

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

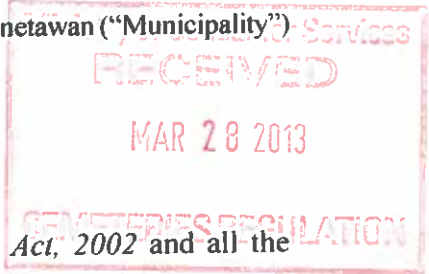
BY-LAW No. 2012-26

**Being a BY-LAW for the Administration of the
CEMETERIES
in the Municipality of Magnetawan**

WHEREAS Section 11(2)(7) of the Municipal Act 2001, S.O. 2001, C. 25 as amended provided that a local Municipality may pass a By-law in regards to services and the things that the Municipality is authorized to provide;

AND WHEREAS Section 150 of the *Funeral, Burial and Cremation Services Act*, 2002 S.O. 2002 C. 33 O, Reg 30/11 as amended provides that a Cemetery Operator may pass By-laws governing the operation of the Cemetery and, in particular, governing rights, entitlements and restrictions with respect to the Interment and scattering rights;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan ("Municipality") enacts as follows:




1. DEFINITIONS


In this By-Law:

- 1.1 "Act" means the *Funeral, Burial and Cremation Services Act*, 2002 and all the amendments and Regulations prescribed thereunder;
- 1.2 "At – Need Services" means Interment rights and Cemetery services required at the time of death;
- 1.3 "Care and Maintenance Fund" means the trust fund in which all monies received for care and maintenance of lots and markers have been invested under the Act;
- 1.4 "Cemetery" means land set aside to be used for the interment of human remains;
- 1.5 "Cemetery Services" means cremation services; the opening and closing of graves; the general care of graves; and any other service that is normally provided by the owner of a Cemetery;
- 1.6 "Cremated Remains" means the residue after the cremation of a body and the casket or container in which the body was received;
- 1.7 "Human Remains" means a dead human body and includes a cremated human body;
- 1.8 "Interment" means the burial of human remains or cremated remains in a grave;
- 1.9 "Interment Rights Certificate" means the certificate issued by The Corporation of the Municipality of Magnetawan Cemetery Board to a Purchaser upon payment of the cost of Interment Rights and Cemetery Services;
- 1.10 "Interment Rights" includes the right to require or direct the interment of human remains in a lot;
- 1.11 "Interment Rights Certificate Holder" means the person to whom the Interment Rights Certificate is issued or his or her legal representative, ascertained by production of a notarial copy of the Will or other evidence satisfactory to the Board;
- 1.12 "Lot" means a single grave space;
- 1.13 "Marker" means any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot;
- 1.14 "Monument" means any permanent memorial projecting above the ground installed

- 1.14 **"Monument"** means any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial or lot;
- 1.15 **"Municipality"** means the Corporation of the Municipality of Magnetawan;
- 1.16 **"Owner"** means an owner of a Cemetery;
- 1.17 **"Plot"** means a parcel of land, sold as a single unit, containing multiple lots also known as a grave;
- 1.18 **"Prescribed"** means prescribed by the regulations made under this Act;
- 1.19 **"Registrar"** means the registrar appointed under this Act;
- 1.20 **"Tribunal"** means the Commercial Registration Appeal Tribunal;
- 1.21 **"Trust Fund"** means a trust fund established for the purpose of this Act;
- 1.22 **"Secretary-Treasurer"** refers to the Secretary-Treasurer(s) of all Municipally administrated Cemeteries within the Municipality of Magnetawan;
- 1.23 **"Council"** means the Council of the Corporation of the Municipality of Magnetawan;
- 1.24 **"Board"** refers to the Municipality of Magnetawan Cemetery Board appointed by the Council, from time to time;
- 1.25 **"Price List"** means the price list of services provided by the municipality;
2. There shall be appointed by the Municipality of Magnetawan Council a Cemetery Board consisting of (6) six members. The schedule and term of the appointed members to be for the term of council.
3. The Board shall have and may exercise all the powers and perform all the duties of the Council with respect to all Municipally owned Cemeteries and shall make rules and regulations for the proper government and maintenance thereof.
- 4.1 The Secretary-Treasurer of the Cemetery (s) shall collect or cause to be collected all monies payable under this By-Law and administer the funds as required.
- 4.2 All Lots for which interment rights have been sold shall be under maintenance and care and the disposition of all monies received by the respective Secretary-Treasurer(s) from the sale of interment rights shall be as allowed by the Cemeteries Act.
- 4.3 Every person installing a Marker shall pay an amount as prescribed by regulations which will be paid into the Maintenance and Care Fund.
5. All income from the monies received for maintenance and care, whether invested or on deposit in a chartered bank, together with all other income from whatever source shall be placed to the credit of "The Current Account" and shall be used for the ordinary expense of maintenance and improvement of the Cemetery(s) and markers.
6. "Schedule A" Rules and Regulations of the Municipality of Magnetawan Cemetery Board shall form part of this By-Law.
7. "Schedule B" Tariffs and Charges is attached shall form part of this By-law. These Tariffs and Charges shall apply to all active cemeteries in the Municipality. These Tariffs and charges may be adjusted by resolution of council from time to time.
8. This By-Law shall be subject to the approval of the Registrar.
9. By-Law No. 2007-11 and by-law no. 2009-67 be repealed.

By-law read a first, second and third time and adopted this 14th day of November 2012.


Mayor


Clerk

“Schedule A”

RULES AND REGULATIONS Of The CEMETERIES WITHIN THE MUNICIPALITY OF MAGNETAWAN

Section I

RULES OF CEMETERY MANAGEMENT

- a) All Cemeteries within the Municipality of Magnetawan shall be governed by the Municipality of Magnetawan Cemetery Board as provided in By-Law No. 2012-26.
- b) It shall be the duty of the Board to carry out the rules and regulations and conduct the business of the cemetery(s).
- c) The Board shall designate an employee(s) who shall be in direct charge of the management and keep records of all Lots, graves and burials of the cemetery(s) and shall report to the Board.
- d) It shall be the duty of the employee(s) to supervise all work in connection with the cemetery(s).

Section II

RULES FOR WORKERS

- a) All workers entering the cemetery shall be under the jurisdiction of a designated employee and shall observe their instructions and plan their work under his/her approval.
- b) No work shall be started which cannot be completed by Friday at the usual hour for labour to cease. All material shall be left as directed by the designated employee and all debris disposed of according to his/her directions.
- c) All workers must abide by the Rules and Regulations of the Cemetery Board and will be subject to disciplinary action.

Section III

CONTRACTS AND INTERMENT RIGHTS

3.1 Contracts

- a) All contracts to purchase Interment Rights and /or cemetery services shall be in a form approved by the Municipality;

3.2 Cancellation of Contract within 30 Days

- a) A purchaser has the right to cancel an Interment Rights Contract within (30) days of signing the Interment Rights contract, by providing written notice to the Secretary Treasurer, provided no portion of the Interment Rights has been exercised.
- b) The Secretary-Treasurer will arrange to refund all monies paid by the purchaser within (30) days from the date of request for cancellation.

3.3 Cancellation of Contract after 30 Days

- a) ~~If written notice to cancel the interment Rights Contract is received more than thirty (30) days after the signing of the contract, the Secretary- Treasurer will cancel the contract and will arrange to refund to the purchaser for the amount paid for the Interment Rights less the appropriate amount that is required to be deposited into the Care and Maintenance Fund.~~
- b) The Secretary-Treasurer will arrange to refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
- c) If the Interment Rights Certificate has been issued to the Interment Rights Holder(s), the certificate must be returned to the Secretary-Treasurer, along with written notice of the cancellation.
- d) If any portion of the Interment Rights has been exercised, the purchaser, or the Interment Rights holder(s) are not entitled to cancel the contract or re-sell the Interment Rights.

3.4 Interment Rights Certificates

- a) An Interment Rights Certificate will be issued to the Interment Rights holder(s) when payment has been made in full.
- b) The Interment Rights Certificate shall convey the Right of Interment and the right to install a marker. Such rights shall be subject to the provisions of the Act and the Cemetery By-laws as amended from time to time.

3.5 Transfer of Interment Rights

- a) Any transfer of Interment Rights shall convey those rights set out in section 3.4(b) of this By-law.
- b) The Interment Rights Certificate holder shall provide the following information to a transferee:
 - a. The Interment Rights Certificate endorsed by the Interment Rights holder(s);
 - b. A copy of the current Cemetery By-law; and
 - c. A written statement of the number of lots that have been used in the plot to which the rights relate and the number of lots that are available.
- c) Upon receipt of an Interment Rights Certificate endorsed by the Interment Rights holder(s), the Secretary-Treasurer shall enter and record the transfer.

3.6 Sale of Interment Rights

- a) The sale of Interment Rights to a third party is prohibited.
- b) A purchaser who wishes to sell Interment Rights must notify the Secretary- Treasurer in writing of the intention to sell.
- c) The Municipality will repurchase the Interment Rights at the price listed on the current price list less the Care and Maintenance Fund contribution made at the time of purchase.

- d) The Interment Rights holder(s) requesting the resale of the rights must return the Interment Rights Certificate to the Secretary-Treasurer. The Interment Rights holder(s) must endorse the Interment Rights Certificate, transferring all rights, title and interest back to the Municipality.
- e) The appropriate paperwork must be completed before the reimbursement is authorized by the Secretary -Treasurer.
- f) If any portion of the Interment Rights has been exercised, the Purchaser, or the Interment Rights holder(s), is not entitled to re-sell the Interment Rights.

3.7 Care and Maintenance Fund Contributions

- a) As required by the Act, a percentage of the purchase price of all Interment Rights and a prescribed amount for Monuments and Markers is contributed into the Care and Maintenance Fund. Income from this fund is used to provide only general care and maintenance of the cemetery. Contributions to the Care and Maintenance Fund are non-refundable except when Interment Rights are cancelled within the 30 days cooling off period.

3.8 Interments and Disinterment

Rules Applicable to all Interments

- a) Interments in lots shall be as directed by the Interment Rights holder(s). Interment Rights holder(s) must provide written authorization prior to a burial taking place. Should the Interment Rights holder(s) be deceased, authorization must be provided in writing by the person authorized to act on behalf of the Interment Rights holder(s).
- b) Notice of and Interment shall be given to the Secretary -Treasurer at least thirty-six (36) hours in advance except under unusual circumstances.
- c) A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the Province must be provided prior to a burial taking place.
- d) A Certificate of Cremation must be provided prior to the burial of cremated remains taking place.
- e) Payment must be made before a burial can take place.
- f) A family information sheet containing contact information, names, addresses and telephone numbers must be provided for each Interment for completion of the contract and the public register prior to a burial taking place..
- g) Sunday and holiday burials shall be allowed by the Board, from time to time, subject to the tariff and charges established
- h) Remains to be interred must be enclosed in a container that is sealed securely, dry and of sufficient strength to permit Interment with the container remaining intact.
- i) Interments are permitted in lots measuring four feet by eight feet (4'x8').
- j) The Municipality shall not be responsible for the cost incurred to replace concrete marker bases, trees, plants or shrubs that are removed for Interment purposes.
- k) Each purchaser of Interment Rights shall abide by all existing rules of the cemetery. A copy of the Municipality of Magnetawan Cemetery By-law must accompany the Interment Rights Certificate.

- l) The purchaser of Interment Rights acquires only the right and privilege of burying human remains and erecting suitable memorials, subject to the rules and regulations of the cemetery. Interment Rights will be one (1) burial and two (2) cremations or three (3) cremations per single lot or grave with a single headstone and one (1) flat marker installed level with the ground surface.

Anyone not wishing to purchase a double single lot or grave for cremation burial may purchase a Cremation Interment Rights Lot in the area that is set aside for this purpose. The lot size will be 2' x 2'. Interment Rights will be two (2) cremations per lot with one (1) flat marker installed level with the ground surface.

- m) The board assumes no responsibility for damages should a lot be opened in a wrong location due to wrong or insufficient information and any extra expenses connected with an error of this kind shall be paid by the parties ordering the interment.
- n) All burials shall be arranged to arrive at the cemetery not later than 4:00 p.m. in order that the burial may be completed within the regular hours of work.
- o) Interments will not be permitted from November 15th through April 15th. Exceptions may be allowed by the Board or Secretary, weather permitting.

Section IV

4.1 Care of Lots

- a) All lots in the cemetery(s) shall be cared for by the board employee(s)

Section V

5.1 Rules for Visitors

- a) All cemeteries within the Municipality of Magnetawan are sacredly devoted to the burial of the dead and the provisions and penalties of the law will be strictly enforced in all cases of disturbance, wanton injury to property, disregard of the rules or conduct unbecoming to a cemetery.
- b) All visitors shall conduct themselves in a quiet, orderly manner and shall not disturb any service being held, by noise or other disturbances.
- c) Vehicular traffic in the cemetery (s) will be done so under the boards supervision only
- d) Children under twelve (12) years of age must be accompanied by an adult who shall maintain close contact with them and shall be responsible for their actions.
- e) The carrying of firearms or discharging of the same within any cemetery grounds, except where used for the firing of a volley at a burial, is prohibited.
- f) When a society or association desires to hold a Memorial Service, they shall make application to do so to the board at least fifteen (15) days prior to the desired date and permission shall be granted at the board's approval. The association or society securing this permission shall assume responsibility for any damages done to any of the property in the cemetery at that time.
- g) All persons are prohibited from picking any flowers, either wild or cultivated, or breaking any trees, shrubs or plants within the cemetery(s) grounds.
- h) All persons are prohibited from writing upon, defacing or damaging any monument, fence or other structure in or belonging to the cemetery.
- i) No dog or other domesticated animal shall be permitted to run at large in the

Cemetery.

- j) The cemetery(s) may be visited each day from sunrise to sunset.

Section VI

RULES FOR MOTOR VEHICLES

- a) The Board reserves the right to close the roads to the cemetery(s) at any time to vehicular traffic, for maintenance or inclement weather conditions.
- b) The drivers of all vehicles entering the cemetery(s) shall obey the instructions of the Board and shall keep to the route allotted to them. They shall not attempt to turn around on any roadway or pass another moving vehicle and shall not exceed a speed limit of fifteen kilometers (15 km) per hour.
- c) Vehicles forming part of a funeral procession shall take the route allotted to that funeral and shall move in unison with the procession and the drivers of all vehicles shall remain in close proximity thereto at all times.
- d) All work in close proximity to a burial shall cease during all services or at any other time when requested.
- e) All workers shall be suitably attired.
- f) No snowmobiles, motorcycles or all-terrain vehicles are allowed within the cemetery(s) unless approved by the Board.

Section VII

Monuments (etc.)

Interment rights holders may erect memorials of suitable design on the lots, subject to the following regulations:

- a) There shall be only one (1) monument and one (1) flat marker on each lot or grave.
- b) Any monument marker must comply with all regulations under new markers.
- c) All new monuments must be either of granite or bronze (markers must be of marble material) except on application to and by special permission of the Board.
- d) All new monument markers shall be installed in such a manner as to comply with a thrust test of 100 lbs. up to 3'11" in height and a thrust test of 200 lbs. for monuments 3'11" and over.
- e) No contractor will install a monument marker over 4' without first consulting the Municipality of Magnetawan, Cemetery Board.
- f) The Board assumes no responsibility unless a monument is installed on a concrete foundation, approved by the supervisor of the cemetery(s).
- g) Cremation lot markers shall be a maximum size of 16" x 16" and installed level with the ground surface.
- h) No inscription shall be placed on any monument or marker which is not in keeping with the dignity and decorum of the cemetery.
- i) All photographs attached to any memorials or placed within the cemetery grounds

shall be the sole responsibility of the owner.

- j) A monument shall not be erected on any lot until all charges have been paid.
- k) Monuments and markers shall be maintained by the Board and the Board reserves the right to adjust, straighten, repair, etc. or remove any monuments, markers etc. as allowed by the Cemeteries Act.
- l) No memorial or other structure shall be erected or permitted on a lot until all charges have been paid in full.
- m) No monument, footstone, marker or memorial of any description shall be placed, moved altered or removed without permission from the Cemetery Board.
- n) Minor scraping of the monument base of an upright monument due to grass/ lawn maintenance is considered to be normal wear.
- o) The Cemetery Board will take reasonable precautions to protect the property of Interment Rights Holder(s), but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
- p) Should any monument or marker present a risk to public safety because it has become unstable, the Cemetery Board shall do whatever it deems necessary by way of repairing, resetting, or laying down the monument or marker or any other remedy so as to remove the risk.
- q) The Cemetery Board reserves the right to remove at its sole discretion any marker, monument, or inscription which is not in keeping with the dignity and decorum of the cemetery as determined by the Board.

Section VIII

Care and Planting

- a) No person other than cemetery staff shall remove any sod or in any other way change the surface of the burial lot in the cemetery.
- b) No person shall plant trees, flower beds or shrubs in the cemetery except with the approval of the cemetery.
- c) Flowers placed on the grave for a funeral shall be removed by the cemetery staff after a reasonable time to protect the sod and maintain the tidy appearance of the cemetery.
- d) The Cemetery Board reserves the right to disallow or remove quantities of memorial wreathes or flowers considered to be excessive and that diminishes the otherwise tidy appearance of the cemetery.

Section IX

Contractors and Monument Dealers

- a) Any contract work to be performed within the cemetery requires the written pre-approval of the interment rights holder and the Cemetery Board before the work may begin. Pre-approval includes but is not limited to: landscaping, delivery of the monuments and markers, inscriptions, designs, drawings, plans, and detailed specifications relating to the work, proof of all applicable government approvals and permits, the location of the work to be performed. It is the responsibility of all contractors to report to the Cemetery Board and provide the necessary approvals before commencing work at any location on the cemetery property.

Prior to the start of any said work, contractors must provide proof of (any or all may apply depending on your specific operation);

WSIB coverage

Occupational Health and Safety compliance standards

Environmental protection

WHIMIS

Evidence of liability insurance of not less than 2 million dollars

- b) All cemetery by-laws apply to all contractors and all work carried out by contractors within the cemetery grounds.
- c) Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, weekends or statutory holidays, unless approval has been granted by the Cemetery Board.
- d) No work will be performed at the cemetery except during the regular business hours of the cemetery.
- e) Contractors shall temporarily cease all operations if they are working within 100 meters of a funeral until the conclusion of the service. The cemetery reserves the right to temporarily cease contractor operations at their sole discretion if the noise of the work being performed by the contractor is deemed to be a disturbance to any funeral or public gathering within the cemetery.
- f) Contractors, monument dealers and suppliers shall lay wooden planks on the burial lots and paths over which heavy materials are to be moved, in order to protect the surface from damage.

 Ontario Ministry of Government Services Cemeteries Regulation	Ministère des Services gouvernementaux Réglementation des cimetières
	APPROUVE conformément aux règlements éfférents à la Loi sur les cimetières
APPROVED In accordance with the regulations under The Cemeteries Act.	
Date of Approval / Date de l'approbation	03 May 2013
File No. of Cemetery / Numéro de l'acte du cimetière	03086
By / Par:	<i>[Signature]</i>

“Schedule B”

Tariff's and Charges

The Following Rates Shall Apply to the

Cemeteries

within

The Municipality of Magnetawan

LOT PRICES *						
	Lot	Care and Maintenance	Total	Cremation Lot	Care and Maintenance	Total
	\$200.00 <i>\$100⁰⁰</i>	\$150.00 <i>\$250⁰⁰</i>	\$350.00	\$100.00 <i>\$10⁰⁰</i>	\$60.00 <i>150⁰⁰</i>	\$160.00

* Plus all applicable taxes

INTERMENTS *	
Vault	\$ 400.00
Adult	\$ 350.00
Children (ten (10) years and under	\$ 300.00
Cremated Remains	\$ 100.00
Marker	\$ 25.00

* Plus all applicable taxes

MONUMENT CARE AND MAINTENANCE *	
Flat Marker over 172 square inches	\$ 75.00
Upright Monument up to four (4) feet high and four (4) feet wide	\$ 125.00
Upright Monument over four (4) feet high and four (4) feet wide	\$ 225.00
Disinterment	\$ 400.00
Lot Transfer Fee	\$ 10.00

* Plus all applicable taxes

* Stake fees included