

ST.THOMAS MORE CATHOLIC CHURCH

POLICY GOVERNING ELIGIBILITY AND USE OF THE COLUMBARIUM AND MEMORIAL GARDEN

1. DEFINITIONS

- A. "Church" means St. Thomas More Catholic Church, Austin, Texas, presently located at 10205 Ranch Road 620 North, Austin, Texas 78726.
- B. "Columbarium" means a durable, fireproof structure containing niches and used or intended to be used to contain cremated remains.
- C. "Columbarium and Memorial Garden" means the property reserved by the Church to memorialize and honor members of the Church and their families and for the inurnment of cremated remains of members of the Church and their families in columbaria located on said property.
- D. "Columbarium Coordinator" means the individual retained by the Church to administer the Columbarium and Memorial Garden and all fixtures therein and thereon, and who is responsible for, among other things, sales of niches in columbaria located in the Columbarium and Memorial Garden, maintaining records of niche sales, coordinating the inscription of niches, opening and closing of niches, and ensuring the adherence to the requirements of this Policy.
- E. "Cremated remains" means the bone fragments remaining after the cremation process, which may include the residue of any foreign materials that were cremated with the human remains.
- F. "Immediate family members" means, and is limited to, spouse, children, grandchildren, parents, grandparents, and siblings.
- G. "Interment" means the permanent disposition of remains by entombment, burial, or placement in a niche.
- H. "Inurnee" means a person named on the Right of Inurnment for whose cremated remains a niche is reserved by the Right of Inurnment.
- I. "Inurnment" means the placement of cremated remains in an urn.
- J. "Niche" means a space in a columbarium used or intended to be used for the placement of cremated remains in an urn. Up to two urns can be placed in a columbarium niche in the Columbarium and Memorial Garden.

- K. “Pastor” means the priest responsible for leading St. Thomas More Catholic Church as assigned by the Bishop of the Diocese of Austin or other controlling authority.
- L. “Policy” means this Policy Governing Eligibility and Use of the Columbarium and Memorial Garden.
- M. “Purchaser” means the purchasing signator to the Right of Inurnment as indicated thereon.
- N. “Right of Inurnment” means the St. Thomas More Catholic Church Right of Inurnment in a Columbarium Niche as signed and agreed to between the Church and the Purchaser and the rights conveyed by that document.

2. ELIGIBILITY

A. Assignment of niches will be given to and held for current, active, contributing, registered members of St. Thomas More Catholic Church. Newly registered members are eligible to purchase a niche 12 months after registration. Exceptions may be granted by the pastor, on a case by case basis.

A.B. With the approval of the pastor, niches may be assigned to former long-term parishioners who were active members of St. Thomas More.

B.C. Only immediate family members may be inurned in the same niche with separate urns. However, co-mingling of remains is not permitted.

3. RECORDS

- A. A diagram of the columbaria located on the Columbarium and Memorial Garden will be kept in the Church office. With it shall be recorded the records of internment of all individuals who have been or are to be inurned in the Columbarium and Memorial Garden as required by the law of the State of Texas (including the date the remains are received, the date the remains are interred, and the name and age of the person interred if those facts can be conveniently obtained).
- B. The Church office shall maintain a record of names and addresses of the surviving family member(s) of the interred deceased, if any, and the address of the purchaser of the niche, if available.

4. RESERVATION OF A NICHE

- A. A Right of Inurnment in a niche located in the Columbarium and Memorial Garden shall be available upon payment of a fee in effect at the time of purchase of the Right of Inurnment. No Right of Inurnment in the Columbarium and Memorial Garden or reservation of a niche will be made until payment of the fee is made in full.
- B. Payment of the fee for a purchase of a Right of Inurnment conveys to the Purchaser a right to have inurned the inurnee(s) named on the Right of Inurnment. Payment of the fee does not convey any property right to the Purchaser or the named inurnee(s) beyond those stated in the Right of Inurnment.
- C. The Church may repurchase an unused niche for just cause as determined by the columbarium coordinator and the pastor. The amount paid in repurchase will be original purchase price less an administrative fee of 15% and any expenses incurred.
 - i. The Church has no obligation to repurchase a niche, but may consider doing so upon written request to the columbarium coordinator and the pastor.
- D. Once cremated remains have been inurned in the Columbarium and Memorial Garden, no refund of the sum made in payment of the Right of Inurnment will be made.

5. COST

The purchase fee made in payment of the Right of Inurnment covers inurnment of cremated remains including urn(s), opening and closing of the niche and maintenance of the Columbarium and Memorial Garden. The Church is not responsible for any other expense or cost. Any costs of cremation, transportation, inscription, and any attendant costs and expenses shall be the responsibility of and shall be paid by the person or persons at whose direction the cremated remains are deposited in the Columbarium.

6. INURNMENT

- A. No more than the cremated remains of two persons who are immediate family members, as described above, may be inurned in the same niche. Separate urns must be used when more than one person is inurned in a single niche.
- B. Exceptions to the immediate family rule require approval of the columbarium coordinator and pastor.
- C. The Church provides urn(s) as part of the purchase price for the Right of Inurnment. An urn will be provided to the funeral home / crematorium in time to

receive the cremated remains. In order to ensure fit and permanence within each niche, as well as dignified simplicity, only an urn provided by the Church can be used for inurnment in the Columbarium and Memorial Garden.

- D. If a niche is initially inscribed in a manner appropriate for one person, then only that one person's remains may be inurned therein. Once inscribed, neither the niche allocation nor its inscription can be changed.

7. INSCRIPTION OF NICHE

- A. An inscription fee is *not included* in the purchase price of a Right to Inurnment. The fee for inscribing the niche will be due and payable at the time of inscription.
- B. In the interest of maintaining the dignity and beauty of the Columbarium and Memorial Garden, the same type lettering (font, size, color, and the like) will be used for all niche inscriptions.
- C. The columbarium coordinator will have the sole responsibility for choosing materials, maintaining uniformity and procurement of inscriptions.
- D. Inscription style and content on the niche shall consist of surnames and Christian names and dates of birth and death (month, day, and year).
- E. An inscription order form will be furnished by the columbarium coordinator to be filled in by typewriter or printed in ink, and signed by the person(s) authorized to do so. The columbarium coordinator will make arrangements for the engraving, in accordance with the name and dates furnished. The Church and the columbarium coordinator shall be responsible only for such errors in the inscription as might be made by the engraver in deviation from the data as filled in on the signed inscription order form.
- F. Once a niche has been provided with an inscription, no refund of the purchase fee will be made.

8. RITES

Funeral rites associated with inurnment will be in keeping with the Roman Catholic forms of worship as prescribed by the pastor (e.g., The Order of Christian Funerals [*Ordo exsequiarum*]). The pastor must approve all exceptions.

9. FLOWERS AND DECORATIONS

- A. Flowers or plants, real or artificial, are not permitted to be placed in the Columbarium and Memorial Garden at any time, with the following sole exception. On the day of an urn placement (i.e., the placing of an urn in a niche), flowers or plants may be placed in the Columbarium and Memorial Garden; such flowers or plants will be removed on the following day.
- B. The placing of any items, such as toys, signs, wreaths, ornaments or any other article is not permitted in or near the Columbarium and Memorial Garden. Any of these items will be removed and disposed of without notice. Nothing of either a permanent or temporary nature shall be placed in the Columbarium and Memorial Garden without the written consent of the columbarium coordinator.
- C. The columbarium coordinator, in coordination with the Church, will arrange for maintenance of the Columbarium and Memorial Garden.

10. RIGHT OF INURNMENT

A Right of Inurnment shall be executed by all involved parties for each niche, setting forth the rights of the parties as between each other. The Right of Inurnment shall include a provision granting full authority to the Church to move or relocate a niche with cremated remains, or to reassign a reserved niche, for reasons related to relocation of the Columbarium and Memorial Garden or any part thereof, or the event of a columbarium or niche becoming unsuitable for the internment of cremated remains. If any such event occurs, the Purchaser will be notified by the columbarium coordinator.

11. TRANSFERS

- A. A transfer of a Right of Inurnment includes any reassigning of ownership of the Right of Inurnment and any renaming of the inurnee(s) named on the Right of Inurnment. A transfer shall also include modifying the number of inurnees from one person to two people and vice versa.
- B. A transfer of the Right of Inurnment may be made between immediate family members. The Church will assess a transfer fee of ten percent (10%) of the purchase fee for a Right of Inurnment in effect at the time of transfer.
 - i. For purposes of Section 11.B only, the term “immediate family members” shall additionally include a former spouse.
- C. No transfer or assignment of the Right of Inurnment shall be valid without the consent in writing of the columbarium coordinator and the pastor.
- D. No transfer or assignment shall be recognized as long as there is any indebtedness due associated with the Right of Inurnment.

12. INURNMENT USE AND RENEWAL

- A. If inurnment has not taken place before the expiration of 75 years (e.g., a person who is named in the Right of Inurnment has not yet died), the Purchaser of the Right of Inurnment, or his guardian, heirs, devisees, executor or administrators, shall have the option to renew the Right of Inurnment. Such renewal of the Right of Inurnment shall be of no additional cost to the Purchaser.
- B. In the event the Purchaser of the Right of Inurnment, or his guardian, heirs, devisees, executors or administrators, fails to renew or elects not to renew the Right of Inurnment within 60 days after the expiration of 75 years, all rights granted in the Right of Inurnment shall lapse and the space shall immediately revert back to the Church.
- C. The rights granted under the Right of Inurnment shall lapse upon the occurrence of inurnment or interment elsewhere of all the person(s) named on the Right of Inurnment.
- D. Upon lapse of the rights granted by the Right of Inurnment, the Church shall be entitled to resell such rights.

13. INCOME CARE

The cost of the Columbarium and Memorial Garden will be paid by the fee made in payment of the Right of Inurnment and from other gifts and contributions. A portion of collected purchase fees will be held in a fund dedicated to the maintenance of and other costs associated with the continued operation of the Columbarium and Memorial Garden. Interest income from this fund will provide for the maintenance of and other costs associated with the continued operation of the Columbarium and Memorial Garden.

14. MAINTENANCE FUNDS

Maintenance funds will be accumulated in the operating account of the Columbarium and Memorial Garden. Funds over and above the amount needed for maintenance care are to be kept in an interest bearing account and may be used for future expansion.

15. SPECIAL CONSIDERATION

The columbarium coordinator, at the direction of the pastor, may set aside a number of niches, which the pastor can provide at a reduced cost or at no cost, based on the needs of Church members.

16. SUBJECT TO LAWS

Besides being subject to these rules and regulations, all inurnments and removals are made subject to the orders and laws of the proper authorities of the State of Texas.

17. ORDERS GIVEN BY TELEPHONE

The Church and columbarium coordinator will not take any orders over the telephone.

18. PERMITS AND IDENTITY

A funeral director, or one otherwise responsible for the cremation of the deceased, shall furnish the Church with any required permits and be responsible for the identity of the cremated remains to be inurned. The Church, clergy and the columbarium coordinator shall not be liable for any permits or identity of person(s) to be inurned.

19. REMOVAL OF REMAINS

- A. Removal of cremated remains from the Columbarium and Memorial Garden will be permitted only in accord with the applicable laws of the State of Texas in effect at the time of removal.
- B. Removal of Remains for Profit Prohibited. Removal by heirs or successor of the cremated remains so that the space inurnment rights may be sold for profit, or removal contrary to the express or implied wish of the original holder of the Right of Inurnment is expressly forbidden.
- C. An urn containing cremated remains may be removed only for good cause as determined by the columbarium coordinator and the pastor, upon formal request by a party with legal authority to make such request. Any expense shall be borne by those requesting such action. All such openings and removals shall be fully documented, with the church being released from any and all further responsibility.

20. INSURANCE

The Church may carry such insurance for its own benefit on the columbarium and contents as the pastor sees fit; however, there is no obligation upon the Church to provide any insurance for the benefit of inurnment right owners.

21. NOTIFICATION OF ADDRESS CHANGE

It shall be the responsibility of the inurnment right owners or their heirs, executors or administrators, to notify the columbarium coordinator at the Church office of any change of address as set forth in the church records. Notice sent to an owner of inurnment rights at the last address on file in the church office shall be considered sufficient and proper legal notification for all purposes whether or not such purpose be specified in these guidelines.

22. GIFTS AND CONTRIBUTIONS

All gifts and contributions made to the Columbarium and Memorial Garden shall be specifically designated as such and delivered to the church office for deposit into the columbarium fund.

23. OTHER ASPECTS OF OPERATION

Any and all matters arising in connection with the operation and maintenance of the Columbarium not covered in this Policy or the Right of Inurnment shall be determined solely by the columbarium coordinator with approval of the pastor.

24. CHOICE OF LAW

By signing the Right of Inurnment and this Policy, each party acknowledges that it has read, understands, and agrees to the terms of the Right of Inurnment and this Policy, and has the authority to legally bind the respective party to the terms and conditions of the Right of Inurnment and this Policy. The Right of Inurnment and this Policy are governed by the laws of the State of Texas.

25. SEVERABILITY

If any term, provision or covenant of the Right of Inurnment or this Policy is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms, provisions and covenants of the Right of Inurnment and this Policy shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

26. RELEASE FROM LIABILITY

ALL HOLDERS OF A RIGHT OF INURNMENT, ON BEHALF OF THEMSELVES, THEIR HEIRS, SUCCESSORS AND ASSIGNS, RELEASE THE CHURCH FROM ANY AND ALL LIABILITIES ARISING AS A RESULT OF NATURAL OCCURRENCE, ACTS OF GOD, AND UNAUTHORIZED REMOVAL OF CREMATED REMAINS OR VANDALISM OF NICHES AND/OR THE CONTENTS OF NICHES.

27. LIMITATION OF DAMAGES

IT IS IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES, IF ANY, WHICH MAY PROXIMATELY RESULT FROM A BREACH OF THIS AGREEMENT BY THE CHURCH OR ANY ERROR OR MISTAKE IN CONNECTION WITH THE INURNMENT RIGHTS PROVIDED HEREUNDER, OR ANY OTHER BREACH OF THE RIGHT OF INURNMENT. IN THE EVENT OF THE RESULTING LOSS, THE CHURCH'S LIABILITY SHALL BE LIMITED TO AMOUNTS THERETOFORE PAID TO THE CHURCH BY PURCHASER, PLUS A MAXIMUM OF ONE HUNDRED DOLLARS (\$100.00) AS LIQUIDATED DAMAGES, NOT AS A PENALTY, AND THIS REMEDY SHALL BE EXCLUSIVE.

28. DISCLAIMER OF WARRANTIES

THE ONLY WARRANTY ON ANY GOODS SOLD IN CONNECTION WITH THE RIGHT OF INURNMENT (A COLUMBARIUM NICHE AND URN(S)) AND THIS POLICY IS THE EXPRESS WRITTEN WARRANTY, IF ANY, GRANTED BY THE MANUFACTURER. THE CHURCH MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, WITH RESPECT TO THOSE GOODS. WITH RESPECT TO THE NICHE(S) SOLD HEREUNDER, THE ONLY RELATED WARRANTIES SHALL BE THOSE IMPLIED WARRANTIES PROVIDED BY LAW AND THE CHURCH MAKES NO EXPRESS WARRANTIES WITH RESPECT TO THOSE ITEMS.

29. ARBITRATION

Purchaser agrees that any claim he/she may have relating to the transaction contemplated by the Right of Inurnment and this Policy (including any claim or controversy regarding the interpretation of this arbitration clause) shall be submitted to and finally resolved by mandatory and binding arbitration in accordance with the applicable rules of the American Arbitration Association ("AAA"); provided, however, that the foregoing reference to the AAA Rules shall not be deemed to require any filing with that organization, nor any direct involvement of that organization. Notwithstanding anything to the contrary in the applicable statutes, rules or regulations, an arbitrator shall be selected by mutual agreement of the Parties. If the Parties fail to or are unable to agree on the selection of an appropriate arbitrator, the AAA shall select an arbitrator pursuant to its rules and procedures upon the application of one or both of the Parties. This agreement to arbitrate also applies to any claim or dispute between or among the Church, the Purchaser, any person who claims to be a third-party beneficiary of the Right of Inurnment, any of the Church's employees or agents, the Diocese of Austin, and any employees or agents of the Diocese of Austin. Except as required by law, neither party nor an arbitrator may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties.

30. ENTIRE AGREEMENT

The Right of Inurnment and this Policy are the complete and exclusive statement of the agreement between the Purchaser and the Church. The Right of Inurnment and this Policy supersede any prior agreements or understanding, oral or written, with respect to the subject matter of the Right of Inurnment or this Policy.

I (we) _____ have read and accepted the Policy Governing Eligibility and Use of the Columbarium and Memorial Garden at St. Thomas More Catholic Church.

Signature: _____ Date: _____
Month Day Year

Signature: _____ Date: _____
Month Day Year

Niche Number: _____

October 1, 2014
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