

THE CORPORATION OF THE TOWNSHIP OF LAKE OF THE WOODS
BERGLAND CEMETERY AND MORSON CEMETERY BY-LAWS

1.0 The Facts about the Purchase you have made.

Please read this information carefully. It contains the Cemetery By-laws (the "By-laws") of the Township of Lake of the Woods Cemeteries. These By-laws have been approved by the Ontario Ministry of Consumer and Commercial Relations, Cemeteries Branch (the "Ministry") and are referred to in your Interment Rights Certificate and other documents. These by-laws are to ensure the beauty, order, and dignity of our cemeteries. We appreciate your co-operation in adhering to these By-laws and principles of safety, respect, and reverence on which they are based.

2.0 Glossary

Advance of Need Cemetery Supplies and Services: cemetery supplies and services, which are purchased and provided before a death has occurred. For example: interment rights in a grave.

At-Need Cemetery Supplies and Services: cemetery supplies and services, which are purchased and provided after a death has occurred.

Care and Maintenance Fund: a portion of the purchase price of all interment rights, monuments and markers is contributed into an irrevocable fund- the Care and Maintenance Fund. Income from the Care and Maintenance Fund is used to provide regular care and maintenance activities at the cemetery. A former name for this was Perpetual Care Fund.

Casket or coffin: a container into which a body is placed prior to interment may be made of wood, metal or fiberboard.

Cemeteries Act: provincial legislation under which all cemeteries are regulated. The revised Act was proclaimed April 1, 1992.

Cemetery: lands owned by the Township of Lake of the Woods and set aside for the interment and commemoration of human remains and includes all buildings, roads, paths, and other areas within the boundaries of the cemetery lands.

Cemetery By-laws ("By-laws"): the rules and regulations under which the cemetery is governed as set out in this document and any additions or amendments thereto.

Cemetery Services: services available at the cemetery, such as interment, and other services.

Commemorate: to celebrate or preserve the memory of a life; may take the form of a memorial, service, gathering, speech, planting, or other act of remembrance.

Corner Post: a small marker supplied and installed by the Township to indicate the boundaries of a lot.

Cremate (Cremation): to subject human remains to extreme heat (the process by which human remains are subjected to extreme heat), one method of preparing human remains for memorialization.

Cremated Remains: that which is left after a body is cremated; commonly called "ashes" but, in fact, are bone fragments.

Cremation Burial Plot: an area of land surveyed for the in-ground interment of an urn containing cremated remains.

Cremation Urn ("Urn): a container into which cremated remains are placed prior to interment.

Disinterment: the removal of human remains from the ground.

Grave: an area of land surveyed in varying size (adult, child, infant, urn) for the in-ground interment of human remains.

Human Remains: the body or cremated remains of a deceased person.

Inscription: words used on a memorial or in a book to commemorate a life.

Inter (Interment): to place (the placement of) human remains under ground; also known as bury (burial).

Interment Rights: the right to require or direct the interment of human remains in a grave.

Interment Rights Certificate: a document, issued by the Township once interment rights are paid in full, specifying the ownership of the interment right and associated memorialization rights.

Interment Rights Holder ("Rights Holder"): a person, firm, or corporation owning the right to require or direct the use of interment rights: includes a person, firm, or corporation to whom interment rights are transferred.

Lot: is a single grave surveyed for the interment of human remains.

Manager: the Clerk-Treasurer of the Township of Lake of the Woods or other designate appointed to be in charge of the cemetery.

Marker: a memorial with a flat and level surface upon which an inscription may be made; set flush with the ground.

Memorial or Memorialization: a means of commemorating a life, may take many forms, such as a marker, inscription etc.

Monument: a memorial structure projecting above the ground; also known as a tombstone.

Number Marker: a means of identifying the grave or lot number, located at the foot of the lot or grave.

Purchaser: a person, firm, or corporation signing a contract associated to interment rights or cemetery supplies or services.

Section: an area within the cemetery surveyed into individual interment rights: allows for easy location (i.e. Section J, Lot 10).

Township: The Corporation of the Township of Lake of the Woods.

Urn Space: see Cremated Burial Plot.

3.0 General By-laws

3.1 Care and Control: The Clerk-Treasurer/designate shall be in charge of the financial management of the cemetery including keeping a record of all lots, graves and burials. The Caretaker/designate shall be responsible for works in the cemetery including grounds keeping and laying out plots for burials and marker or monument placement.

3.2 Care and Maintenance: Pursuant to legislation, the Township is required to care for and maintain its cemeteries. Therefore, a portion of the purchase price of all interment rights, monuments and markers is contributed to an irrevocable fund the Care and Maintenance Fund.

3.3 Interments. on Saturday. Sunday and Statutory Holidays: will be allowed, however any applicable surcharge will apply.

3.4 Burial Times: Rights holders and the public are encouraged to visit the cemetery normally during daylight hours only.

3.5 Winter Burials: Under normal circumstances, winter burials will not be permitted. The start of the restriction on winter burials is at the sole discretion of the Township and the dates of starting and ending the restriction may vary from winter to winter depending on snow cover and frost conditions.

3.6 Contracts: The Cemeteries Act requires that a written contract between the purchaser and the Township of Lake of the Woods be entered into for the purchase of all interment rights and or services, unless exempted by the Ministry. The contract stipulates the terms and conditions associated with the purchase and is deemed enforceable when executed by both the purchaser and the Township. The purchaser assumes all financial responsibility associated with the contract.

3.7 Cancellation of Pre-need Cemetery Supplies or Services: Within 30 days from the date that the Contract for Pre-Need Cemetery Supplies and Services (the "Pre-Need Contract") is executed the purchaser and the Township, the purchaser may require, by written demand, that the Township cancel the Pre-Need Contract. The Township will thereupon refund all monies paid, together with all income earned on the monies paid, for any pre-need supplies and services that have not been provided. After the expiry of the 30-day period indicated above, the purchaser may require, by written demand, that the Township cancel the Pre-Need Contract. In such cases, the Township will refund all monies paid, together with all income earned on the monies paid, for any pre-need supplies and services that have not been provided, less any administration fee (which shall be 10% of the total value of the pre-need cemetery supplies and services purchased, together with any income earned on the 10% since the purchase, or \$100 whichever is less). For the purposes of this section, written demand shall consist of a completed Termination of Contract form signed by the purchaser and received by the Township. None of the pre-need cemetery supplies and services purchased will be provided until after the expiry of the 30-day period except in the event of the death of the person(s) for whom the pre-need cemetery supplies and services were contracted.

3.8 Continuing Ownership of Interment Rights: Interment and memorialization rights held by a person who dies become part of the estate of such deceased. It is important to contact the Township as soon as possible after the death of the rights holder(s) to establish signing authority relative to the future use of the interment rights.

3.9 Public Access to Information: The Township will provide, for public inspection, the information required by the Cemeteries Act. Interment records and cemetery surveys are on file at the township office. The cemetery records provide a history of the community and are a valuable resource for historians, genealogists, and others interested in family trees.

3.10 Service Requests: Requests for service should be made at the township office. All work in our cemeteries will be performed by the Township or its designate.

3.11 Liability: The Township will take reasonable precautions to protect the property of rights holders, but assumes no liability or responsibility for the loss of, or damage to, any monument, marker, or part thereof, or any article of any type that may be placed on any lot or grave. The Township's liability, if any, as a result of damage or error, shall be fully satisfied once a reasonable effort to correct the damage or error is made or once monies paid to and received by it are refunded. The Township is not responsible for loss or damage from any causes beyond its reasonable control including: any damage from any causes by the elements, an act of God, civil disorder, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral.

3.12 Damage to Property of the Township: No one may destroy or remove any flowers, either wild or cultivated, or any tree shrub, or plant, or write upon, deface, or in any way damage any memorial, fence, wall, or other structure or property in or belonging to the cemetery.

3.13 Vehicles: Vehicles within the cemetery shall be driven at a moderate rate of speed with proper respect for the dignity of the cemetery and shall not leave the roadways. Owners of vehicles will be held liable for any damage caused by their drivers or vehicles.

3.14 Improper Conduct: Any person who disturbs the quiet and good order of the cemetery by noise or other improper conduct or who violates these By-laws may be required to leave the grounds.

3.15 Hunting or discharge of firearms: No hunting or discharge of firearms, except for the firing of volleys at a funeral service, shall be allowed within the cemeteries.

3.16 Pets: Pets are not permitted in the cemetery.

3.17 Memorial Services or Other Special Commemorative Events: Memorial services or other special commemorative events are permitted with the approval of the Township.

3.18 Changes in By-laws: The Township may, from time to time, change the By-laws in order to best serve the interests of its cemeteries and the rights holders. Public notice indicating pending changes will be provided pursuant to the policies and regulations of the Township. All changes to the By-laws are subject to the approval of the Ministry of **Government Services, Cemeteries Regulation Unit.**

4.0 Sale and Transfer of interment Rights

4.1 Nature of Purchase: A purchase from the Township is a purchase of the interment rights in the grave and is not a purchase of the land.

4.2 Interment Rights Certificate: Upon payment in full of the interment rights, an Interment Rights Certificate is issued to the rights holder(s).

4.3 Transfer of Interment Rights: The rights holder(s) may transfer the interment rights to a third party provided that they are transferred as a gift, bequest, or other transfer made without financial consideration, and that the then current administrative fee of the Township is paid. Further, the original Interment Rights Certificate is to be surrendered to the Township along with a Form of Transfer prepared by the Township, signed by the rights holder(s), and specifying the name(s) and address(es) of the proposed transferee(s). A new Interment Rights Certificate will then be issued to the transferee(s). This information shall be recorded in a register and kept by the Township.

4.4 Interment Rights holder: Only the rights holder(s) can determine or authorize an interment or placement of monuments, etc for a cemetery plot.

4.5 Procedure if right holder(s) can not be determined: In addition to the application for either interment or placement of a monument, payment of applicable fees, the applicant shall also provide an affidavit that covers the following:

- a) The applicant is the legal interment rights holder(s)
- b) The list of other heir(s), to the original rights holder(s),
- c) The fact that all other applicable heirs(s) agree to the interment or placement.

When all procedures have been complied with and subject to the applicable rules and conditions of the cemetery, permission for interment or placement of the approved monument will be given. Unless the rights holder(s) can be determined, permission for interment or placement of a monument will not be granted. (The next of kin is established as set out in The Table of Intestate Succession to be found in the Succession Law Reform Act, R.S.O., 1990).

4.6 Prohibition on Resale: The rights holder(s) shall not sell the interment rights.

4.7 Arrears: Transfer of interment rights may be made only after payment for the interment rights and any arrears associated with them are paid in full.

4.8 Repurchase of Interment Rights: The Township will not repurchase interment rights. The only exception is during the 30 day cancellation period in 3.6.

5.0 Interments

5.1 Information Required: For each interment, a written statement providing such information as may be required by the Township must be submitted to the township office so that an accurate register may be kept.

5.2 Notice Required: The township office shall be given at least eight business hours of notice for each interment.

5.3 **Telephone Order:** When orders for interment are given by telephone, the Township will not be responsible for any errors or misunderstandings that may arise.

5.4 **Opening of Graves:** The rights holder(s) shall be responsible to pay the municipality the appropriate fee for the cost to remove the sod, open & close the grave.

5.5 **Number of Interments in a Grave:** a) Only one casket interment shall be permitted in a single grave and it must be the first burial in the grave. b) Upto four urns will be permitted on a grave; this is in addition to the casket, if any.

5.6 **Closing of the Casket or Container:** A person designated by the family must close and fasten securely the casket or container before it is interred.

5.7 **Depth of interment:** A casket shall be interred to the minimum depth as required by regulation, an urn shall have at least 2 feet or 0.61metres cover.

5.8 **Outer Containers:** Caskets or urns may be interred without an outer container. Should an outer container of concrete, steel or other permanent nature be used, there may be a service charge.

5.9 **Documents required for Interment:** A burial permit issued by the Registrar General or equivalent document showing that the death has been registered, written consent of the rights holder(s), see Section 4.5, and a signed contract must be submitted to the township office before an interment may take place.

5.10 **Documents required for Interments Assisted by a Social Services Agency:** A burial permit issued by the Registrar General or equivalent document showing that the death has been registered, written instruction from a welfare administrator, see Section 4.5, and a signed contract must be submitted to the township office before an interment assisted by a Social Services Agency may take place.

5.11 **Documents required for the Interment of Cremated Remains:** A Certificate of Cremation or equivalent document, written consent of the rights holder(s), see Section 4.5, and a signed contract must be submitted to the township office before an interment of cremated remains may take place.

5.12 **Requirements for Disinterment:** Human remains may be removed from a grave provided that the written consent of both the then current rights holder(s) whose name(s) appears on record at the township office and the next of kin of the deceased are received by the Township (the next of kin is established as set out in The Table of Intestate Succession to be found in the Succession Law Reform Act, R.S.O., 1990). Further, the proper medical officer of health must be notified; a signed contract must be submitted to the township office; and a certificate from a medical officer of health, confirming that the Cemeteries Act and the Regulations have been complied with must be affixed to the casket or container. With the exception of notifying the medical officer of health, the above requirements also apply to the removal of cremated remains. Disinterment may also be ordered by certain public officials without the consent of the rights holder(s) and/or next of kin. The raising and lowering of remains is considered a disinterment for the purpose of this By-law.

5.13 Disinterment of Cremated Remains: Due to the length of time an urn has been interred and/or the conditions to which it has been exposed, the Township cannot guarantee that the urn can be retrieved. The condition of any urn disinterred may be unsuitable, in which case a replacement urn may be required.

5.14 Contagious Diseases: In addition to other requirements for Disinterment, persons who have died from contagious diseases may be disinterred only with the consent of the local medical officer of health or other public official having authority.

5.15 Pets or Other Animals: Only human remains shall be interred in the cemetery.

5.16 In the Morson Cemetery the head of the casket shall be placed at the north end of the plot facing south, excepting Row K in which the head of the casket shall be placed at the south end of the plot facing north.

5.17 In the Bergland Cemetery, the head of the casket shall be placed at the west end of the plot facing east.

6.0 Planting and Care of Lots

6.1 Trees etc: Trees, shrubs, or other permanent plants are not permitted on graves.

6.2 Tree beautification: Trees, shrubs or other objects may be donated for the general beautification of the cemetery and will be placed at the discretion of the Caretaker under the guidance of the Cemetery Board and or Council.

6.3 Flower Beds: The rights holder(s) may plant a flowerbed but is also solely responsible for tending it. On lots where monuments have been erected, the planting of flowers is restricted to the area immediately adjacent to the monument. If no monument has been erected, a flowerbed must be centered in the area designated as the memorial space. On single graves, flowers must be planted on the grave in a bed measuring no larger than 0.61 metres, (2 feet) by 1.22 metres (4 feet) in length.

6.4 Removal of Plants and Flowers from Graves: Flowerbeds must be cleared of tender plants after the first frost in the fall.

6.5 Neglected Flower Beds: To preserve the appearance of the cemetery, any flowerbed of the previous year which has not been planted by May 1st, or which has become unsightly due to neglect may be grassed over or sodded by the Township and the cost charged to the rights holder(s).

6.6 Borders: Planting or placing any type of borders around graves is not permitted.

6.7 Grading of Graves and Cutting Sod: Only with the permission of the Township, may anyone cut or remove sod or soil or change the grading of a grave or any surrounding area.

6.8 Moving Corner Posts or Markers: Only the Township or other persons authorized by the Township may move corner posts or markers.

6.9 Rubbish Prohibited: To maintain the beauty of the cemetery, rubbish shall not be thrown out on roads, walks or any part of the cemetery.

7.0 Articles and Decorations

7.1 Portable Articles: Any portable article, especially flower vases, potted plants, baskets, and urns but excluding gravesite monuments and markers, must not exceed 0.01 cubic metres (0.5cubic feet) in external dimensions, weigh no more than 11.34 kilograms (25 pounds) inclusive of contents, and must be readily moveable for ease of handling of the Township in order that it may carry out its duties with minimum risk of injury. The Township will not be responsible for loss of or damage to any portable article left upon or in the vicinity of any grave.

7.2 Memorial Wreaths: Wreaths may be placed in the cemetery only between November 1 and April 30 of each year. In order to prepare the grounds for spring, wreaths must be removed prior to May 1st. Wreaths not removed by May 1st will be removed and disposed of by the Township without notification.

7.3 Flowers and Plants: Natural or artificial flowers or plants may be placed on graves provided that proper containers are used. For safety reasons, flower vases, baskets, pots, and urns made of glass or other breakable material are not allowed. Artificial or fresh cut flowers and plants that have become unsightly will be removed and disposed of by the Township on a regular basis without notification.

7.4 Prohibited Articles: Chairs, trellises, arches, wire works, borders, fences, railings, walls, cutstone coping, pottery, glass or wooden articles (including wooden crosses and other wooden memorials, any wooden markers presently in place could be replaced with another wooden marker), or similar articles may not be left upon any grave.

7.5 Aboriginal burial items: Items from an aboriginal burial may be permitted on graves in a designated area for aboriginal burials and are subject to Section 7.7. Any traditional items left on a burial site will after six months be placed in the ground (6" deep).

7.6 Candles or Illuminated Articles: A lighted candle or other illuminated article may be placed on a grave only while it is attended by an adult. Any damage caused by a candle is the direct and total responsibility of the rights holder(s). The Township does not assume any liability in this regard. The Township may remove any such article, including any candle or vesper light (whether lit or not), and dispose of it, if it is left unattended.

7.7 Removal of Articles or Decorations: The Township may, without notification, remove and dispose of mementos and any other articles (whether prohibited or not) placed upon graves when it is necessary or desirable to do so.

8.0 Monuments Dealers, Contractors, and Workers

8.1 Permission to Employ Monument Dealers, Contractors, and Workers: Monument dealers, masons, stonecutters, contractors, or workers ("Contractors") employed to erect a monument or to do any other work in the cemetery shall first provide to the Township written consent of the rights holder(s) permitting such Contractor to do the work therein specified. Such consent shall designate the location of the interment rights and all work must be done under the supervision of the caretaker.

8.2 Compliance of Legislation: Any person, firm, or corporation, other than the Township, performing any work in the cemetery must comply with all applicable legislation, including, without limitation, Workers' Compensation, Occupational Health and Safety, and Environmental Protection. Such person, firm, or corporation shall provide upon demand proof of liability insurance satisfactory to the Township.

8.3 By-laws: All of the By-laws throughout this document apply to Contractors.

8.4 Approval Necessary: A monument or other structure shall be erected only after its design and the plans and specifications relative to the material, construction, its proposed location, and all attachments are submitted to and approved by the Township.

8.5 Liability: Contractors will conduct their operations in such a manner to prevent damage to any grounds, shrubs, trees, flowerbeds, monuments, markers, vases, or any other article or natural feature in the cemetery. Contractors shall lay planks on the graves and paths over which heavy material are to be moved, in order to prevent damage. Any damage caused shall be rectified at the expense of the Contractors.

8.6 Responsibility of the Rights Holder(s): The actions, conduct, behaviour, and attire, within the cemetery, of all Contractors who are employed by persons other than the Township are the responsibility of the rights holder(s) and shall be subject to the direction of the Township. Contractors shall cease work if in the vicinity of a funeral until the conclusion of the services. Acts and omission of the Contractor are the responsibility of the rights holder(s).

8.7 Delivery to the Cemetery: Monuments shall be delivered to the cemetery only after foundations are completed and the Contractors are ready to proceed with the installation. The township office must be notified of the delivery, preferably by written notification.

8.8 Removal of Implements and Rubbish: Contractors employed by others to plant or place flowers, tend flowerbeds, or provide similar services shall remove all implements and equipment and remove all rubbish before leaving the cemetery.

9.0 Memorialization

9.1 Approval of Design: The Township reserves the right to require prior approval of the design and the plans and specifications relative to the material, construction, proposed location and all attachments and sculpture are submitted to and approved by the Township.

9.2 Materials and Finish: Unless otherwise provided, all monuments, markers shall be constructed of granite and/or bronze. The bottom bed of all bases and markers must be cut level and true and every die stone shall be finished on all sides, end and top.

9.3 Manufactured-Textured Finishes: Manufactured-textured finishes, such as scalloped rockpitch sides on a monument are permitted.

9.4 Vertical Joints: To ensure stability and preservation, a monument shall not have any uncovered vertical joints.

9.5 Marble. Natural marble may not be used.

9.6 Boulder Monuments: Boulder monuments may only be used with prior approval of the Township.

9.7 Sculpture: Three-dimensional, sculptural, and artistic monuments are encouraged. The Township reserves the right to disallow any design, which is unstable, unsuitable or inappropriate.

9.8 Benches: Benches to be used as memorials may be permitted subject to the approval of the design and location by the Township.

9.9 Repair of Memorials: Should any memorial present a risk to public safety because it has become unstable or dilapidated, the Township shall do whatever is necessary by way of repairing, resetting, or laying down the memorial to remove the risk. The extent of any work performed, beyond laying down the memorial, will be dependent on the availability of funds in the Care and Maintenance Fund or at the expense and agreement of the rights holder(s).

9.10 Work on Memorials: When a memorial of any kind is to be removed, any inscription made, or cleaning done, permission of the Township and the written consent for the rights holder(s) are required.

9.11 Removal of Markers and Monuments: The Township may remove a marker and/or monument from any grave if payment of the contract for the marker or monument is in default. Markers purchased by anyone other than the rights holder(s) may be removed by the Township upon written request by the rights holder(s). The Township reserves the right to remove any marker or monument, which is not in keeping with the dignity and decorum of the cemetery.

9.12 Installation of Markers, Monument Foundations, and Bronze Vases: To ensure public safety, quality control, and the proper administration of the Care and Maintenance Fund, all installations by contractors must be made under the direction of the Township.

Monuments and Markers

9.13 Monuments and Markers: Only one monument or one marker shall be erected on any plot. Monuments and markers shall be centered in the designated memorial space. However in the case where one or more urns are interred on a plot a flat marker will be allowed for each additional interment. (i.e. if a casket is interred first it is entitled to the upright monument and any urn is entitled to a flat marker, if no casket then the first urn is entitled to the upright and the additional urn(s) is entitled to a flat marker). A monument shall not be erected over a grave in any lot in which there has been an interment. Joint monuments or markers for adjoining plots are permitted and are to be centered in the designated memorial spaces.

9.14 Dimensions: The monument is to be a minimum of 7.62 centimeters (3 inches) smaller than its base.

9.15 Bases: For monuments a base of an approved material and design shall not exceed 25 percent of the total height of the monument.

9.16 Foundations: A concrete foundation is required for each monument or marker and shall be provided at the expense of the purchaser. The foundation of a monument or a marker shall be built in the designated memorial space and must be a minimum of 7.62 centimeters (3 inches) larger than the monument base. If incorrect dimensions have been given the foundation may be removed and the proper size installed at the expense of the purchaser.

9.17 Setting of Markers: All markers shall be set flush with the ground unless otherwise specified on the Interment Rights Certificate. The Township may specify certain sections and graves on which only bronze markers or only granite markers may be placed.

9.18 Inserts: Inserts (with the exception of recessed ceramic pictures) are not permitted on any monument.

9.19 Adornments: Adornments made of bronze or stainless steel are permitted on monuments and must be attached by means of pins or clips.

9.20 Inscriptions: Only inscriptions, which are in keeping with the dignity and decorum of the cemetery, will be permitted.

9.21 Requirements for the Placement of Monuments and Markers or to Place Ceramic or Photoplex Pictures on Memorials: Prior to the installation of a monument, or to the placement of the ceramic or photoplex pictures the Township: requires the written consent of the rights holder(s); and payment of the requisite fees.

9.22 Photographs on Markers or Vases: Due to the danger of becoming damaged or broken, picture or photograph attachments are not permitted on markers set flush with the ground or on vases.

10.0 These by-laws are enacted by Council By-law, this 4th day of September, 2007.

Valerie Pizey Mayor

Patrick W Giles Clerk