

CEMETERY MANAGEMENT

1. In this Regulation,

“burial” means interment of human remains, including ashes;

“cemetery” means land used for interment of human remains, whether a church yard or detached land; and

“Owner” means the Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation in its capacity as owner of land on which a cemetery is situate.

2. The Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation may maintain a cemetery only on land owned by the Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation.
3. No Owner may transfer freehold title of a cemetery to an entity that is not the Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation.
4. An Owner may grant permission to manage or maintain a cemetery to an entity that is not the Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation.
5. Where the Bishop, the Diocesan Synod, the Cathedral of Christ Church or a parish corporation contracts aspects of management or maintenance of a cemetery to a third party, the contract shall be in writing and shall require the third party to conform to the provisions of this Regulation.

Cemetery Records

6. On the coming into force of this Regulation, and thereafter at the request of the Secretary of the Diocesan Synod, every Owner shall transmit to the Secretary of the Diocesan Synod a current plan of each cemetery showing lot and row numbers of lots for sale.
7. Every parish corporation owning a cemetery shall make available for inspection at its annual meeting a copy of the current lot plan of each cemetery.
8. Every parish corporation in its reporting to the parish annual meeting shall include a written statement of the segregated funding set aside for each cemetery, specifying what funds are available for current upkeep, what funds are held in trust for perpetual care and any restrictions on use of the latter.
9. For every cemetery owned by the Bishop or the Diocesan Synod, the Secretary of the Diocesan Synod shall provide at the first meeting of the Diocesan Council in each calendar year a written report on the funds set aside for it, specifying what funds are available for current upkeep, what funds are held in trust for perpetual care and any restrictions on use of the latter.

10. For each cemetery the Owner shall maintain or cause to be maintained a separate register identifying the persons who have purchased burial rights in lots, the lot, the date of purchase, the purchase price and the names or descriptions of persons whose remains are permitted to be buried.
11. For each cemetery the Owner shall maintain or cause to be maintained a separate register identifying the persons whose remains have been interred in each lot and the date of burial.

Sale of Burial Rights

12. From the coming into force of this Regulation, every contract made for the sale of burial rights in a cemetery shall be in writing, signed by the Owner's representative and by the purchaser, with a duplicate copy for each. It shall identify by reference to the cemetery plan the lot and row number of the lot in which burial rights are being purchased. It shall state the names of, or otherwise identify, the persons whose remains are permitted to be interred in the purchased lot.
13. Every contract for the sale of burial rights in a cemetery shall include provisions to the effect that:
 - a. the purchaser acquires permission to use the identified lot for the burials specified in the purchase contract, including the right of reasonable seasonal access to the lot and the right to erect an upright stone marker and/or flush-to-the-ground stone marker that identifies the person interred;
 - b. the purchaser or the purchaser's legal representative may surrender an unused lot to the Owner for a refund of the original purchase price without interest; and
 - c. the purchaser consents to being bound by the reasonable rules for cemetery management that the Owner may make from time to time, including rules for burial rites permitted in the cemetery, rules for the opening and closing of graves, rules for markers of acceptable size and style and for removal of non-conforming items, rules for features and installations permitted on the burial lot and for removal of non-conforming items, and rules for the care and maintenance of the cemetery grounds.
14. In selling burial rights in a cemetery, Owners shall not discriminate in pricing between parishioners and non-parishioners.
15. Contracts for the sale of burial rights in cemetery lots may be in accordance with the specimen contract in Schedule A.

Cemetery Management

16. Except where cemetery management has been contracted to a third party, every Owner shall designate for each cemetery a committee of two or more people, one of whom is

identified as cemetery manager, with responsibility (subject to the Owner's oversight) to sell burial rights in cemetery lots in conformity with this Regulation and to receive, deposit and account for sale proceeds in accordance with established protocols, to maintain cemetery maps and registers of sales and burials, and to superintend the day-to-day operation of the cemetery.

17. Burials shall take place only by advance arrangement with the cemetery manager.
18. No buried remains may be exhumed except by public authority or permission of a court.
19. Every Owner shall make or cause to be made written rules for the good management and upkeep of the cemetery and its lots. Schedule B notes some common rules by way of example.

New Cemeteries

20. No one may establish a new cemetery, or expand a cemetery, except by permission of the Bishop and the Diocesan Synod and in accordance with the laws of New Brunswick.

Coming into Force

21. This Regulation comes into force on 1 November 2023.

Adopted 3 December 2022

SCHEDULE A

Specimen Contract for Sale of Burial Rights

[Note: **Use of this contract is not compulsory.** It is offered as a guide and convenience. However, its wording does contain individual provisions of the sort that sections 12 & 13 of the Cemetery Management Regulation makes compulsory.

Anglican Parish of XXX

[Where the Owner is the Bishop or the Diocesan Synod, the contract is modified accordingly]

Contract for the Purchase and Sale of Right of Burial in XXX Cemetery
Street address, Community, NB

made in duplicate

between **Anglican Parish of XXX** and its successors in title, the contact particulars of which are XXX, referred to as the **Owner**

and **XXX**, the contact particulars of whom are XXX, referred to as the **Purchaser**

What Is Sold and Purchased

1. Subject to paragraph 3, the Owner sells to the Purchaser, and the Purchaser buys from the Owner, the burial rights specified below in lot XX of row XX in XXX cemetery (“the Lot”). *[Note: where rights of burial in multiple lots are being purchased, a separate contract is made for each lot.]*
2. The purchase price for burial rights in the Lot is \$XXX. *[Note: is the price a fixed rate per lot or does it vary according to the number of permitted burials?]*
3. The Purchaser acknowledges that this contract becomes effective only when the purchase price is paid in full and that, until then, the Owner may sell the right of burial in the Lot to another.
4. The Purchaser acknowledges that until the purchase price is paid in full, there may be no burial in the Lot and no grave marker placed on the Lot.
5. The Purchaser acknowledges that legal title to the Lot remains with the Owner, and that what the Purchaser acquires is permission (licence) to use the Lot for the burial(s) specified in this contract, including the right of reasonable seasonal access to the Lot and the right to place on the Lot an upright and/or flush-to-the-ground stone marker of a type and in a situation approved by the Owner that identifies the person(s) interred.
6. Subject to the Owner’s rules of management for the cemetery (a copy of which the Purchaser acknowledges having received and assented to), the remains permitted burial in the Lot are of the following person(s), as named or described: XXX

7. The Purchaser acknowledges that the Purchaser may not transfer a right of burial without written permission of the Owner.
8. Should the Purchaser or the Purchaser's legal representative choose to surrender the right of burial in an unused lot, the Owner will refund the purchase price without interest.
9. Should the Lot remain unused for XXX years from the date of purchase, the Owner may resell the right of burial and thereby extinguish the rights of the Purchaser in the Lot, and it may do so without notice to the Purchaser.

Burials

10. The Purchaser acknowledges that the Lot is consecrated ground and that the *NB Cemetery Companies Act* requires Owners to ensure that burials are conducted in a "decent and solemn manner".
11. The Purchaser acknowledges the Owner's right to approve how, when and by whom graves are opened and closed.
12. The Purchaser acknowledges that the Owner forbids the scattering of ashes. *[Note: where an Owner offers scattering rights for human ashes in a common scattering ground, this contract is altered accordingly.]*
13. The Purchaser acknowledges that the Owner requires at least XXX hours advance notice of a proposed burial in the Lot.
14. The Purchaser acknowledges that no burial may take place without the presence of the Owner's representative.
15. *[variant of 14]* The Purchaser acknowledges that no burial may take place unless accompanied by the liturgy of the *Book of Common Prayer*, the *Book of Alternate Services* or as otherwise approved by the Bishop of Fredericton.
16. *[variant of 14]* The Purchaser acknowledges that no burial and no rite or ceremony may take place except with the participation of, or by permission of, or under the supervision of XXX.

Owner's Continuing Obligations

17. The Owner will, at its discretion and subject to its financial means but without further charge to the Purchaser, perform reasonable and customary maintenance so that the cemetery is kept in good order, including mowing, removal of leavings (for example, mementoes, spent or degraded flowers), soil levelling, path and roadway maintenance, and the like.

Owner's Legal Liability Limited

18. The Purchaser acknowledges that the Owner disclaims all responsibility, and is not liable, for injury, loss or damage to persons or property in the cemetery or in connection with the Lot, except for any direct personal injury, loss or damage inflicted intentionally or caused by the gross negligence of the Owner.

Owner's Right to Make and Amend Cemetery Rules

19. The Purchaser consents to the Owner making or altering reasonable rules for the management of the cemetery and the Lot, and the Purchaser acknowledges being bound by those rules.

SCHEDULE B

Some Common Rules for Managing Cemetery Grounds

The purpose of these rules is not to duplicate provisions of the specimen lot sales contract but to address some points of day-to-day cemetery management. In some cemeteries such rules are posted as a public notice. Examples of more elaborate cemetery rule packages are found at St John's Cemetery Halifax (<https://stjohnscemetery.ca/regulations.html>), St John's Cemetery Mississauga (<https://stjohnsdixie.com/cemetery/cemetery-by-laws/>) and Ontario's Bereavement Authority (<https://thebao.ca/wp-content/uploads/2020/09/BAO-Sample-Cemetery-By-Laws-April-2018.pdf>).

Cemetery Rules

Cemetery Manager – [name and contact information]

Alternate contact in cases of urgency [name and contact information]

1. For **lot sales and burials** – Contact the Cemetery Manager
2. Burials of human remains/ashes may take place only by prior notice to, and with permission of, the Cemetery Manager.
3. Installation of grave markers may take place only by prior notice to, and with permission of, the Cemetery Manager. No marker that has not been fully paid for may be placed in the cemetery.
4. Management has full control over the cemetery land and operation. Visitors must conduct themselves in a quiet manner and must not disturb any service being held.
5. The Anglican Parish of XXX disclaims legal liability for injury to persons present in the cemetery and for loss or damage to property in the cemetery, except for direct injury, loss or damage caused intentionally or by the gross negligence of cemetery management.
6. Management is not liable for damage to grave markers incidental to reasonable cemetery maintenance.
7. Management may remove flowers (natural or artificial), rocks and other leavings in the cemetery when in its opinion they become spent, unsightly or dangerous.
8. No glass containers are permitted in the cemetery.
9. Plantings permitted in the cemetery are those placed by cemetery management. Others will be removed without notice.
10. Lots may be marked by a stone that is upright and/or flush-to-the-ground. Nothing else may be affixed to or rest on the soil of a lot except by specific permission.
11. Lot and grave markers must be restrained in design and may not include features that emit light or sound.