All Rights
All Services
All Supplies

Must be public and
visible

Maintain for 6 years



CONTRACTS

Clear written
contract

Copy of By-Laws
with Interment Rights



BY-LAWS

Protect the Operator,
Rights Holders and
Visitors

Hours
Liability for loss/damage
Sale or Transfer
Burial Requirements
Memorials
Care



CERTIFICATES

Must be issued once
paid

Clear definition of
rights

RIGHTS CERTIFICATE

Mandatory Details on Certificate

- THE NAME AND LOCATION OF THE CEMETERY
- THE NAME(S) OF THE RIGHTS HOLDER(S)
- THE LOCATION NUMBER AND DIMENSIONS OF THE BURIAL OR SCATTERING RIGHT
- THE DATE THE RIGHTS WERE PURCHASED
- THE AMOUNT PAID FOR THE INTERMENT OR SCATTERING RIGHTS
- THE AMOUNT TO BE DEPOSITED INTO THE CARE AND MAINTENANCE ACCOUNT OR FUND
- A STATEMENT REGARDING THE RIGHT OF RE-SALE OR TRANSFER
- ANY RESTRICTIONS OR OBLIGATIONS REGARDING INTERMENTS, SCATTERINGS, OR TYPE OF MEMORIALIZATION PERMITTED
- THE TOTAL NUMBER OF INTERMENTS THAT MAY TAKE PLACE IF FOR BURIAL
- THE TOTAL NUMBER OF SCATTERINGS THAT MAY TAKE PLACE IF FOR SCATTERING

SAMPLE DOCUMENTS



[HOME](#) [ABOUT](#) [FIND-A-CHURCH](#) [MISSION](#) [RESOURCES](#) [EVENTS ▼](#) [NEWS ▼](#)

Documents

[Clergy & Parish Resources](#) / [Cemeteries](#) / Documents










[Overview](#)

[Documents](#)

Please find below applicable forms regarding cemeteries in the Anglican Diocese of Ontario.

Downloads

-  [Application For Foundation Setting or Instalation.pdf](#)
-  [Transfer of Interment Rights.pdf](#)
-  [2022 Annual Licensure Report \(ALR\) Form 1.pdf](#)
-  [2022 Annual Licensure Report \(ALR\) Form 2.pdf](#)
-  [Sample Interment Rights Certificate.docx](#)
-  [Compliance Self-Evaluation Checklist for Cemetery Operators.docx](#)
-  [Bylaws - Sample DoO.pdf](#)

www.ontario.anglican.ca/clergy-parish-resources/cemeteries/pages/documents

RIGHT TO BURIAL OR SCATTERING

- **WHEN THE INTERMENT OR SCATTERING RIGHT WAS PURCHASED AT THE TIME OF DEATH THE PURCHASER OF THE RIGHT AUTHORIZES THE BURIAL OR SCATTERING.**
- **WHEN THE INTERMENT OR SCATTERING RIGHT PURCHASED AT THE TIME OF DEATH IS FOR MORE THAN ONE INDIVIDUAL (E.G. HUSBAND AND WIFE) THEN THE PURCHASER AUTHORIZES THE IMMEDIATE BURIAL OR SCATTERING AND THE INTERMENT OR SCATTERING RIGHTS CERTIFICATE SHOULD NAME THE INDIVIDUAL(S) AS THE RIGHTS HOLDER(S) WHO WILL BE BURIED OR SCATTERED IN THE FUTURE.**
- **AT THE TIME OF DEATH THE INTERMENT OR SCATTERING RIGHTS HOLDER(S) CAN AUTOMATICALLY BE INTERRED OR SCATTERED WITHIN THE RIGHT.**
- **IF SOMEONE OTHER THAN THE REGISTERED INTERMENT OR SCATTERING RIGHTS HOLDER(S) IS TO BE BURIED OR SCATTERED WITHIN THE RIGHT, THEN THE WRITTEN SIGNATURE OR AUTHORIZATION OF THE REGISTERED RIGHTS HOLDER(S) IS REQUIRED PRIOR TO THE BURIAL OR SCATTERING.**

RIGHT TO BURIAL OR SCATTERING

- **IF ALL INTERMENT OR SCATTERING RIGHTS HOLDERS ARE DECEASED, AND THERE IS STILL ROOM FOR FUTURE BURIALS OR SCATTERINGS, AND A FAMILY MEMBER WISHES TO BE BURIED OR SCATTERED WITHIN THE RIGHT;**
 - The cemetery operator shall request the written direction of the last surviving rights holder prior to proceeding with the burial or scattering
 - The written direction from the last surviving rights holder's estate can be complicated and take many forms. A cemetery operator should never become involved in resolving a family dispute as to who has the legal right to authorize a burial or scattering
 - If a cemetery operator encounters such a situation suggest that the family members consult private legal counsel and provide written direction to the cemetery before proceeding

CEMETERY ACCOUNTS

Cemeteries must have a minimum of two different accounts

Operating Account

Care & Maintenance Trust Account

If less than \$50k can be held by in an eligible Depository

A bank as defined in the Bank Act (Canada);

A corporation registered under the Loan and Trust Corporations Act; or

A credit union within the meaning of the Credit Unions and Caisses Populaires Act, 1994

If more than \$50k in Trust it must be in a Trust Fund not an Account

The screenshot shows a web form titled "Set Fund Account Details" with a close button (X) in the top right corner. The form contains the following fields and controls:

- Fund Account Name ***: A text input field containing "Perpetual Care".
- Include Tax**: A toggle switch currently turned off, with an information icon (i) to its right.
- Starting Balance ***: A text input field containing "\$4,313,710.00", with an information icon (i) to its right.
- Starting Balance Date ***: A date input field containing "12/01/2020", with a calendar icon and an information icon (i) to its right.

At the bottom of the form are two buttons: "Cancel" (with a circular arrow icon) and "Save" (with a floppy disk icon). Below the form, there is a dark bar with the text "No" and "\$0.00".

CARE & MAINTENANCE

Under the FBCSA a cemetery operator is required to transfer the Care and Maintenance portion from the sale of every interment or scattering right from the general bank account to the Care and Maintenance Trust Account within 60 days of receiving the monies

- Plot Rights sale (2.23 m² or larger) – the greater of 40% of purchase price or \$290.00
- Plot Rights sale (smaller than 2.23 m²) – the greater of 40% or purchase price or \$175.00
- Mausoleum Crypt sale – the greater of \$830.00 or 20% of purchase price
- Columbarium Niche sale – the greater of \$165.00 or 15% of purchase price
- Multiple Scattering Rights sale – the greater of \$30 or 15% of the purchase price

As of January 1, 2022

CARE & MAINTENANCE

Under the FBCSA a cemetery operator is also required to transfer the applicable Care and Maintenance fee from the installation of every monument or marker installed in the cemetery within 60 days of the installation of the monument or marker.

- Flat Marker– smaller than 173 square inches - \$0.00
- Flat Marker– larger than 173 square inches – \$100.00
- Upright Monument – less than 4 feet in height or width - \$200.00
- Upright Monument– larger than 4 feet in height or width - \$400.00

As of January 1, 2022

TRUST FUNDS

Only Income from invested funds can be used for cemetery maintenance costs. Capital can not be withdrawn or used as collateral for maintenance expenses

Trustee's fees for administering the Care & Maintenance Trust Account or Fund cannot be paid from the principal within the account or fund. They must be paid from monies derived from investment income in the General Bank Account

TRUST FUNDS TRANSFER

Care & Maintenance Funds are to be deposited with a Trustee or an eligible Depository

Diocese currently holds over \$1M of parish cemetery Trust Funds

BAO direction is for funds to be moved to individual Trust accounts

Regulations require them to remain with TD or be offered to municipality

Plan being finalized with BAO (QIII implementation)

RECORD KEEPING

- All monies received or disbursed including details of each account (or fund) held by a depository
- Records of all deposits or withdrawals of money required to be held in trust
- Copies of all trust agreements with trustees relating to the administration of the Care and Maintenance Trust
- Copies or ALL statements, receipts, invoices, and other financial documents issued
- Copies of all contracts (including voided contracts) must be retained for a minimum of six (6) years
- Copies of all interment rights or scattering rights certificates



CEMETERY REGISTER

- The name and address of every interment rights or scattering rights holder and the location of the interment or scattering right
- The name and address of the original interment or scattering rights holder and location if the interment or scattering right has been transferred or sold to another person (including the date they were transferred or sold)
- The name of each person whose remains are interred or scattered in the cemetery including the location and the date on which the remains were interred or scattered
- Details of each disinterment including the name of the person who requested and authorized the disinterment



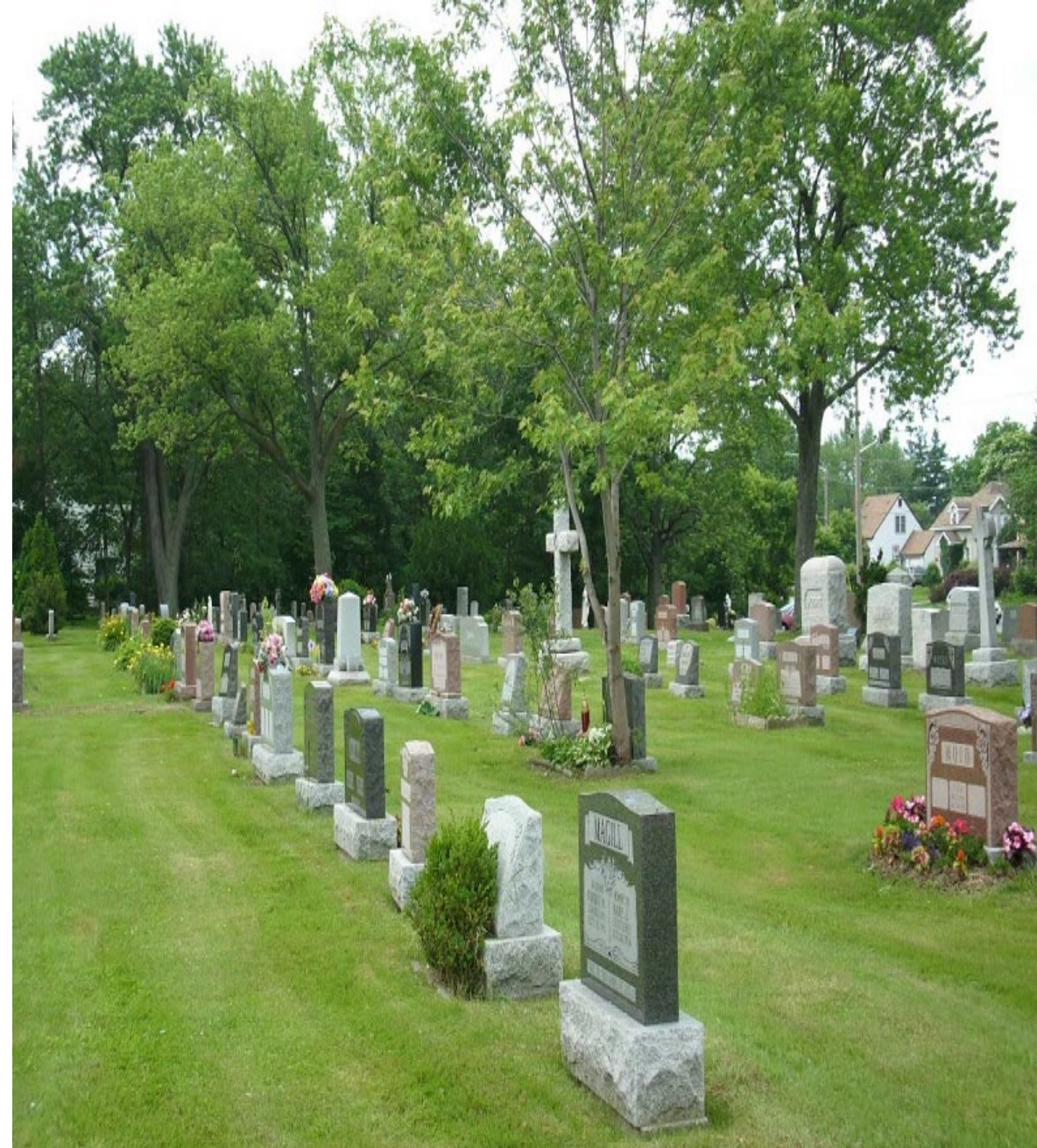
MAINTAINING MEMORIALS

Cemetery operators are responsible for public safety within their property.

If a marker, monument, mausoleum, or columbarium deteriorates to the point that it is unsafe, it is the responsibility of the cemetery operator to repair the memorial and make it safe.

Monuments made of limestone or sandstone are particularly soft and susceptible to our freeze thaw conditions.

Marble crypt fronts on mausoleums also deteriorate when exposed to our climate.

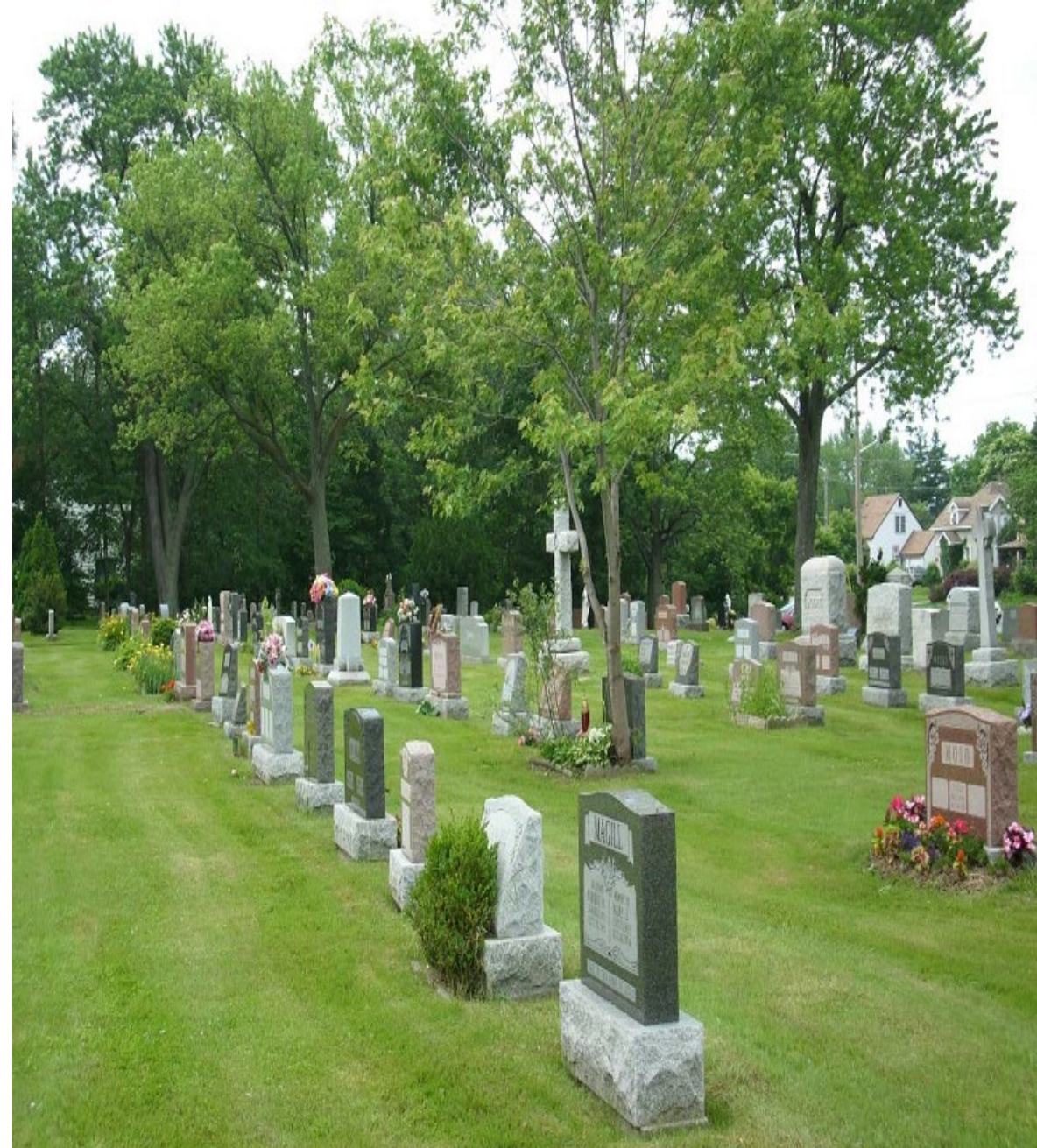


MAINTAINING MEMORIALS

Cemetery by-laws should require all monuments, crypt or columbarium niche fronts to be made of granite or bronze if they are to be placed within the cemetery. These materials are proven to stand the test of time.

Such by-laws reduce the cemetery's long-term liability and the need for the cemetery operator to make repairs to protect public safety.

Cemetery expenses incurred to preserve and stabilize memorials may be recovered from Care & Maintenance income.



MAINTAINING A MEMORIAL

If Unsafe and a Potential risk to Public Safety

- TAKE A PICTURE OF THE MEMORIAL AND KEPT IT ON FILE WITHIN YOUR CEMETERY RECORDS
- ATTEMPT TO CONTACT THE INTERMENT RIGHTS HOLDER OR FAMILY MEMBER AND INFORM THEM OF THE UNSAFE CONDITIONS. ASK THEM IF THEY WOULD LIKE THE MEMORIAL REPAIRED.
- IF THE FAMILY IS NOT WILLING TO REPAIR THE MEMORIAL THE CEMETERY MAY REPAIR THE MEMORIAL AT THE CEMETERY'S EXPENSE OR DISMANTLE THE UNSAFE PORTION TO PRESERVE AND STABILIZE THE MEMORIAL.
- THE CEMETERY OPERATOR'S REPAIR PROCESS MUST BE REVERSIBLE TO ENSURE THE RIGHTS HOLDER CAN REQUEST THE MONUMENT REPAIRS IN THE FUTURE.
- IN SOME INSTANCES, THIS MAY REQUIRE LAYING THE MONUMENT FLUSH AND LEVEL WITH THE GROUND.

LIABILITY

The land cemeteries are located on that are owned and operated by a religious organization or a not-for-profit cemetery company are considered “private property”.

As such the religious organization or the not-for-profit cemetery company are liable for all activities that take place on the land, including

- all activities associated with burials or scatterings
- the stability and safety of all memorials and buildings
- all visitors to the cemetery grounds
- all contractors that do not carry their own insurance (grave digging, cutting grass, erecting memorials, etc)

Those appointed, elected, or volunteers to the Board or administrative body overseeing the cemetery operators are also not exempt from liability.

INSURANCE

The Cemetery, the Church/Vestry, the Board of the Cemetery and the Wardens of the church all are potentially liable

Two forms of insurance are carried through the church's insurance plan:

- 1) General Liability Insurance
- 2) Directors and Officers Liability Insurance

Cemeteries should be named on the policy (work to do)

COLUMBARIUMS

Columbarium must be owned by the Cemetery before rights can be sold

Each niche must be issued a Rights Certificate

The Greater of \$100 or 15% of Rights Cost must be contributed to Care & Maintenance Trust

Columbariums greater than 15 cubic metres in overall volume require special approval



Organization #:

Name and Mailing Address:

Form 1 (includes List of Cemetery/Crematorium/Hydrolysis Sites) & Form 2 (if applicable) must be completed and file with licence renewal payment (if applicable) to the BAO with **90 days** of your fiscal year end. You may access fillable ALR forms on the BAO website (www.thebao.ca).

REVIEW THE INFORMATION BELOW AND INDICATE ANY CHANGES:

1. Operator contact name:		Position/Title:
Telephone no:	Fax no:	Email address (required):

2. Business Structure Type (choose one only):

- ☐ Private Corporation
☐ Publicly Traded Corporation
☐ Trustee/Volunteer Board
☐ Crown Corporation
- ☐ Not For Profit Corporation
☐ Municipal
☐ Religious
☐ Sole Proprietorship
- ☐ Partnership
☐ Cooperative

3. Does the operator sell licensed supplies and services before the time of need? Note that interment and scattering right sales are not considered as "preneed" sales. An example of a preneed sale would be the advance sale of the interment fee (opening and closing fee).

- ☐ Yes
☐ No

4. Please indicate below the total number of full body interments, cremation interments, scatterings, cremations and hydrolysis processes to determine the licence renewal fee. Licence renewal fees are **\$15.00 plus \$12.00 per interment, scattering and cremation**. Operators who conduct less than 10 in total are exempt from the licence renewal fee.

Payment: Payment can be made by credit card, cheque, or money order payable to the **Bereavement Authority of Ontario** in the amount calculated below. A service charge applies for NSF cheques. Access to the BAO Website (https://thebao.ca/011_2017_credit_card_authorization_form_october2017/) for the payment form.

This report is for the fiscal year ____/____/20__ to ____/____/20__ .
dd/mm/yyyy dd/mm/yyyy

Full body Interments	Cremation Interments	Scatterings	Crematorium Cremations	Hydrolysis Processes	Total Licence Renewal Fee
0	0	0	0	0	(Total Fee is NIL if Total Activity is less than 10)
(A)	(B)	(C)	(D)	(E)	<div> <div> <div>0</div> <div>+</div> <div>0</div> <div>+</div> <div>0</div> <div>+</div> <div>0</div> <div>+</div> <div>0</div> </div> <div> <div>A</div> <div>B</div> <div>C</div> <div>D</div> <div>E</div> </div> <div>) x \$12 = \$ 0.00</div> </div> <div>+ \$15</div> <div>= \$ 15 (Total Licence Renewal Fee)</div>

ANNUAL REPORTING TO THE BAO

All Cemetery Operators are required to file:

1) Annual Licensing Report (ALR)

2) Annual Report on the Care & Maintenance Account/Fund

BAO must receive no later than 90 days following the end of the cemetery's fiscal year end.

BAO – COMPLIANCE TEAM

BAO Compliance Teams perform inspections of Cemetery premises, books and records

Checklist document available to help ensure the cemetery and it's operation are in compliance

Available on the Diocesan Website

The checklist covers the following key areas:

1. Premises

- A. Cemetery grounds
- B. Private area for arrangements
- C. Display of markers and other supplies
- D. Ownership disclosure and signage
- E. Consumer Information Guides

2. Price List Requirements

- A. Price list availability
- B. Price list requirements

3. Contract Requirements

- A. General contract requirements for all contracts
- B. Contracts for interment/scattering rights
- C. Required disclosures before contract made

4. Other documents

- A. General plan of cemetery
- B. Interment /Scattering Rights Certificates
- C. By-laws
- D. Public Register

5. Record Keeping

- A. General requirements
- B. "At-need" files
- C. Records re. cremated remains
- D. Retention of records

6. Care & Maintenance (C&M) Fund/Account

- A. C&M fund
- B. C&M account
- C. Payment into C&M fund or account
- D. Use of income from C&M fund or account
- E. Annual reporting on C&M Fund(s) or Account(s)

7. Miscellaneous

- A. Website compliance
- B. Storage of supplies in advance of use

WHEN CHURCHES CLOSE OR AREN'T ABLE TO MAINTAIN

Provincial legislation and regulations can require a municipality to assume operation of a cemetery that appears to be neglected or abandoned

Many municipalities are friendly to discussion and working a plan

Funds, records and title must accompany



