

# **Guide to Place of Interment Inspections**



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# Introduction

# **Consumer Protection and Places of Interment**

The material in this guide provides a reference point for licensed places of interment providers on what to expect and how to prepare for routine inspections performed by Consumer Protection BC.

This guide is not intended to provide legal advice and is by no means an exhaustive review of all the provisions affecting places of interment in BC. We recommend that anyone regulated under the BPCPA and CIFSA obtain copies and review them in detail. You can find them online or printed versions may be ordered from:

CROWN PUBLICATIONS INC. 106 Ontario Street Victoria BC CANADA V8V 1M9 TEL: (250) 386-4636 TOLL FREE 1-877-747-4636 FAX: (250) 386-0221

For more general information, please contact Consumer Protection BC in Victoria;

CONSUMER PROTECTION BC #307-3450 Uptown Blvd., Victoria BC V8Z 0B9 PO Box 9244, Victoria BC V8W 9J2 604.320.1667 F 250.920.7181 TF 1.888.564.9963 info@consumerprotectionbc.ca www.consumerprotectionbc.ca

# **Inspection Process & Procedures**

This guide is a summary of the major relevant items related to a compliance inspection of a place of interment conducted by Consumer Protection BC. It should be viewed as minimum outline. The Inspector may at any time, conduct other tests that are relevant and reasonably necessary.

# Scheduling

All Places of Interment are subject to inspection on Risk-Based, Complaint and, Random basis. Inspections may be scheduled in advance so the operator can arrange for banking and other file information to be provided to the Inspector.

# Inspection Reports, Forms and Equipment Used

Compliance Inspectors will use the following when conducting for inspection:

- Laptop (May require residual power) with internet accessibility
- Required documents check list (Usually provided to operator in advance of inspection)
- Access to the *Business Practices and Consumer Protection Act* (BPCPAct), *Cremation, Interment and Funeral Services Act* (CIFS Act) and Regulations (CIFS Regulation)
- Cell phone



• Consumer Protection BC Inspector identification and business cards

# **Arrival at Premises**

- Upon arrival, inform facility the inspector will advise the operator as to the purpose of the inspection (ie: Inspection Type), and give an overview of what the inspection will entail and what is expected throughout the duration of the inspection.
- The Inspector may wish to take pictures of the premises and conduct a physical examination of the property immediately.

# **Inspection of the Physical Premesis**

### Premesis

- a) Displayed licenses;
- b) Subdivisions and changes to the facility made by operator (if applicable);
- c) General condition and maintenance of grounds and structures;
- d) Maps/plans showing subdivision of the lot and/or columbarium;
- e) Interviews of employees and contractors

#### Licenses

An operator of a place of interment may advertise, contract, operate or otherwise carry on business in British Columbia only under the name that appears on the license issued to the operator. **S.11 CIFS Regulation**.

The name and business address of the place of interment must be clearly stated in all directories, advertising and marketing materials. **S. 12(1) CIFS Regulation.** 

The address on the license should be the location of the place of interment. If the administration office is listed on the license, note the place of interment address and contact Licensing to correct. The administration office may be used as a mailing address.

### Subdivisions made by operator

An operator of a place of interment must keep maps and plans of any subdivisions **under S. 42 of CIFS Act** for the period that the operator continues as an operator of the place of interment. The maps must show:

- each area of interment in relation to other areas of the place of interment every lot, fence, walk, road, watercourse, and building in the place of interment and the dimensions of each;
- b) total area of the lots and the total area of land in the place of interment descriptive names or numbers for each proposed area for interment

The detailed plans for the mausoleum or columbarium must show:

- a) the sections, rooms, corridors and other divisions;
- b) descriptive names and numbers applied to the sections, rooms, corridors or other divisions



#### **Maintenance and Condition of Property**

The Inspector will determine who maintains the place of interment and if available, obtain a copy of the maintenance contract. A thorough inspection of the place of interment property will be conducted to ensure that the grounds, markers, etc., are well maintained and cared for.

### **Inspection of Business Administration**

An inspection of business administration will include a review of the following;

- a) bylaws for the place of interment;
- b) records related to interment;
- c) interment right contracts;
- d) preneed cemetery services contracts;
- e) care funds; (as applicable)
- f) General maintenance fund; (as applicable)

#### Bylaws for places of interment

Inspector will request a copy of the bylaws to ensure that they comply with **S. 39 CIFS Act**. An operator of the place of interment is required to create bylaws which will address the following:

- a) the organization, operation and management;
- b) rights, privileges and responsibilities of the operator, persons who visit the place of interment and suppliers;
- c) rights, privileges and responsibilities of interment right holders in respect of place of interment;
- d) size, class, kind and composition of memorials that are permitted to be installed in the place of interment or in any of its parts or subdivisions;
- e) other bylaws providing for any other matter relating to the place of interment

#### **Records related to interment**

An operator of a place of interment must keep a record of each interment that occurs at the place of interment that includes the following:

- a) name of deceased;
- b) date and location of interment;
- c) name and mailing address of person who had kinship relationship with deceased;
- copy of written authorization (S. 8 of CIFS Act) from the person with the right to disposition of human remains (S. 5 CIFS Act) and address of person who gave the authorization;



e) copy of burial permit for human remains, or if death occurred outside the province, a copy of the burial permit or other document required under S. 22 of the Vital Statistics
 Act for the burial of the human remains.

The Inspectors will verify a sample of the records to ensure that the operator maintains proper and complete records. The Inspector may also request or, make a copy of any record for the inspection file. **S. 27(1) CIFS Regulation** 

#### **Interment Right Contracts**

Operators must keep an original or a copy of each interment right contract at the operating location of the place of interment. The inspection of the contracts consists of reviewing a random selection of contracts to ensure completeness and accuracy. The procedure below is a list of tests the Inspector may conduct during an inspection:

- a) 10% of the total files for a given time period. Usually an amount greater than 20, however the Inspector may increase or decrease the sample size as they deem appropriate;
- b) Review the contracts for their completeness;
- c) Ensure that the contract is signed by all parties involved and whether or not the purchaser has received a copy of the contract within 15 days after the contract is entered into;
- d) If a file indicates that a payment has been received, the Inspector will test to see that payment was received and that a deposit was made and recorded. S. 27(2)(a) CIFS Regulation, S. 43(1) (BPCP Act)

#### **Preneed Cemetery Services Contracts**

The Inspector will test whether or not an operator enters into preneed cemetery services contracts. Interment right contracts are separate from preneed cemetery services contracts and not deemed to be "preneed". Typically, urns, vaults, markers and opening/closing and other goods and services are considered to be preneed cemetery services.

The following will be examined/tested by the Inspector when reviewing preneed contracts:

- a) Generally, a random sample of files for the last year will be reviewed usually a minimum of 10%- 20%;
- b) Preneed cemetery service contract template to ensure it complies with the content requirements in Sec.19 and Sec. 36(1) BPCP Act;
- c) Testing if when consumers enter into preneed cemetery services contracts, the operator is supplying in writing, the initial disclosure statement [Sec.35 (a), (b) BPCP Act].
  Operators must ensure that the statement is provided to the consumer and the contract form (or the disclosure is on the contract form itself) and has a space for the purchaser to place his/her initial to acknowledge receipt of the initial disclosure statement;
- d) Testing if contracts are properly completed and signed by all parties involved, and, if determinable, whether or not the purchaser received a copy of the contract;
- e) Testing if all the goods and services are clearly itemized and priced in the contract and conform to the operator's price list;
  (Note: Listing only the type and/or total package price is non-compliant)



- f) Testing if monies are deposited into a trust account (not then operating or general account). The amount deposited must correspond to the amount received, less a reduction of up to 20% within five (5) banking days after their receipt;
- g) If monies are deposited with an insurance company, verify whether the purchaser pays the insurance company directly;
- h) The Inspector will attempt to obtain the total value of funds in trust as of the previous month end in comparison to the total number of preneed contract.

#### Care Funds

- The Inspector will determine if a care fund account has been established for the purpose of maintaining the place of interment. If applicable, there are other types of accounts that may be used for the care and maintenance of a place of interment.
- The Director or previous legislative requirement may have ordered/required an operator of a place of interment to establish a Care Fund in respect of the place of interment. If the operator has established a Care Fund, all funds that the operator is required to place in the Care Fund are subject to the requirements of CIFS Act and CIFS Regulation.
- The operator must maintain records related to the maintenance of the care/trust fund in a manner that is satisfactory to the Director. The Inspector will test the nature of the care/trust account (single, multiple etc.). The Inspector will test if the proper amount has been contributed to the care/trust fund for each interment right contract. The Inspector may:
  - a) Request a copy of the trust agreement between the operator and the financial institution. The inspector will determine at a later date if the account is a care fund or a trust fund;
  - b) Request a copy of the most recent bank statement;
  - c) When reviewing interment right contracts, ensure that the amount deposited by the operator is the correct prescribed percentage. S. 18(e) CIFS Regulation, S. 28 & 30 CIFSA, S. 20 & 21 CIFS Regulation

### **General Maintenance Fund**

If the operator is not required to maintain a care fund for the general care and maintenance of the land, the Inspector will test if an account is maintained and, if it is separate and apart from any other operating accounts. The Inspector will require the name of the financial institution, branch location, account number (s) and the type of account and ascertain how the account is administered. A review of the most recent bank statement(s) will also be conducted to ensure that the debits and credits are reasonable. A random selection of operator records and interment files may be reviewed for comparison to the bank statements to examine deposit amounts and maintenance costs.

### Wrap-up Meeting

Once the Inspector has completed his/her inspection of the premises and records, he/she may meet with the operator/staff member to discuss any immediately concerning non-compliance issues or concerns that the Inspector feels need addressing. The Inspector will be able to answer most questions that the operator may have in relation to the inspection process moving forward, the legislation, etc.



The Inspector will provide the Operator with a Certification of Inspection at the time of wrap-up. Most often, the Certification is provided in digital format by e-mail.

## **Inspection Summary**

- 1. The Inspector will document the inspection, update the licensee's file and if required, inform other Consumer Protection BC teams of any updates;
- 2. Within 10 business days of final information gathering, the Inspector will follow-up by written notification with the licensee regarding any non-compliance issues identified or requiring further information and provide a final summary of those matters. [The Post Inspection Letter]
- 3. Where an inspector detects that a licensee has violated a prescribed section of the BPCPA or the CIFSA, and where the violation warrants the imposition of an administrative penalty, the inspector will provide a report and supporting evidence to another delegated decision maker with a recommendation to impose an administrative penalty. [NEAR Report] The delegated decision maker will review the NEAR and may provide the licensee with the opportunity to be heard;
- 4. This decision maker will be in written communication with the Licensee regarding the formal process to follow. Any further communication related to the specific matter of this file will be in response to communication the Licensee will receive from that decision maker.
- 5. Further information related to policies or procedures related to the Administrative Penalty process, may be reviewed at on the our website.

# Enforcement

If an Inspector detects violations that they believe should proceed to enforcement of an administrative penalty, they will notify the licensee of these alleged contraventions in a Post Inspection Report. The Inspector will also prepare for the Director of Enforcement a Notice of Enforcement Action Recommended Report (NEAR). A copy of the NEAR will be also be sent to the licensee. The NEAR report will identify the allegation(s) proceeding to enforcement and the Inspector's recommended penalty. The licensee will be given an opportunity to respond to the report. The Director of Enforcement will then decide whether the allegation took place, and the administrative penalty, if any, to be applied. Note: the decision to impose an administrative penalty is at the discretion of the Director of Enforcement or delegated decision maker; neither is bound to the recommended administrative penalty in the NEAR.

If you are dissatisfied with the decision, you may apply for a reconsideration of the decision.

Further information on the policies and procedures relating to the administrative penalty process can be found by visiting our website at <u>www.consumerprotectionbc.ca</u>



# Appendix 1

CONSUMER PROTECTION BC CONSUMER PROTECTION BC 200 – 4946 Canada Way, Burnaby BC V5G 4H7 P 604.320.1667 F 604.320.1663 TF 1.888.564.9963 E info@consumerprotectionbc.ca W www.consumerprotectionbc.ca			License #: Date of inspection:		
Question	Places of Internment Inspection Report	Y	Ν	N/A	
	GENERAL FACILITY & PROPERTY				
1	Does the place of interment deal with the public?				
2	BPCP Act 31(2)(b) Is the price list displayed in a conspicuous location?				
3	BPCP Act 31(2)(b) Is the price list readily available upon request?				
4	CIFSR 11 Is the operator using the registered name or dba?				
5	<b>CIFSR 12(1)</b> Is the business address listed in all directories, advertising and marketing materials?				
6	<b>CIFSR 12(2)</b> Has the operator declared ownership, in whole or in part, by a public company?				
7	<b>CIFSA 42(3)</b> Does the operator have a set of maps and plans for the subdivisions of lots, columbaria and mausoleums?				
8	Is the operator a municipality, regional district, improvement district or a commercial place of business?				
9	Is the place of interment maintained to a reasonable standard?				
10	Who provides maintenance services?				
	CARE FUND				
11	CIFSA 28(1) Is there a care fund?				
12	CIFSR 22(4)(a) Are the funds held separate and apart?				
13	CIFSR 21(2) Is there a Care fund trust agreement?				
14	<b>CIFSR 20(2)</b> Is at least 25% of the right of interment price deposited to the fund?				

		CONSUMER PROTECTION BC		CONSUMER PROTECTION BC	
15	<b>CIFSR 20(4)</b> Is at least 10% of the mausoleum/columbarium right of interment deposited to the fund?				
Question	CARE FUND CONTINUED	Y	N	N/A	
16	<b>CIFSR 20(5)</b> Is at least \$10 for each memorial installed deposited to the fund?				
	GENERAL MAINTAINANCE FUND				
17	Is there a bank account for the general care and maintenance of the property?				
18	Are the funds held separate and apart from the operating account?				
19	What type of account is it and how is it administered?				
20	Percentage of the right of interment price deposited?				
21	Percentage of each mausoleum/columbarium right of interment price deposited?				
22	Amount collected for each memorial installed?				
	PRENEED CEMETERY SERVICES CONTRACT (AS APPLICABLI	E)			
	A PRENEED CEMETERY SERVICES CONTRACT MUST CONTAIN THE FO	OLLOWIN	G:		
23	BPCP Act 19(a) Supplier's name				
24	BPCP Act 19(b) Supplier's business address				
25	BPCP Act19(c) Supplier's phone and facsimile number				
26	BPCP Act 19(d) Date when contract is entered into				
27	BPCP Act 19(e) Detailed description of goods/services to be supplied				
28	BPCP Act 19(f) Itemized purchase price for goods/services				
29	BPCP Act 19(g) Costs payable including taxes and shipping				
30	<b>BPCP Act 19(h)</b> Description of additional charges that may apply which cannot be reasonably determined by the supplier				

			NSUMER OTECTION BO	•
31	BPCP Act 19(i) Detailed statement of the terms of payment			
Question	PRENEED CEMETERY SERVICES CONTRACT (AS APPLICABLE) CONTINUED	Y	N	N/A
32	BPCP Act 19(j) Total price			
33	BPCP Act 19(m) Notice of the consumer's right to cancellation			
34	<b>BPCP Act 19(n)</b> Any other restrictions, limitations or other T &C's that may apply to the supply of goods & services			
35	BPCP Act 36(c)(i) Listed fee charged for storing cremated remains			
36	BPCP Act 36(c)(ii) Statement that no fee is charged until 60 days after date of cremation			
37	<b>BPCP Act 36(d)</b> A space for the written acknowledgment by consumer that they received the initial disclosure statement in Section 35 of the BPCP Act			
38	<b>BPCP Act 36(2)</b> The supplier provides a copy of the contract within 15 days after the contract was entered into			
	PRENEED TRUST ONLY	1		
39	<b>BPCP Act 36(1)(b)(i)</b> Portion of trusted monies that will be refunded upon cancellation			
40	<b>BPCP Act 36(1)(b)(ii)</b> List the name of the financial institution that is the trustee of the preneed trust account			
41	<b>BPCP Act 36(1)(b)(iii)</b> Information about administration of trust account including information respecting investment of money in the account			
	PRENEED TRUST ACCOUNT			
42	<b>BPCP Act 40(3)</b> Are monies deposited, within 5 days of receipt, into a preneed interim account or preneed trust account?			
43	<b>BPCP Act 40(4)(b)</b> Are monies deposited into the trust account within 21 days?			
44	<b>BPCP Act 40(5)</b> Are at least 80% of the preneed sale proceeds deposited into the trust account?			

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45	<b>BPCP Act 40(6)</b> Is there a written trust agreement between the savings institution and the place of interment?		



Question	PRENEED TRUST ACCOUNT CONTINUED	Y	N	N/A
46	<b>BPCP Act 40(7) &amp; (8)</b> Are the T&C's of the trust agreement being met prior to the discharge of trusted monies?			
47	<b>BPCP Act 40(10)(a)</b> Does the consumer get written notice within 15 days of the first time deposit is made into the trust account?			
48	How are trusted monies identified?			
	INTERMENT RIGHT CONTRACT			
	THE INTERNMENT RIGHT MUST CONTAIN THE FOLLOWING INFORMATION			
49	<b>CIFSR 27(2)(a)</b> Does the operator keep the original or a copy of the interment right contract at the place of interment?			
50	BPCP Act 19(a) Supplier's name?			
51	BPCP Act 19(b) Supplier's business address?			
52	BPCP Act 19(c) Supplier's phone and facsimile number?			
53	BPCP Act 19(d) Date when contract is entered into?			
54	BPCP Act 19(e) Detailed description of goods/services to be supplied?			
55	BPCP Act 19(f) Itemized purchase price for goods/services?			
56	BPCP Act 19(g) Costs payable including taxes and shipping?			
57	<b>BPCP Act 19(h)</b> Description of additional charges that may apply which cannot be reasonably determined by the supplier?			
58	BPCP Act 19(i) Detailed statement of the terms of payment?			



59	BPCP Act 19(j) Total price?			
Question	INTERMENT RIGHT CONTRACT CONTINUED	Y	N	N/A
60	<b>BPCP Act 19(n)</b> Any other restrictions, limitations or other T &C's that may apply to the supply of goods & services?			
61	<b>BPCP Act 43(1)(b)(i)</b> T&C's under which a refund will be made in respect to a right of interment that is not exercised?			
62	<b>BPCP Act 43(1)(b)(ii)</b> The amount of the refund or percentage of the purchase price that is refundable?			
63	<b>BPCP Act 43(1)(c)</b> Information for a consumer exercising a right of interment after the development of a lot?			
64	<b>BPCP Act 43(1)(c)(i)</b> If yes, a statement that the right of interment applies to a lot to be developed for later use?			
65	<b>BPCP Act 43(1)(c)(ii)</b> If yes, provide the earliest date on which that right of interment may be exercised?			
66	<b>BPCP Act 43(1)(d)</b> Circumstances listed under the CIFSR in which the supplier may reclaim a right of interment?			
67	CIFSR 25 If yes, do the circumstances comply with Section 25?			
68	<b>BPCP Act 43(2)</b> The supplier provides a copy of the contract within 15 days after the contract was entered into?			
	RECORDS RELATED TO INTERNMENTS			
69	CIFSR 27(1)(a) List the name of the deceased?			
70	<b>CIFSR 27(1)(b)</b> List the date and location of the interment?			
71	<b>CIFSR 27(1)(c)</b> List the name and mailing address of a person who had kinship relationship with the deceased?			
72	<b>CIFSR 27(1)(d)</b> A copy of the written authorization including the address of the person who had the right to control the disposition?			
73	<b>CIFSR 27(1)(e)</b> A copy of the burial permit for human remains?			

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74	<b>CIFSA 16</b> Has the operator exhumed or disinterred human remains for removal from the place of interment?				
Question	RECORDS RELATED TO INTERNMENTS CONTINUED	Y	N	N/A	
75	CIFSA 16(3) If yes, has the operator received Director approval?				
76	Where are the records stored?				
	PLACE OF INTERNMENT BYLAWS				
77	<b>CIFSA 39(1)(a)(i)</b> Are there bylaws respecting the organization, operation, and management of the place of interment?				
78	<b>CIFSA 39(1)(a)(ii)</b> Are there bylaws respecting the rights, privileges and responsibilities of the operator, persons who visit the place of interment and suppliers?				
79	<b>CIFSA 39(1)(a)(iii)</b> Are there bylaws respecting the rights, privileges and responsibilities of interment right holders?				
80	<b>CIFSA 39(1)(a)(iv)</b> Are there bylaws respecting the size, class, kind and composition of memorials permitted to be installed at the place of interment?				
81	<b>CIFSA 39(1)(b)</b> Are there bylaws relating to multiple interments in one lot?				
82	Did licensee have active "my Account" and did inspector review/update active status at the time of inspection?				



NOTES:		

