

# VILLAGE OF MIDWAY

## BYLAW NO. 531

### A Bylaw to regulate the operation and maintenance of cemeteries

**WHEREAS** according to the *Cremation, Interment and Funeral Services Act* every operator must make or adopt bylaws respecting the administration and operation of cemeteries;

**NOW THERE** the Council of the Village of Midway in open meeting assembled, enacts as follows:

#### **SECTION 1 - INTERPRETATION**

- 1.1 This Bylaw may be cited for all purposes as the 'Cemetery Operation and Administration Bylaw No. 531, 2021.
- 1.2 Village of Midway Bylaw No. 405 and all amendments thereto are hereby repealed.
- 1.3 In this bylaw unless the context otherwise requires, the singular shall include the plural and the masculine includes the feminine gender.
- 1.4 The headings contained in this bylaw are for convenience only and are not to be construed as defining, or in any way limiting, the scope of the intent of the provisions of this bylaw.
- 1.5 If any portion of this bylaw is for any reason held to be invalid by any court of competent jurisdiction, the invalid portion shall be severed, and the severance shall not affect the validity of the remainder.
- 1.6 In this Bylaw, unless the context otherwise requires:
  - "ADMINISTRATION FEE" means a fee to be charged for any change to be made upon the permanent cemetery records of the Village of Midway;
  - "BOARD OF CEMETERY TRUSTEES" means the Council of the Village of Midway;
  - "CAO" means the Chief Administrative Officer of the Village of Midway;
  - "CARETAKER" means the person or persons duly appointed or employed by the Village as the Public Works Foreman or such other Village employee or employees as he designates;
  - "CARE FUND" means a fund established for the upkeep and repair of cemeteries and the grave spaces and memorials therein;
  - "CEMETERY" means and includes all parcels or tracts of land owned, used or maintained by the Village as cemeteries either within or outside the municipality;
  - "CORONERS ACT" means Chapter 15 of the Revised Statutes of British Columbia, 2007, as amended from time to time;

"COUNCIL" means the Council of the Village of Midway;

"CREMATION, INTERMENT AND FUNERAL SERVICES ACT" administered by the consumer protection authority, as amended or repealed from time to time and all regulations made thereunder.

"CREMATION LINER" means a receptacle made of durable material to encase an urn, or urns, holding cremated remains. A Cremation Liner has a lid and is placed during the Interment process. Liner cannot be made of wood or cardboard;

"CREMATED REMAINS or CREMAINS" means the ashes resulting from cremation of human remains;

"DISINTERMENT" means the removal of human remains or cremated remains from a lot in which the remains are interred and the container or any of the remaining container holding the remains for the purpose of permanent relocation;

"EXHUMATION" means the exposure and removal of interred Human Remains for the purposes of viewing or examination; "Exhumation" means the exposure and removal of interred Human Remains for the purposes of viewing or examination;

"FAMILY MEMBER" means a parent or stepparent, a grandparent or step grandparent, a sibling (natural, adopted or step), a spouse, a child (natural, adopted or step) or a grandchild (natural, adopted or step);

"GRAVE LINER" means a receptacle, constructed of a durable material, that may or may not have a bottom, into which a burial container holding human remains or an urn holding cremated remains is placed to provide reinforcement of a lot as part of an interment; Liners cannot be made of wood or cardboard;

"HEALTH ACT" means Chapter 179 of the Revised Statutes of British Columbia, 1996, as amended from time to time;

"HUMAN REMAINS" means a dead human body in any stage of decomposition; a stillborn infant; but does not include cremated remains;

"INFECTIOUS DISEASE" means those defined in the Regulations made pursuant to the *Public Health Act*;

"INTERMENT" means disposition by burial of human remains or cremated remains in a cemetery;

"LOT" or "PLOT" means a space that is

(a) in a place of interment, and

(b) used or intended to be used for the interment of human remains or cremated remains under a right of interment

and includes a grave, crypt, niche or plot;

"MARKERS" means all memorial work set on a plot or plots to memorialize any individual or family member(s);

"MEDICAL HEALTH OFFICER" means the person duly appointed from time to time by the Province of British Columbia to act a Medical Health Officer for the Village;

"MEMORIAL" means a marker, headstone, tombstone, monument, plaque, tablet or plate on a grave or plot;

"MINISTER" means that member of the Executive charged by Order of the Lieutenant Governor-in-Council with the administration of the *Cremation, Interment and Funeral Service Act*, and includes a person designated in writing by the Minister;

"OPERATOR" means the Village of Midway;

"NON-RESIDENT" means a person who has not resided or maintained a residence or owned property within the Municipality for three months prior to the issuance of a contract in the form of Schedule A attached to and forming part of this bylaw, provided, however, that this definition shall not be applicable to families of long standing within the Municipality

"RESIDENT" means:

- a) A person who at the time of death, resided within the Corporate limits of the Village of Midway;
- b) A property owner in the Village of Midway;
- c) A person who had previously qualified as a resident under (a) or (b) but has left the Village under circumstances of old age or illness.

"TREASURER" means the person duly appointed as such by the Municipal Council;

"VEHICLE" means all vehicles as defined in the "Motor Vehicle Act", being Chapter 318 of the Revised Statutes of British Columbia, 1996, and shall also include motorcycles, bicycles, snowmobiles and all terrain vehicles;

"VILLAGE" means the Village of Midway;

"VITAL STATISTICS ACT" means Chapter 479 of the Revised Statutes of British Columbia, 1996 as amended from time to time.

## **SECTION 2 – CEMETERY**

- 2.1 The following lands owned or maintained by the Village have been set aside and use for cemetery purposes:

That part of District Lot 2228, lying to the South of Block B, District Lot 3145S shown on Plan CG 150 Similkameen Division of Yale District; and outlined in black on the maps attached as Schedule 'A'.

- 2.2 The Cemetery shall be set apart and used as a place of burial of Human Remains or Cremated Remains and for purposes incidental and ancillary thereto, and for no other purpose whatsoever.
- 2.3 A copy of the plans of the Cemetery shall be filed with the Minister and copies shall also be kept available for public inspection in the Municipal Office and at such other places as may be deemed necessary.

- 2.4 Council is hereby delegates as the Board of Cemetery Trustees to operate the Cemetery under this bylaw, with all such power and authority as is necessary to permit such operations.
- 2.5 The Village reserves the right to reconfigure or change the boundaries or grading of the Cemetery or change the locations of, or remove or re-grade any roads, driveways, walkways or landscaping or other Cemetery lands or improvements.

### **SECTION 3 – LICENSE TO USE THE CEMETERY**

- 3.1 The Village may sell to any person, or his authorized agent, according to the fees as set out in Schedule 'B', a vacant grave space or spaces for the exclusive use by him or his executors or administrators, and upon payment of the said fees shall be granted a license in a form as provided by the Village.
  - a. Where an "Application to Reserve/Transfer A Cemetery Plot – Schedule C" has been completed, in order to reserve a grave space for future use, the person purchasing the grave space must advise the full legal name(s) of the person(s) who will be interred in that space or spaces;
  - b. The license holder must provide a true statement on the "Interment Permit – Schedule E", as far as practical, of the name; age; sex; whether or not death was caused by an infectious disease; name of the attending physician, if any; and such other information as may be reasonably required;
  - c. If ashes are to be placed in a plot, which already contains ashes or remains, the applicant must provide a declaration, in the form of 'Lawful Declaration Authority' -"Schedule D", declaring that he is the holder of the license for said plot or that he is the Executor or Administrator of the Holder of the License, in accordance with Sections 5 and 8(3)(b)(i) of the *Cremation, Interment and Funeral Services Act*;
  - d. In respect of an unused (reserved) plot or cancellation, the purchaser has a right of a 50% refund upon written application stating the reason the plot is no longer required;
- 3.2 The Village reserves the right to refuse to sell the use of more than two grave spaces to any one individual.
- 3.3 A holder of a grave space or spaces may sell or transfer a reserved grave space to another individual by first notifying the Village, in writing, giving the full particulars of the name, address or other description of the person to whom the transfer is desired. Upon completion of an 'Application to Reserve/Transfer a Cemetery Plot – Schedule C application by the new Licensee, the receipt of the transfer fee and upon compliance with the requirements of this Bylaw, the Village shall record the desired transfer.
- 3.4 All licenses issued for use of grave spaces in the cemetery shall be subject to the provisions of this Bylaw and all bylaws now or hereafter to be passed by Council and shall be subject to the *Cremation, Interment and Funeral Services Act*, and amendments thereto.
- 3.5 If a grave space previously sold has not been used and
  - a. the lot holder with the right of interment, if living, would be at least 90 years of age,
  - b. a period of at least 50 years has elapsed from the date the space was sold, and

- c. the operator has been unable to locate the space holder after having given notice by mailing or delivering the notice to the last known mailing address provided to the operator the operator may apply to the registrar for permission to reclaim the grave space and to sell it to another person.
- 3.6 The license issued for the sale of a grave space (Application to Reserve/Transfer a Cemetery Plot "Schedule C") must contain a statement setting out the provisions of Section 3.5.

**SECTION 4 – FEES AND CHARGES**

- 4.1 The fees for interment, disinterment, use of grave space and care of graves, and any other cemetery fees shall be those set out in Schedule 'B'.

**SECTION 5 – INTERMENT & EXHUMATION, DISINTERMENT AND REMOVAL OF HUMAN REMAINS**

- 5.1 A person must not dispose of human remains at any place in British Columbia other than
- a. in a cemetery or mausoleum
  - b. by cremation, or
  - c. as prescribed.
- 5.2 A person must not inter human remains unless they are accompanied by a **burial permit or cremation certificate** issued by a vital statistics registrar under the *Vital Statistics Act*.
- 5.3 No body other than a deceased human body shall be interred in the cemetery and no interment of a body shall be made until a **license to inter** the body has been obtained from the Village.
- 5.4 No interment will be permitted **after the hour of 2:00** pm Monday to Friday or on Saturday or Sunday or Statutory Holidays unless an additional fee, as set out in Schedule 'B' of this Bylaw is paid.
- 5.5 An Interment Permit, in a form as provided by the Village, must be obtained **at least 48 hours before** any interment can take place except in the case of a person dying of an infectious disease.
- 5.6 The body of any person who dies having an **infectious disease** shall be interred in accordance with the instructions furnished to the Village by the Medical Health Officer according to the *Health Act*.
- 5.7 The **number of permitted interments** is as follows:
- |                                      |   |
|--------------------------------------|---|
| Single Cremation Plots:<br>3' x 2 ½' | One interment only;   |
| Adult size Plots:<br>4' x 12'        | One full burial with two cremated remain, or two cremation only |
- 5.8 No grave shall be dug or opened or closed by any person other than those persons duly authorized by the Village.
- a. graves will be opened no later than two hours prior to the funeral;
  - b. graves will be closed on the same day of the funeral, as soon as possible after the grave side service is complete;

- c. the Funeral Director, or other responsible adult, must remain at the site until the operator returns to close the grave.
  - d. existing graves, sealed over with a concrete pad/slab, will remain undisturbed-additional remains are prohibited from being placed in such a grave.
  - e. No new cement pads shall be poured over the top of any grave space.
- 5.9 No vaults or other methods of interment above ground level shall be permitted in the cemetery.
- 5.10 Each interment in the cemetery, other than the interment of cremated remains, shall be made in a grave dug to provide not less than three feet of earth between the top surface of the ground and the top surface of the vault or grave liner enclosing the coffin or casket. No human remains shall be interred in the cemetery except in compliance with and subject to the provisions of this bylaw. A grave liner is required for all full-sized burials and a grave liner is required for all cremation burials.
- 5.11 Each Cremain shall be interred into a plot providing not less than 6 inches between the upper surface of the liner and the upper surface of the surrounding ground.
- 5.12 No person may exhume, disinter or otherwise remove Human Remains or Cremated Remains from the place they are interred in the Cemetery without first:
- (a) obtaining all orders, approvals or consents required under the Cremation, Interment and Funeral Services Act and all other applicable statutes and regulations governing such Exhumation, Disinterment or removal;
  - (b) presenting such orders, approval or consents to the Cemetery Administrator for examination; and
  - (c) paying the applicable charges prescribed in Schedule "B" of this bylaw.
- 5.13 Application for Disinterment or Exhumation shall be made and received by the Cemetery Administrator at least four (4) weeks prior to the Disinterment or Exhumation.
- 5.14 Every such Exhumation, Disinterment or removal of Human Remains shall be strictly subject to and in accordance with the restrictions and requirements of the Cremation, Interment and Funeral Services Act and regulations and all other applicable legislation.

## **SECTION 6 – CEMETERY CARETAKER**

- 6.1 A cemetery caretaker shall be responsible for the following:
- a. to dig and prepare, or cause to be dug and prepared, all plots required to be dug;
  - b. to install, or arrange for the installation of, all memorial tablets;
  - c. to carry out, or cause to be carried out, the general work of the cemetery to maintain it in a neat and tidy condition, including the maintenance of paths, gates, fences and other cemetery improvements; and,
  - d. to maintain records as required

## **SECTION 7 – ADMINISTRATION AND PERPETUAL CARE FUND**

- 7.1 The Village shall maintain records as necessary to the administration and management of the cemetery and as required by the Regulations under the *Cremation, Interment and Funeral Services Act*.

- 7.2 A fund shall be established to be known as the 'Cemetery Care Fund' and such funds shall be administered in accordance with the requirements of the Regulations made under the *Cremation, Interment and Funeral Services Act* for the establishment and administration of the Perpetual Care fund and with the procedures hereinafter set out.
- a. an account shall be established to be known as the 'Cemetery Care Fund Account' into which the Treasurer shall pay all funds received for Care Fund purposes.
  - b. on all licenses for the use of grave space sold, the Treasurer shall pay into the 'Cemetery Care Fund Account' from the amount received for each license sold the fee specified in Schedule 'B'.
  - c. on all licenses for the use of grave space, and all contracts or agreements for the sale of such licenses, the amount required to be used for Care Fund purposes shall be specified, provided that the amount so specified shall not apply to grave space made available by the Village free of charge for indigent burial.
  - d. any owner of a memorial marker or tablet desiring to install same in the cemetery shall make application in the form of "Schedule F" and shall pay to the Village, prior to the installation of such memorial, a fee as per Schedule 'B' as a contribution to the Cemetery Care Fund and such amounts when received shall be paid by the Treasurer into the Cemetery Care Fund.
  - e. investment of funds received for Care Fund purposes shall be made as required by the Regulations under the *Cremation, Interment and Funeral Services Act*.
  - f. the income from the Cemetery Care Fund including any appreciation shall be used for the sole purpose of upkeep and maintenance of the property licensed and the cemeteries of which it forms part.
  - g. the original principal sum of the Cemetery Care Fund shall not be reduced otherwise than in accordance with an order of the Registrar appointed under the *Cremation, Interment and Funeral Services Act* to the Regulations under the *Cremation, Interment and Funeral Services Act*.
  - h. a separate account of all monies received under the provisions of this Bylaw and all monies expended hereunder shall be kept by the Treasurer.

## **SECTION 8 – MEMORIALS**

- 8.1 No memorial marker or tablet shall be placed on any grave space in the cemetery until an Application to Install Memorial – Schedule "F" has been processed and an amount as noted in Schedule 'B' has been paid to the Village for Care Fund purposes in respect to each memorial which it is desired to install.
- 8.2 No memorial marker or tablet shall be placed on an empty grave, unless in an area designated solely for this purpose.
- 8.3 A memorial shall not be installed on a grave in the cemetery which is not of the tablet variety, made of granite or bronze, and which does not conform to the following size specifications including borders:
- a) Standard plots will be allowed a maximum marker area of 50cm x 102 cm (20" x 40") for the placement of markers.
  - b) Double width headstone will be permitted where two family members are buried side by side.
  - c) Single cremation plots will be allowed a minimum of 20cm x 30cm (8" x 12") and maximum marker area of 30 cm x 60 cm (12" x 24") for the placement of markers.
- 8.4 Flat Markers  
A flat marker may be installed on any plot in the Cemetery provided it is made of granite or bronze and conforms to the following:

- a) Each granite flat marker shall be not less than 7.5 centimeters (3 inches) thick and shall have its side surfaces true and perpendicular with the top surface.
- b) Each bronze flat marker shall be attached, prior to installation, to a concrete base not less than 7.5 centimeters (3 inches) thick and shall have its side surfaces true and perpendicular with the top surface of the tablet.
- c) A bronze flat marker intended for installation on a plot may be smaller than its concrete base provided the concrete base conforms to the size for the plot as required in Section 8.3 above, and the part of the base extending beyond the marker does not exceed 5 centimeters (2 inches wide and has a smooth, slightly beveled surface to shed water at its outer edges.

8.5 Memorial markers will be installed on graves by the caretaker subject to the rates shown in the Village of Midway Application to install Memorial Marker Schedule "F" and the following specifications:

- a. memorials of granite or bronze will be installed on plots by the caretaker so as not to project above the natural contour of the ground;
- b. memorials shall be placed at the Village's convenience within a reasonable time after receipt.

8.5 No grave space in the cemetery shall be defined by a fence, hedge or railing and no memorial other than the type specified in Section 8.3 shall be installed on a grave in the cemetery.

## **SECTION 9 GENERAL PROVISION**

- 9.1 Cut flowers, wreaths and floral offerings may be placed on plots but may be removed by the caretaker when their condition is considered to be detrimental to the cemetery. Artificial flowers will be permitted to be placed during the winter until the first grounds maintenance is carried out in the spring.
- 9.2 No person shall plant, remove, cut down or destroy, any trees, shrubs, plants, flowers, bulbs or rocks in the cemetery other than an employee of the Village authorized to do so.
- 9.3 No persons shall damage or deface any memorial, fence, gate or structure in the cemetery or any improvements in the cemetery.
- 9.4 No person, other than the Operator, shall enter the cemetery in a vehicle - unless to facilitate an interment.
- 9.5 No person shall solicit orders for markers, tablets, memorials, or like works within the limits of the cemetery.
- 9.6 All persons and funeral processions in the cemetery shall follow instructions of the caretaker.
- 9.7 Boxes, shells, toys, wire screens, arbors, trellises, decorations or any other objects are prohibited on any plots or on any land or fence that comprises the cemetery. Containers for flowers are subject to approval of the caretaker and shall be installed by employees of the Village.
- 9.8 No plot shall be decorated with any trees, shrubs or plants.



- 9.9 The discharge of firearms, other than at a military funeral, is prohibited in the cemetery.
- 10. Notwithstanding anything herein contained, the administration of the cemetery shall be carried out at all times in accordance with the *Cremation, Interment and Funeral Services Act* and Regulations made hereunder.
- 11. An operator is not liable if the operator removes or inadvertently breaks or damages any goods that are left in or on any part of a cemetery if the placement of the goods there by a person is a contravention of the Bylaws.
- 12. An operator may remove any object in or on the place of interment if, in the operator's opinion, the object
  - a. has been placed there in contravention of the bylaws respecting the place of interment,
  - b. is dangerous,
  - c. impedes the care or maintenance of the place of interment, or
  - d. is unsightly.
- 13. An operator of a place of interment is not liable for damage to any object that is removed under Section 9 (12).
- 14. Before acting under Section 9 (12), the operator must give notice to a next of kin of the deceased or other person of record and allow that person reasonable time to correct the problem.
- 15. No person shall enter or remain in any part of the cemetery outside of the period from dawn to dusk.

**SECTION 10 – OFFENCES:**

- 10.1 Every person who violates any of the provisions of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects to do, or refrains from doing anything required to be done by any of the provisions of this Bylaw commits an offence and is liable upon conviction to a penalty not less than \$50 and not more than \$2000.00, together with the cost of prosecution.

**SECTION 11 - SCHEDULES**

- 11.1 Schedules 'A', and 'B' attached hereto form part of this bylaw and are enforceable in the same manner as this bylaw.

**SECTION 12 - ADOPTION**

- 12.1 This Bylaw shall come into full force and effect upon final adoption.

READ A FIRST TIME THIS	7th	DAY OF	June	, 2021.
READ A SECOND TIME THIS	7th	DAY OF	June	, 2021.
READ A THIRD TIME THIS	7th	DAY OF	June	, 2021.
ADOPTED THIS	21st	DAY OF	June	, 2021.

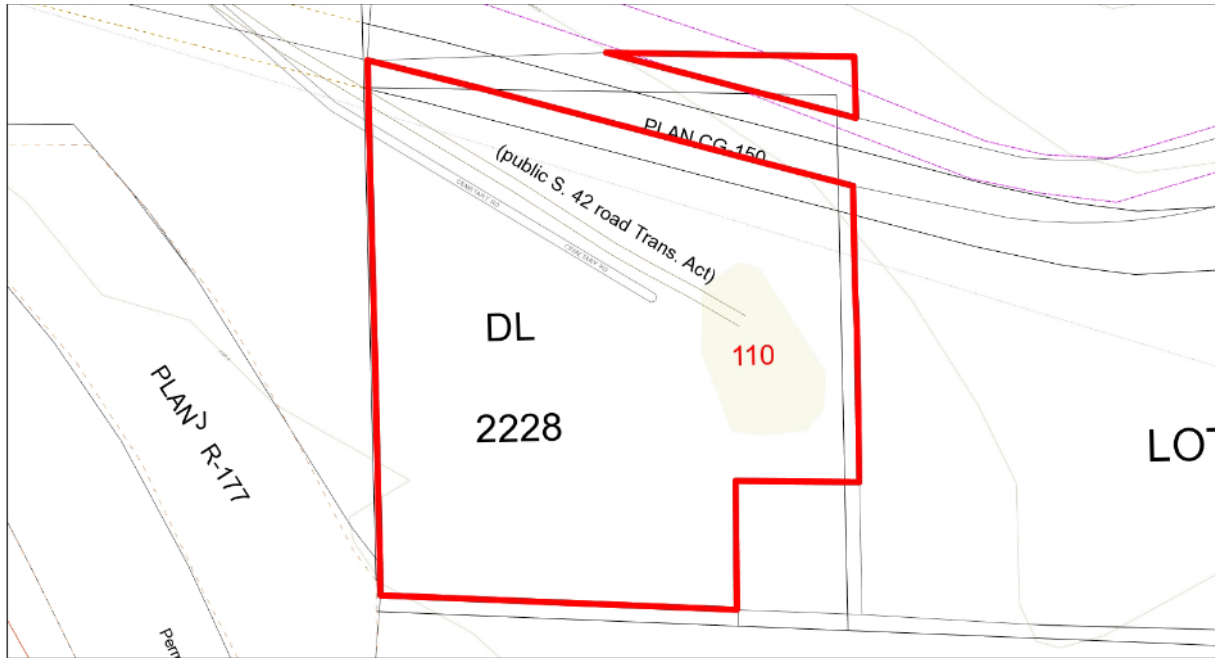
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MAYOR

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Chief Administrative Officer

SCHEDULE A TO VILLAGE OF MIDWAY  
 BYLAW NO. 531  
 A BYLAW TO REGULATE THE OPERATION AND  
 MAINTENANCE OF CEMETERIES



Scale 1: 2,257

**Legal Informations**

<b>Plan:</b>	<b>Section:</b>	<b>Jurs:</b> 547	<b>Lot Area:</b> 7.44
<b>Block:</b>	<b>Township:</b>	<b>Roll:</b> 391000	<b>Area Unit:</b> acr
<b>Lot:</b>	<b>Land District:</b> 54	<b>PID:</b> 015092348	<b>Width (ft):</b>
<b>District Lot:</b> 2228	<b>Electoral Area:</b> Village of Midway		<b>Depth (ft):</b>
<b>Street:</b> 110 CEMETERY RD			
<b>Description:</b> District Lot 2228, Similkameen Div of Yale Land District, PT LYING TO S OF BLK B DL 3145S SHOWN ON PL CG150			

**Owner Information:**

MIDWAY (VILLAGE)	PO BOX 160
	MIDWAY BC V0H 1M0
	V0H1M0

## CEMETERY FEES

Village of Midway – Bylaw No. 531, 2021, SCHEDULE B

PO Box 160, 661 Eighth Avenue, Midway, BC, V0H 1M0

Phone: 250 449-2222 Fax: 250 449-2258

		<b>GST</b>	<b>CARE FUND</b>	<b>TOTAL</b>
<b>GRAVE SPACE- RESIDENT</b>				
Adult -Standard 4' x 12'	\$400.00	\$20.00	\$100.00	\$520.00
Cremation – 3' x 2.5'	\$150.00	\$7.50	\$ 37.50	\$195.00
Grave Liner	\$350.00	\$17.50		\$367.50
Cremation Liner (vault)	\$100.00	\$ 5.00		\$105.00
<b>Note: Grave liners and cremation liners are mandatory. Prices are subject to change.</b>				
<b>GRAVE SPACE – NON RESIDENT</b>				
Adult – Standard 4' x 12'	\$1500.00	\$75.00	\$375.00	\$1,950.00
Cremation – 3' x 2.5'	\$500.00	\$25.00	\$125.00	\$ 650.00
Grave Liner	\$350.00	\$17.50		\$367.50
Cremation Liner (vault)	\$100.00	\$5.00		\$105.00
<b>Note: Grave liners and cremation liners are mandatory. Prices are subject to change.</b>				
<b>GRAVE PREPARATION</b>				
Adult - Full	\$600.00	\$30.00	0.00	\$630.00
Cremation	\$200.00	\$10.00	0.00	\$210.00
<b>DISINTERMENT/EXHUMATION</b>				
Disinterment/Exhumation from plot	\$800.00	\$40.00		\$840.00
Infant/Child Disinterment/Exhumation from plot	\$800.00	\$40.00		\$840.00
Cremated remains Disinterment/Exhumation from plot	\$200.00	\$10.00		\$210.00
<b>OTHER CHARGES – Additional</b>				
Full Burials after 2 pm weekdays	\$250.00	\$12.50		\$262.50
Cremation after 2 pm weekdays	\$150.00	\$7.50		\$157.50
Burials on weekends/holidays	\$400.00	\$20.00		\$420.00
Transfer Fee	\$75.00	\$3.75		\$ 78.75
<b>INSTALLATION OF MEMORIAL</b>				
Removal and Resetting fee	\$ 75.00	\$ 3.75	\$20.00	\$ 78.75

\*\*\*Grave liners are required for all full-sized and cremation burials. Liners are available through the Village of Midway