

# THE CORPORATION OF THE MUNICIPALITY OF WHITESTONE

## By-Law No. 28-2013

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### Being a By-Law to provide for the management and control of all public cemeteries within the Municipality of Whitestone.

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**NOW THEREFORE** the Council of the Corporation of the Municipality of Whitestone enacts as follows:

1. In this By-Law:
  1. “Act” refers to the Cemeteries Act, being Chapter C.4 of the revised Statutes of Ontario 1990.
  2. “By-Law” when used in relation to a Cemetery, means the rules under which a Cemetery is operated.
  3. “Cemetery” means land set aside to be used for the interment of human remains.
  4. “Cemetery Services” means in respect of a lot:
    - a) Opening and closing of a grave
    - b) Interring or disinterring human remains.
  5. “Human Remains” means a dead human body and includes a cremated human body.
  6. “Income” means the interest or money earned including the compounding thereof by the investment of funds.
  7. “Inter” means the burial of human remains and includes the placing of human remains in a lot.
  8. “Interment Rights” includes the rights to require or direct the interment of human remains in a lot.
  9. “Interment Rights Holder” means a person with interment rights with respect to a lot and includes a purchaser of interment rights under the Act being Chapter C.4 of the revised Statutes of Ontario, 1990, or a predecessor of the Act.
  10. “Land Registry Office” means the land and titles office in the area in which a cemetery is located.
  11. “Lot” means an area of land in a cemetery containing, or set aside, to contain human remains.
  12. “Monument” means any tombstone, headstone or pillow affixed to or intended to be affixed to a burial lot.
  13. “Marker” means any plaque or cornerstone affixed to or intended to be affixed to a burial lot.
  14. “Minister” means the minister of Consumer and Commercial Relations.
  15. “Municipality” means the Corporation of the Municipality of Whitestone.
  16. “Owner” means an owner of a cemetery.
  17. “Plot” means two or more lots in which the rights to inter have been sold as a unit.

18. "Prescribed" means prescribed by the regulations made under this Act.
  19. "Registrar" means the registrar appointed under this Act.
  20. "Tribunal" means the Commercial Registration Appeal Tribunal.
  21. "Trust Fund" means a trust fund established for the purpose of this Act.
  22. "Secretary-Treasurer" refers to the Corporation of the Municipality of Whitestone Cemetery Board.
  23. "Council" means the Council of the Corporation of the Municipality of Whitestone.
  24. "Board" refers to the Corporation of the Municipality of Whitestone Cemetery Board appointed by the Council.
  25. "Resident" means an individual owning land or residing within the Municipality of Whitestone.
  26. "Non-Resident" means an individual not owning land or residing within the Municipality of Whitestone.
2. There shall be appointed by Council a Cemetery Board consisting of (7) seven members, preferably (2) two ratepayers from each Cemetery area, of whom must have attained the age of 19 years on or before the date of appointment to the Board, plus (1) one member from Council for **a term consecutive with Council**.
  3. It shall be the duty of the Board and they shall have the authority to:
    - a) Elect a Chairperson from amongst its members and such other officers as may be required;
    - b) Hire a Secretary-Treasurer(s) at such rate as the Board shall determine.
  4. It shall be the duty of the Secretary-Treasurer(s) or delegates to keep accurate and up to date records of all matters pertaining to cemeteries as required by Provincial regulations, to attend meetings as required by the Board, to receive all monies as specified in the Tariffs and Charges (Schedule B), and perform all clerical work connected with the management of cemeteries and such other duties as may be assigned by the Board.
  5.
    - a) The Secretary-Treasurer(s) or designate(s) shall collect or cause to be collected all monies payable under this By-Law and administer the funds as required.
    - b) 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) or designate(s) from the sale of interment rights shall be allowed by the Act.
    - c) Every person installing a Marker shall pay an amount as prescribed by regulations, which will be paid into the maintenance and care fund.
  6. It shall be the duty of the Board to hire a caretaker(s) who shall be responsible for all grounds-keeping duties as determined by the Board.
  7. The Board shall have and may exercise all powers and perform all the duties of the Council with respect to the cemeteries known as The Fairholme Cemetery, The Maple Island Cemetery, and The Whitestone Cemetery.
  8. 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 the maintenance and improvement of the Cemetery and Markers.

9. "Schedule A" – Rules and Regulations of the Corporation of the Municipality of Whitestone Cemetery Board shall form part of this By-Law.

10. "Schedule B" – Tariffs and Charges shall be set from time to time by the Corporation of the Municipality of Whitestone Cemetery Board.

11. This By-Law shall be subject to the approval of the Registrar.

**READ a FIRST and SECOND time** this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
**Mayor** Chris Armstrong

\_\_\_\_\_  
**CAO-Clerk** Liliane Nolan

**Read a Third time and Passed, Signed and Sealed** this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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**Mayor** Chris Armstrong

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**CAO-Clerk** Liliane Nolan

## SCHEDULE A

### **RULES AND REGULATIONS OF THE FAIRHOLME CEMETERY, THE MAPLE ISLAND CEMETERY, AND THE WHITESTONE CEMETERY**

#### SECTION I – RULES OF CEMETERY MANAGEMENT

- a) It shall be the duty of the Board to carry out the rules and regulations and conduct the business of the Cemetery.
- b) The Board shall designate person(s) who shall be in direct charge of the management of each Cemetery and keep records of all lots, graves and burials of the Cemetery and shall report to the Board.
- c) It shall be the duty of the person(s) designated by the Cemetery Board to supervise all work in connection with the Cemetery.

#### SECTION II – RULES FOR INTERMENT RIGHTS HOLDER

- a) These rules are for the purpose of establishing a uniform and economic basis under which management can care for the Cemetery and work in the interest of the interment rights holders.
- b) The Board reserves the right to accept money from the interment rights holder, relatives or any party for the maintenance and care of a Plot and/or Marker.
- c) The Board designated person(s) are the only parties who shall remove any sod or in any way change the surface of any lot in the Cemetery.
- d) No person shall do any work upon a burial lot without the permission of the Board.
- e) **The planting of trees, shrubs or flowers on Lots is not permitted and the Board shall have the right to remove same.**
- f) Wreath and flower arrangements are welcome. When they become weathered the Board reserves the right to remove them.
- g) Vases, urns and flower stands shall be such as to not interfere with the care of the Lot or if unsuitable or unsightly may be removed or prohibited by the Board. No glass containers of any kind are allowed in the Cemetery at any time. Nails, wires, articles of glass or pottery or any other material(s) that create a hazard to workers or visitors when neglected or broken are not allowed in the Cemetery and the Board shall have the right to remove same.
- h) Decisions, pursuant to Board policy, shall be made by the Secretary-Treasurer(s) or designate(s) to the Board.

#### SECTION III – SALE OF INTERMENT RIGHTS

- a) Interment rights for burial purposes shall be sold according to the existing plan of the Cemetery and to future plans as new sections are opened up, at the scale of prices as set forward in the Tariff and Charges (See SCHEDULE B).
- b) **A purchaser has the right to cancel an Interment Rights contract within thirty (30) days of signing the interment rights contract, by providing written notice of the cancellation to the Municipality. The Municipality will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.**

- b) **After the standard thirty (30) day cooling off period for purchases the Municipality will retain the contribution made to the Care & Maintenance Fund as indicated on the contract.**
- b) All casket burials require a cement crypt or vault with the exception being in the old parts of The Maple Island Cemetery and The Whitestone Cemetery.
- c) On receipt of the sale price of interment rights, the Secretary-Treasurer(s) or designate(s) shall issue a Certificate of Interment Rights.
- d) Each purchaser of interment rights shall abide by all existing rules of the Cemetery. A copy of The Corporation of the Municipality of Whitestone Cemetery Board By-Law must accompany the Interment Rights Certificate.
- e) Sales of interment rights shall be subject to a Purchase Contract.
- f) 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 (1) one burial per single plot or grave and (2) two cremations or (4) four cremations with a single headstone or (4) four flat markers maximum.**
- g) Anyone not wishing to purchase a double or single plot for a cremation burial may purchase a Cremation Interment Rights Plot in the area that is set aside for this purpose. **The plot sizes will be a minimum of 4 feet by 4 feet. Interment Rights shall be no more than (2) two cremations with a single headstone or 2 (two) flat markers maximum.**

#### SECTION IV – TRANSFER OF INTERMENT RIGHTS

- a) **The resale of Interment Rights by the holder to a third party is prohibited.**
- b) **The purchaser may require, by written demand, that the Municipality repurchase the interment rights at any time before they are used. Repurchase would be at the price listed on the price list at the date that notice is given, less the amount paid into the Care & Maintenance Fund in respect of the interment rights. Refund would be made within 30 days.**
- c) Should an Interment Rights Holder desire to transfer his/her interment rights he/she shall register with the Secretary/Treasurer(s) or designate(s) the name and address of the party to whom the transfer shall be made, provide proof of ownership or authority for transfer, return the Certificate of Interments Rights and pay a sum as set forth in the Tariffs and Charges for this service.
- d) **Further to Section IV (c) any transfer of Interment Rights within Five (5) years of the original purchase date, or if it is deemed to be in an attempt to subvert the requirement for the payment of non-resident fees, shall be subject to the applicable transfer fee plus the difference between the Resident and Non-Resident rate.**

#### SECTION V - INTERMENTS

- a) Whenever an Interment is to be made, notice thereof shall be given to the person(s) designated by the Cemetery Board at least (24) twenty-four hours previous thereto and (8) eight hours of the (24) twenty-four hours will be deemed working hours giving all particulars as to location and size of case.
- b) No Interment or Disinterment shall be made without the appropriate certificate being first produced and is subject to the Act.

- c) A burial permit and Certificate of Interment Rights must be presented to the person(s) designated by the Cemetery Board in attendance at the Lot before an Interment will be permitted.
- d) No interment shall take place in any lot against which unpaid charges appear.
- e) **No person other than the person(s) designated by the Cemetery Board shall open any Lot for the purpose of burial or removal of a body.**
- f) Sunday and holiday burials shall be allowed subject to the Tariffs and Charges established from time to time by the Board.
- g) Interments will be made until weather no longer permits.

#### SECTION VI – CARE OF LOTS

- a) **All lots in the Cemetery shall be cared for by the person(s) designated by the Cemetery Board.**

#### SECTION VII – RULES FOR VISITORS

- a) The Fairholme Cemetery, The Maple Island Cemetery and The Whitestone Cemetery 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 Cemeteries will be done so under the Board's supervision only.
- d) Children under (12) twelve 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 (5) five 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 damage done to any 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.**
- 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 pets shall be permitted in the Cemetery.

## SECTION VIII – RULES FOR MOTOR VEHICLES

- a) The Board reserves the right to close the roads to the Cemetery at any time to vehicular traffic for maintenance or inclement weather conditions.
- b) The drivers of all vehicles entering the Cemetery 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 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 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 unless approved by the Board.

## SECTION IX – MONUMENTS/MARKERS

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

- a) There shall be one Monument erected on each Lot.
- b) Any Monument or Marker must comply with all regulations under the Act.
- c) **Maximum size for upright monuments is 4 feet high and 4 feet wide.**
- d) The Board assumes no responsibility unless a Monument is on a suitable concrete foundation.
- e) No inscription shall be placed on any Monument or Marker which is not in keeping with the dignity and decorum of the Cemetery.
- f) All photographs attached to any memorials or placed within the Cemetery grounds shall be the sole responsibility of the Owner.
- g) A Monument shall not be erected on any Lot until all charges have been paid.
- h) Monuments and Markers shall be maintained by the Board and the Board reserves the right to adjust, straighten, repair, etc. or lay down any monuments or markers as allowed by the Act.

**SCHEDULE B**

**TARIFFS AND CHARGES**

**As of \_\_\_\_\_, 2013**

The following rates plus applicable taxes shall apply to The Fairholme Cemetery, The Maple Island Cemetery and The Whitestone Cemetery.

<b>LOT PRICES</b>			
	LAND	PERPETUAL CARE AND MAINTENANCE	TOTAL PLUS APPLICABLE TAXES
Burial Plot – Residents	\$50.00	<b>\$250.00</b>	<b>\$300.00</b>
Burial Plot – Non-Residents	\$350.00	<b>\$250.00</b>	<b>\$600.00</b>
Cremation Plot – Residents	\$50.00	\$150.00	\$200.00
Cremation Plot – Non-Residents	\$350.00	\$150.00	\$500.00
Transfer Fee	N/A	N/A	\$50.00

<b>MONUMENT CARE AND MAINTENANCE</b>	
Flat Marker over 172 square inches	\$50.00
Upright Monument up to 4 feet high and 4 feet wide	\$100.00
Staking Fee paid to <b>Municipality</b>	\$20.00