

The Corporation of the Township of Sables-Spanish Rivers

BY-LAW NO. 2022-07

BEING A BY-LAW TO ENACT RULES AND REGULATIONS FOR THE MAINTENANCE, MANAGEMENT, REGULATION AND CONTROL OF ALL CEMETERIES OWNED OR OPERATED BY THE TOWNSHIP OF SABLES-SPANISH RIVERS

WHEREAS *Section 150 of Ontario Regulation 30/11 made under the Funeral Burial and Cremation Services Act, 2002, S.O. 2002, c.33, as amended, provides for any cemetery operator to make By-laws governing the operation of the cemetery;*

AND WHEREAS no such by-law comes into force or takes effect until it is filed with, and approved by the Registrar under Section 151 of *Ontario Regulation 30/11 made under the Funeral, Burial and Cremation Services Act, 2002, S.O. 2002, c.33, as amended;*

AND WHEREAS Section 10 of the *Municipal Act, S.O. 2001, Chapter 25, as amended, authorizes single-tier municipalities to provide any service or thing that the municipality considers necessary or desirable for the public;*

NOW THEREFORE the Council of the Corporation of the Township of Sables-Spanish Rivers **HEREBY ENACTS AS FOLLOWS:**

SECTION A: DEFINITIONS

Act: means the Funeral, Burial and Cremation Services Act, 2002, as amended and Ontario Regulation 30/11.

Burial: The opening and closing of an inground lot or plot for the disposition of human remains or cremated human remains.

By-laws: The rules and regulations under which the Cemetery operates.

Care and Maintenance Fund: It is a requirement under the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) and Ontario Regulation 30/11 and 184/12 (O. Reg. 30/11 & 184/12) that a prescribed amount or a percentage of the purchase price (excluding tax) of all interment and scattering rights sold, transferred, assigned or permitted; and prescribed amounts for monuments and markers, is contributed into the care and maintenance fund. If no scattering rights are sold but scattering is permitted a prescribed amount must be contributed to the fund when the scattering is conducted. Interest earned from this fund is used to provide care and maintenance of lots, plots, markers and monuments at the cemetery.

Cemetery: means any one of the following active cemeteries under the jurisdiction of the Corporation of the Township of Sables-Spanish Rivers listed in Schedule G.

Cemetery Operator: means the Corporation of the Township of Sables-Spanish Rivers.

Columbarium: A structure containing individual compartments or Niches for the placement of human cremated remains.

Contract: For purposes of these by-laws, all purchasers of interment or scattering rights, or other cemetery supplies and services must receive a copy of the contract they and the cemetery operator have signed detailing the obligations of both parties, and acknowledging receipt and acceptance of the cemetery by-laws, a copy of the Consumer Information Guide and the Price List.

Corner Posts: Shall mean any stone or other land markers set flush with the surface of the ground and used to indicate the location of a lot or plot.

Entombment: The opening and closing of a Niche for the placement of cremated human remains.

FBCSA: The Funeral, Burial and Cremation Services Act, 2002

Grave: (Also known as Lot) means any inground burial space intended for the interment of a child, adult or cremated human remains.

Interment Right: The right to require or direct the interment of human remains or cremated human remains in a grave, lot, niche or crypt and direct the associated memorialization.

Interment Rights Certificate: The document issued by the Cemetery operator to the purchaser once the interment rights have been paid in full, identifying ownership of the interment rights.

Interment Rights Holder: A person, firm, or corporation holding the right to direct the burial or removal of human remains, cremated human remains.

Legal Representative: Shall mean an executor, executrix, administrator of the estate of a deceased individual or a person with power of attorney of a living individual.

Lot: For the purposes of these By-laws a lot is a single grave space.

Marker: Shall mean any permanent memorial structure that is set flush and level with the ground, and used to mark the location of a burial lot.

Monument: Any permanent memorial projecting above the ground installed within the designated space to mark the location of a burial or lot.

Mortuary: a building in which dead bodies are kept until burial

Niche: An individual compartment in a columbarium for the entombment of cremated human remains.

Non-Resident: Shall mean anyone other than a Resident

Plot: For the purposes of these By-laws, a plot is a parcel of land, sold as a single unit, containing multiple lots.

Resident: Shall mean any person owning land within the Corporation of the Township of Sables-Spanish Rivers, or living within the Corporation of the Township of Sables-Spanish Rivers limits, or a former resident under nursing care.

Scattering: Shall mean the act of spreading of cremated remains over a designated area within a cemetery with the knowledge and permission of the cemetery operator and in keeping with the cemetery by-laws.

Scattering Rights Holder: Any person designated to hold the right to scatter cremated human remains in a specified lot or other designated area within the cemetery.

SECTION B: ADMINISTRATION

1. The cemetery operator reserves full control over the cemetery operations and management of land within the cemetery grounds.
2. The cemetery shall be governed by these bylaws, and all procedures will comply with the Funeral Burial & Cremation Services Act, 2002 and Ontario Regulation 30/11, which may be amended periodically.
3. All by-law amendments must be:
 - a. Published once in a newspaper with general circulation in the locality in which the cemetery is located;
 - b. Conspicuously posted on a sign at the entrance of the cemetery; and
 - c. Delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or by-law amendment pertains to markers or their installation.

4. All by-laws and by-law amendments are subject to the approval of the Registrar, FBCSA, Bereavement Authority of Ontario.
5. The cemetery operator will not be held liable for any loss or damage, without limitation (including damage by the elements, Acts of God, or vandals) to, any lot, plot, columbarium, niche, monument, marker, or other article that has been placed in relation to an interment save and except for direct loss or damage caused by gross negligence of the cemetery.
6. Provincial legislation – Section 110 of Ontario Regulation 30/11 requires all cemeteries to maintain a public register that is available to the public during regular office hours.
7. Pets or other lower animals, including cremated animal remains, are not allowed to be buried in the cemetery.
8. The cemetery operator has the right at any time to re-survey, enlarge, diminish, re-plot, change or remove plantings, grade, close pathways or roads, alter in shape or size, or otherwise change all or any part of the cemetery, subject to approval of the appropriate authorities.

SECTION C: SALE, CANCELLATION, TRANSFER OR RESALE OF INTERMENT RIGHTS

1. Purchasers of interment rights acquire only the right to direct the burial of human remains and the installation of monuments, markers and inscriptions, subject to the conditions set out in the cemetery by-laws. In accordance with cemetery by-laws, no burial or installation of any monument, marker, inscription or memorialization is permitted until the interment rights have been paid in full. An interment rights certificate will be issued to the interment rights holder(s) when payment has been made in full. The purchase of interment rights is not a purchase of Real Estate or real property.
2. Interment rights shall be sold, subject to the following conditions and no lot shall be used for any purpose other than the burial of human remains:
 - a. A lot may be purchased by executing a contract in the form set forth in Schedule “A” to this By-law completed and signed by the purchaser or a legal representative of the deceased or an immediate family member of the deceased and by a representative of the municipality, together with the payment of the purchase price.
 - b. At the time of sale, the cemetery operator shall provide each interment rights holder with:
 - i. A copy of the contract
 - ii. A copy of the Interment Rights Certificate
 - iii. A copy of the Cemetery By-law including fees and any amendments thereto.
 - iv. A copy of the Consumer Information Guide
3. 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 cemetery operator. The cemetery operator will refund all monies paid by the purchaser within thirty (30) days from the date of the request for cancellation.
4. **After the thirty (30) days** a purchaser has the right to cancel an interment rights contract by providing written notice of the cancellation to the cemetery operator.
 - a. Upon receiving written notice from the purchaser of the interment rights, the cemetery operator will cancel the contract and issue a 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. This refund will be made within thirty (30) days of receiving said notice. If the interment rights certificate has been issued to the interment rights holder(s), the certificate must be returned to the cemetery operator along with the written notice of cancellation.

- b. 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.
5. As required by sections 166 and 168 of Regulation 30/11, 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 not refundable except when interment rights are cancelled with the 30-day cooling off period.
6. An interment rights holder may gift, bequest or otherwise transfer interment rights, without consideration, to any other person by giving written notice of the transfer to the cemetery operator and by returning the original Interment Rights Certificate to the cemetery operator. Upon receipt of the notice, the required transfer fee and the original Interment Rights Certificate, the cemetery operator shall issue a new Interment Rights Certificate to the Transferee. If the interment rights holder has misplaced the original Interment Rights Certificate a replacement may be issued upon payment of the applicable fee, and any subsequent transfer fee will also apply if the interment rights are being transferred.
7. Any transfer of interment rights from a Resident to a Non-Resident, shall be subject to the applicable transfer fee plus the difference between the Resident and Non-Resident fee at the time of transfer.
8. The resale of interment rights by the purchaser is prohibited. Interment rights must be sold back to the cemetery operator at the price listed on the current price list less any care and maintenance contribution amount previously made.
9. If any interment rights have not been exercised after a fifty (50) year period has passed from the date of sale, they may be considered abandoned. The Cemetery Operator may apply to the Registrar for a declaration that the Rights are abandoned after making inquiries and giving reasonable notices to find the Rights Holder(s) or beneficiaries. Upon being satisfied that the rights are abandoned, the Registrar shall issue a declaration to that effect. If there is no appeal by the end of the appeal period, as stipulated by the Registrar or otherwise within thirty (30) days, the Cemetery Operator may re-sell the Interment or Scattering Rights in question.

SECTION D: INTERMENTS AND DISINTERMENTS

1. All interments must be authorized in writing by the interment rights holder(s) except the interment of the interment rights holder. Should the interment rights holder be deceased, authorization must be provided in writing by the person authorized to act on behalf of the interment rights holder in keeping with the *Succession Law Reform Act* i.e. Estate Trustee, Executor or next of kin.
2. A burial permit issued by the Registrar General or equivalent document showing that the death has been registered with the province must be provided to the cemetery office prior to a burial or entombment taking place. A Certificate of Cremation must be submitted to the cemetery operator prior to the burial of cremated remains taking place.
3. In accordance with the FBCSA the purchaser of interment rights must enter into a cemetery contract, providing such information as may be required by the cemetery operator for the completion of the contract and the public register prior to each burial or entombment of human remains.
4. Payment of applicable fees as outlined in Schedule "H", as amended must be made to the cemetery operator before a burial can take place.
5. The cemetery shall be given a minimum of 48 hours of notice, of which 14 hours shall be regular business hours, for each burial of human remains or cremated human remains.

6. No interments or disinterment shall be allowed in the cemetery outside of daylight hours.
7. Winter interments are not generally allowed between November 1 and April 30th unless approved by the cemetery operator.
8. The opening and closing of graves may only be conducted by cemetery staff or those designated to do work on behalf of the cemetery operator.
9. Cremated remains are not permitted to be scattered anywhere within the cemetery.
10. Not more than one casket burial shall be allowed in one grave lot, with the exception of small caskets under 4 feet in length.
11. Not more than six (6) cremation burials are allowed in one single lot, space permitting.
12. With written permission of the interment rights holder, up to six cremated remains will be permitted to be interred in the same grave provided they are interred after the full casket burial, and space allows. Notwithstanding any written interment instructions from an interment rights holder that were provided to the cemetery operator prior to the date this By-law came into force and effect.
13. Human remains may be disinterred from a lot provided that the written consent (authorization) of the interment rights holder has been received by the cemetery operator and the prior notification of the medical officer of health. A certificate from the local medical officer of health must be received by the cemetery operator before the removal of casketed human remains may take place. A certificate from the local medical officer of health is not required for the removal of cremated remains.
14. In special circumstances the removal of human remains may also be ordered by certain public officials without the consent of the interment rights holder and/or next of kin(s).

SECTION E: MARKERS AND MONUMENTS

1. Permission shall not be granted for installation or erection of a monument or marker on a lot unless all amounts owing to the cemetery operator have been paid. This includes interment rights and applicable marker permit fees at the rates shown on Schedule "H", as amended.
2. No monument, footstone, marker or memorial of any description shall be placed, moved, altered, or removed without permission from the Interment rights holder or legal representative and the cemetery operator.
3. Only established monument/marker companies may supply and install monuments or markers. Individual or homemade monuments/markers are not permitted.
4. The cemetery operator will take reasonable precautions to protect the property of interment rights holders, but it assumes no liability for the loss of, or damage to, any monument, marker, or other structure, or part thereof.
5. Minor scraping of the monument base of an upright monument due to grass/lawn maintenance is considered to be normal wear.
6. Should any monument or marker present a risk to public safety because it has become unstable, the cemetery operator 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.
7. The cemetery operator 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.

8. A monument shall be erected only after the specific design plans have been approved by the cemetery operator including: dimensions, material of structure, construction details, and proposed location.
9. The cemetery operator reserves the right to determine the maximum size of monuments, their number and their location on each lot or plot. They must not be of a size that would interfere with any future interments.
10. Only one upright monument shall be erected within the designated space on any lot.
11. The minimum thickness for flat markers including footstones is 4 inches or 10 cm.
12. All monuments and markers shall be constructed of bronze or natural stone (i.e. granite). Special consideration for monuments not constructed from the above materials must be submitted to the cemetery operator for approval.
13. An upright monument, including the base, is restricted to a maximum height of 1.22 meters (4 feet).
14. Monuments to be erected for or by lot owners shall be set upon an adequate foundation of a good quality concrete, granite or other natural stone of a minimum depth of 15.24 cm (6 inches). All foundations must be flush to the ground and shall not be wider than the lot that it is being set on and not have a length greater than 60.96 cm (24 inches) from the head of the lot. The foundation must be a minimum of 7.62 cm (3 inches) wider than the monument base in the front, back and sides.
15. All foundations shall be constructed by the monument company at the expense of the interment rights holder.
16. All flat markers shall be installed flush to the surface of the ground.

SECTION F: CARE OF LOTS

1. A portion of the price of interment rights is trusted into the Care and Maintenance Fund as required by the Act. The income generated from this fund is used to maintain, secure and preserve the cemetery grounds. Services that can be provided through this fund include:
 - a. Re-levelling and sodding or seeding of Lots
 - b. Maintenance of cemetery roads, sewers and water systems
 - c. Maintenance of perimeter walls and fences
 - d. Maintenance of cemetery landscaping
 - e. Maintenance of any columbarium
 - f. Repairs and general upkeep of cemetery maintenance buildings and equipment
2. In order to preserve the appearance of the cemetery grounds, any trees, tree limbs, shrubs, artificial wreaths and flowers may be removed or pruned by the cemetery operator. Grading, seeding, sodding, top dressing, fertilizing and watering of lots where feasible shall be done by the cemetery operator.
3. All funeral flowers, containers and other equipment shall be removed from the grave site within seven (7) days after the interment. If they are not removed within this time period, they will be considered abandoned and may be disposed of by the cemetery operator.

SECTION G: RULES AND REGULATIONS

1. The cemetery operator reserves the right to regulate the articles placed on lots or plots that pose a threat to:
 - a. the safety of all interment rights holders
 - b. visitors to the cemetery and cemetery employees,

- c. prevent the cemetery from performing general cemetery operations,
 - d. or are not in keeping with the respect and dignity of the cemetery.
- 2. Prohibited articles will be removed and disposed of without notification.
- 3. Fences, curbs, benches, steps, glass, structures of wood or equally perishable material, stone chips, flowerbed borders, candles and candle holders, mulch, paving stones or interlocking brick are prohibited.
- 4. No person other than the cemetery operator shall remove any sod or in any other way change the surface of the burial lot in the cemetery.
- 5. No person shall plant trees or shrubs in the cemetery.
- 6. No flowers, shrubs, plants or any attachments shall be permitted on the niche wall or cremation plots.
- 7. The use of hanging baskets, vases, urns, flower beds and flower stands are prohibited.
- 8. Only one approved artificial arrangement which either shall be a saddle arrangement which is fastened to the top of the upright monument or an artificial arrangement which is securely fastened to a three (3) pronged, free-standing wire stand of a maximum height of 91 cm (36") is permitted on a family plot. Arrangements blown to the ground will be disposed of by the cemetery operator.
- 9. A maximum of two solar lights are permitted on a lot where there is a monument. The distance between the solar lights shall not exceed the length of the monument granite base and shall be placed against the concrete granite base or mounted on the monument granite base. The height solar light shall not exceed .6 m (24") measured from the ground. All hanging solar lights are prohibited.
- 10. No person shall deposit any debris, decayed flowers, plants, hedge clippings or weeds that are generated from the maintenance of flowerbeds and shrubs, on roads, walks or any part of the cemetery grounds.
- 11. The cemetery operator may remove flowers, shrubs, or any plant material that interferes with the opening and closing of a lot for an interment.
- 12. No pleasure ATV's (All Terrain Vehicles), unlicensed motorcycles or snowmobiles are allowed in the cemetery grounds.
- 13. All visitors should conduct themselves in a quiet manner that shall not disturb any service being held.
- 14. No picnics shall be permitted in the cemetery grounds.
- 15. Dogs on leashes are permitted in the cemetery. We ask that all owners respect the sanctity of the cemetery grounds and pick up after their pets.
- 16. No child under the age of sixteen years of age shall be permitted in the cemetery grounds, except under control of an adult.
- 17. Drivers of vehicles within the Cemeteries shall respect all plots and shall be held responsible for any damage done by said vehicles.
- 18. No person may damage, destroy, remove or deface any property within the cemetery.
- 19. Any person who damages any lot, plot, marker, columbarium or any other structure in the cemeteries shall be held personally responsible.

SECTION H: RULES FOR WORKERS, MONUMENT DEALERS AND CONTRACTORS

1. All contractors performing work in a cemetery are required to produce on an annual basis evidence of public liability and property damage insurance in amount not less than five million dollars (\$5,000,000.00).
2. All contractors performing work in a cemetery shall be required to produce on an annual basis evidence of good standing with the Workplace Safety and Insurance Board (WSIB) if applicable.
3. All contractors and workers in any capacity within the cemetery including masons, carters, stonecutters, erectors or helpers are subject to the direction and control of the cemetery operator and are further governed by the Occupational Health and Safety Act and Regulations with respect to proper safety wear.
4. All persons performing work in the cemetery shall conduct themselves in a manner in keeping with the dignity of the cemetery and shall respect any restrictions which may be required by the cemetery operator in the performance of their work.
5. Contractors, monument dealers and suppliers shall not enter the cemetery in the evening, on weekends or statutory holidays, unless approval has been granted by the cemetery operator.
6. Contractors shall temporarily cease all operations if they are working within 100 metres of a funeral until the conclusion of the service. The cemetery operator 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.
7. 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.
8. Heavy loads shall not be permitted in the cemetery when the roads are in unfit condition.

SECTION I: COLUMBARIUMS

1. Payment of applicable fees as outlined in Schedule "H", as amended must be made to the cemetery operator before an interment may take place.
2. Only the cemetery operator may open and seal niches for interments. This applies to the inside sealer and the niche front.
3. Niche covers serve as a memorial marker. Engraving of niche covers shall be scheduled through the cemetery operator. No other service provider shall be permitted to engrave covers other than the one appointed by the cemetery operator. The cost of engraving will be as quoted by the cemetery operator's service provider. Logos, artwork, and designs shall not be permitted however a photo of the deceased is allowed on the niche cover. In order to provide a neat and conformed appearance, the same font and border will be used consistently for all engravings on niche covers.
4. There should be no attachments, or placements of decorations on the columbarium, inside or outside units.
5. There will be a maximum of 2 (two) urn placements only, in a columbarium niche.

SECTION J: MORTUARY REGULATIONS

1. Permits for the use of the storage vault must be obtained from the cemetery operator.

2. The use of the storage vault shall be billed at the rates shown on Schedule “H”, as amended.
3. The cemetery operator may remove a body deposited in the vault and inter it in a single grave at any time after the expiration of the time for which payment has been made, or at any time should the condition of the body render its interment necessary or expedient.
4. All bodies must be removed from the vault by the first of June in each year.
5. The bodies of persons who died from contagious diseases cannot be stored in the vault but must be interred.
6. The cemetery operator reserves the right to determine if the weather conditions are adverse enough to prevent a burial. If it be necessary, the vault may be used at no extra charge until the weather conditions permit the interment.
7. All bodies stored in the vault must be embalmed.

SECTION K: CONTRACTS, CERTIFICATES OF INTERMENT AND FORMS

1. The Contract for the purchase of Interment Rights is attached as Schedule “A” to this By-law.
2. The form of Certificate of Interment Rights is attached as Schedule “B” to this By-law.
3. The application for Transfer of Ownership is attached as Schedule “C” to this By-law.
4. The form for Marker Permit is attached as Schedule “D” to this By-law.
5. The form for Letter of Permission is attached as Schedule “E” to this By-law.
6. The form for Mortuary Storage Permit is attached as Schedule “F” to this By-law.
7. Active cemeteries under the jurisdiction of the Corporation of the Township of Sables-Spanish Rivers are listed in Schedule “G” to this By-law.

SECTION L: PRICE LIST

Subject to the *Funeral, Burial and Cremation Services Act, 2002*, as amended, and the regulations made thereunder, the attached Schedule “H” is the price list of fees and charges to be paid by persons purchasing lots in the said cemeteries or requiring services to be performed therein. Such price list may be amended by by-law of the Council as it, from time to time, deems necessary.

SECTION M: PENALTIES

Every person who contravenes any of the provisions of this By-law is guilty of an offence, and upon conviction is liable to a fine of not more than Five Thousand Dollars (\$5,000.00) as provided for in the *Provincial Offences Act, R.S.O. 1990, c.P.33*, as amended.

SECTION N: VALIDITY


If a section of this By-law is, for any reason, held by a Court of law or other Administrative Tribunal to be invalid, the remaining sections shall remain in effect until repealed.

SECTION O: EFFECTIVE DATE

THAT this by-law shall come into force upon approval by the Registrar, Cemeteries Regulation Unit, Ministry of Consumer Services, Pursuant to the Funeral, Burial and Cremation Services Act, 2002, if required.


THAT this shall repeal Bylaw 2020-25.


Read a first and second time this 26th day of January, 2022


Deputy Mayor G. MASSICOTTE
FOR Mayor L. GAMBLE


Clerk K. SLOSS

Read a third and final time and passed in open Council this 26th day of January, 2022


Deputy Mayor G. MASSICOTTE
FOR Mayor L. GAMBLE


Clerk K. SLOSS