

## **TOWN OF WAINWRIGHT BYLAW 2009-04**

A BYLAW OF THE TOWN OF WAINWRIGHT IN THE PROVINCE OF ALBERTA TO PROVIDE FOR THE CONTROL AND REGULATION OF THE WAINWRIGHT CEMETERY.

WHEREAS the Town of Wainwright operates a cemetery on part of the S.E. ¼ 29-44-6-W4;

NOW THEREFORE, the Council of the Town of Wainwright in the Province of Alberta, duly assembled under the authority and pursuant to the Municipal Government Act, Chapter M-26 S.A. 2000, does hereby enact:

### **PART 1 – TITLE AND DEFINITIONS**

1. This bylaw may be called the “Cemetery Bylaw”.
2. For the purpose of this bylaw;

“Association” means the Wainwright Cemetery Association consisting of five (5) members. One appointed by the Town of Wainwright, one appointed by the Worthington Branch #29 Royal Canadian Legion, one representative of the funeral directors and two members at large appointed by the other three members;

“Burial” means the interment of human remains or cremated human remains in a grave;

“Caretaker” means the person placed in charge of the cemetery by the Town;

“Cemetery” means the Wainwright Cemetery;

“Chair” means the Chair of the Wainwright Cemetery Association;

“Chief Administrative Officer” means the Chief Administrative Officer for the Town of Wainwright;

“Columbarium” means a structure containing a number of niches designed for storing the ashes of dead human bodies or other human remains;

“Council” means the Council of the Town of Wainwright;

“Department” means the Parks and Recreation Department of the Town of Wainwright who are responsible for maintenance and supervision of the cemetery;

“Foundation” means any structure for the purpose of supporting or providing a base for a monument;

“Grave” means a lot used as a place of burial;

“Infant Lot “ means a plot for the burial of a person under the age of one (1) year;

“Interment” means the excavation of a grave to the required depth and size, the placing (but not the provision) of a concrete liner, the backfilling of the grave and the removal of any excess earth;

“Liner” means a burial receptacle placed in the ground in a cemetery, either sectional, dome or box form designed and built to support the weight of the

earth and standard cemetery maintenance equipment and to prevent the grave from collapsing;

“Lot” means a subdivision of land or a niche in a columbarium for the purpose of interment in the cemetery as shown on the cemetery map at the Town Office;

“Marker” means a headstone, used for the purpose of identifying an interment, that is flush with the ground;

“Monument” means any upright structure in the cemetery erected or constructed on any lot for memorial purposes and placed on a monument foundation;

“Niche” means a compartment contained within a columbarium;

“Perpetual Care” means the maintenance in perpetuity and in a proper manner of lots, plots, columbariums or other space in the cemetery;

“Plot” means a grave for the placement of dead human bodies or other human remains or the ashes of dead human bodies or other human remains that have been cremated;

“Town” means the Town of Wainwright.

## **PART 2 – WAINWRIGHT CEMETERY ASSOCIATION**

3. The Wainwright Cemetery Association is a registered charitable association, which receives donations and gifts and acts as an advisory body to Council as to the condition and maintenance of the cemetery.
4. The Association may plan and make capital improvements to the cemetery with the approval from Council.

## **PART 3 – ADMINISTRATION**

5. The Chief Administrative Officer shall be responsible for the sale of plots and niches, and keeping of all records required by law of all plots, niches, burials and disinterments.

## **PART 4 – SALE OR TRANSFER OF PLOTS**

6. Plots and/or niches may be obtained from the Town upon payment of the appropriate fee as set out in the Cemetery Fee Structure Policy as adopted by Council.
7. No person shall make a reservation for one or more plots and/or niches without making payment of the appropriate fee, as set out in the Cemetery Fee Structure Policy, as adopted by Council, in full at the time of making the reservation.
8. No plot shall be used for any purpose other than as a burial site for dead human bodies or other human remains or the ashes of dead human bodies or other human remains that have been cremated.
9. No niche shall be used for any purpose other than storing of ashes of dead human bodies or other human remains that have been cremated.
10. Any person purchasing a plot or niche shall not resell or transfer the same except to the Town, in which case the offer must be in writing. Upon the Town agreeing to repurchase the plot or niche, the Town shall refund the original purchase price.

11. Notwithstanding the provisions of Section 10, a plot or niche may be transferred between members of the same family providing the request is consented to in writing by the owner of the plot or niche and is provided to the Town.
12. No owner of a plot or niche shall be entitled to receive remuneration for any interment in the said plot or niche.
13. The Chief Administrative Officer shall be responsible for assigning a plot or niche.
14. Perpetual care includes only turf maintenance, noxious weed control and the picking up of rubbish.

## **PART 5 – INTERMENTS AND DISINTERMENTS**

15. Interments and disinterments shall be performed in accordance with this bylaw upon payment of the appropriate fee as set out in the Cemetery Fee Structure Policy as adopted by Council.
16. The burial permit issued by the proper officer of the Government of the Province of Alberta shall be supplied to the Chief Administrative Officer prior to interment.
17. All applications for burials shall be made at least 48 hours before the time for interment (Saturdays, Sundays and holidays excepted).
18. When an agent orders an interment by telephone, the Town accepts no responsibility for any error or misunderstanding that may arise there from.
19. Every agent obtaining a plot or niche shall be held responsible for the cost thereof and for all charges in connection therewith, including disinterment or removal of remains or ashes where applicable. Any person requesting an interment will be responsible for all charges in connection with such interment. Such person shall in addition, be held responsible for compliance with the regulations governing erection of monuments applicable to that part of the cemetery in which the interment is made.
20. No interment shall be made without written proof of ownership of the plot or niche.
21. With respect to non-cremated remains:
  - a) no more than two full interments will be allowed in a regular size plot 150 cm x 300 cm (5 feet x 10 feet);
  - b) a second interment in the same plot will not be allowed unless provision is made for the top of the second liner to be not less than 91 cm (3 feet) below the ground.
22. With respect to cremated remains:
  - a) no more than two cremated remains will be allowed in a regular size cremated remains plot 150 cm x 165 cm (5 feet x 5.5 feet);
  - b) no more than five cremated remains will be allowed in a regular size plot 150 cm x 300 cm (5 feet x 10 feet);
  - c) no more than two cremated remains will be allowed in one niche.
23. No plot for the burial of cremated human remains shall be less than 50 cm (20 inches) in depth from the surface of the ground surrounding the plot.

24. All burials are to be made within the confines of a regular size plot. There must be a minimum of 30 cm (1 foot) of earth between remains buried in adjoining plots.
25. No person(s) other than a Town employee(s) or person(s) designated by the Chief Administrative Officer shall open or close a plot or niche or make a disinterment in the cemetery.
26. Concrete burial liners are mandatory on all regular casket interments that are of an approved design according to the following specifications:
  - a) the grave liner will have a base and top designed for ease of handling and eliminates the need to enter the grave. The construction components shall be a minimum of 40 Mpa concrete reinforced with re-bar;
  - b) the grave liner must fit into a 90 cm x 240 cm (3 feet x 8 feet) cavity;
  - c) arrangements to purchase a grave liner shall be made with the funeral director that is administering the interment.
27. It is a condition of every person that purchases a plot(s) or niche(s) in the cemetery, that the person expressly waives any claim arising by reason of any error or mis-description of any burial plot. The Town undertakes that it will attempt, insofar as is reasonably possible, to avoid such errors but it's liability shall only extend to refund in the case of error, of any money paid to the Town for a plot(s) or niche(s) and it undertakes to make an equivalent quality of plot(s) or niche(s) available in lieu of those originally allocated.
28. Disinterments or removal of urn(s) from a niche will not be allowed unless permission is first obtained from the Chief Administrative Officer and if given, shall be in writing and signed. The agent will be responsible for all costs incurred in accordance with the Cemetery Fee Structure Policy as adopted by Council.
29. Notwithstanding Clause 28, disinterment of a body shall not take place until a permit for disinterment is issued by the Provincial Director for Vital Statistics and delivered to the Chief Administrative Officer.
30. When a plot becomes vacant as a result of disinterment, the land may revert to the Town at owner's option and the Town will in such case refund the original purchase price of the plot.
31. When a niche becomes vacant as a result of the removal of the urn(s), the niche may revert to the Town at owner's option, providing that no inscription has been placed on the said niche door and the Town will in such case refund the original purchase price of the niche.
32. The burial of destitute or indigent persons and unclaimed bodies shall be in such portion of the cemetery as indicated by the Chief Administrative Officer.
33. The infant sections of the cemetery are designated for the burial of deceased infants only and are the N.W.  $\frac{1}{2}$  of Block 26, Lots 57 to 70 and Lots 99 to 112 and N.W.  $\frac{1}{4}$  of Block 6, Lots 13 to 18.
34. The veteran sections of the cemetery are designated as Blocks 22, 25 and 33 and are for the burial of veterans and their spouses.
35. Cremated remains shall not be scattered on any property owned or under the control and management of the Town and located within the Town's corporate limits.

## **PART 6 – MONUMENTS AND MARKERS**

36. No monument or markers shall be installed, erected or placed in the cemetery without first obtaining a monument permit from the Chief Administrative Officer. A permit application containing a sketch of the proposed monument or marker outlining the height, size of base, foundation and inscription must be presented to the Chief Administrative Officer for approval.

The Chief Administrative Officer may request that a deposit be paid prior to carrying out the work. Upon satisfactory completion of the work to the Town the deposit shall be returned. The permit fee and deposit shall be as per the Cemetery Monument Permit Fee and Deposit Policy as adopted by Council.

37. No person shall erect upon any plot a monument or marker while charges in connection therewith are due and owing to the Town.

38. Only one monument is allowed on a regular size plot.

39. The installation of grave covers and plot corner markers are not permitted in the cemetery.

40. No article made in whole or in part of glass shall be allowed to be affixed to a monument, marker or placed on a plot.

41. All monuments and markers must be of granite, marble, bronze or other permanent materials.

42. No inscription shall be placed on any monument or marker, which in the opinion of the Chief Administrative Officer, is not in keeping with the dignity and decorum of the cemetery.

43. A maximum of two inscriptions is allowed on a columbarium niche door at the sole expense of the owner or agent. Before any inscription is made to the said door permission must first be obtained from the Chief Administrative Officer. Application for such permission shall be made in writing by the owner or agent of the niche, providing a description of the proposed work.

44. The foundation for a monument must:

- a. be at least 15 cm (6 inches) wider than the widest portion of the monument with a maximum width of 75 cm (30 inches),
- b. be of a sufficient depth to support the weight being imposed thereon, but must be a minimum of 15 cm (6 inches) of reinforced concrete on top of 15 cm (6 inches) of crushed gravel, and
- c. be placed at ground level.

45. Every owner of a monument or marker placed upon any plot shall maintain it in proper repair.

46. The Town will take all reasonable precautions to protect the property of the plot owners, it assumes no liability nor responsibility for loss of or damage to any monument, marker or part thereof, or any article of any type placed on a plot.

47. Any structure, monument, marker, plantings, etc. that are placed contrary to this bylaw will be removed by the Town and the person placing such will be responsible to reimburse the Town the full cost of such removal. In

addition, such person is subject to the fines as set out in the penalty section of this bylaw.

48. The caretaker shall from time to time report to the Department upon the condition of monuments and markers in disrepair. The Department will attempt to contact the owner or next-of-kin and request them to make the necessary repairs.
49. Whenever the owner or next-of-kin of a monument or marker neglects to make the required repairs after a notice has been sent to the last known address or published once a week for two consecutive weeks in a newspaper circulating within the area, the Town shall refer the matter to the Association for action.
50. The Association may take whatever action it feels is necessary to repair or remove a monument or marker in disrepair.

## **PART 7 – MAINTENANCE OF PLOTS AND CEMETERY**

51. The Chief Administrative Officer shall have sole control of all matters within the cemetery that are concerned with maintaining the grounds in a neat and pleasing condition and is hereby authorized to regulate and control the cemetery grounds in accordance with this bylaw.
52. No person shall throw rubbish upon the roads, walks or anywhere within the cemetery except in the receptacles provided for that purpose by the Town.
53. No person shall change the grade of any plot. The Town is authorized to restore a plot to its original grade at the expense of the owner.
54. No person shall place on any plot a chair, a wooden or wired trellis, a wooden or wired cross, or articles or containers of pottery, glass or cellophane, ironworks, metal or wooden boxes containing artificial wreaths or flowers or other memorial tributes.
55. No person shall place on any grass any flowers, wreaths, structures, or any article that restricts or hampers regular maintenance activities.
56. No person shall erect upon or around a plot any fence, railing, wall, stone coping, hedge or the like. Where any fence, railing, wall, stone coping, hedge or the like has been previously erected upon or around a plot, and has by reason of age or neglect become unsightly or objectionable, the Chief Administrative Officer may cause such to be removed. The cost of the removal and restoration may be charged against the person who erected it.
57. No person shall place on any columbarium flowers, wreaths, vases or any structure or memorial tribute. The caretaker is authorized to remove such unauthorized articles and dispose of them.
58. No shrubs, trees or flowers may be planted in any part of the cemetery other than those planted by the Town in the area designated for such planting.
59. The caretaker has the authority to have removed from any plot any weeds or grass, funeral designs or floral pieces that have become wilted or weathered, or any other articles or things, which in his/her opinion have become unsightly.
60. If any trees or shrubs situated on any plot shall by means of its roots, branches or otherwise become detrimental to the adjacent plots, walkways or roadways, the Chief Administrative Officer shall have the authority to

direct the removal of the said tree or shrub or such parts thereof that are detrimental.

61. Any person who wilfully destroys, mutilates, writes on, defaces, injures or removes any monument or marker, or any other structure or wilfully destroys, cuts, picks, breaks or injures any tree, shrub or plant in the cemetery, or plays any game or sport, or discharges or carries a firearm except firearms at a military funeral, or who wilfully disturbs persons assembled for a funeral, shall be subject to the penalties of this bylaw.
62. No person shall drive a vehicle in the cemetery except at a moderate rate and only upon the roadways provided for that purpose.
63. Notwithstanding Section 62, no off-highway vehicles or horse shall be allowed in the cemetery except when it is part of a funeral procession.
64. The owner of any moving vehicle shall be responsible for any damage done by such vehicle within the boundaries of the cemetery.
65. No person shall disturb the quiet and good order of the cemetery by noise or other improper conduct.
66. The Town shall have the right to prohibit the entry of any person or persons who do not have related business at the cemetery.

#### **PART 8 – OFFENCE AND PENALTY**

67. Any person that breaches or contravenes any provision of this bylaw or fails to act in compliance and accordance with any notice given to him under this bylaw is guilty of an offence.
68. When a bylaw enforcement officer has reasonable grounds to believe that a person has contravened any provisions of this bylaw, he/she may serve upon such person an offence ticket allowing payment of a specified penalty as described in Schedule "A" to the Town within fourteen (14) days of the issuance date of the offence ticket. The Town shall accept such payment in lieu of prosecution for the offence.
69. Service of an offence ticket shall be sufficient if it is:
  - (a) personally served;
  - (b) left with a person apparently over the age of eighteen (18) years at the dwelling place or place of business of the person who is intended to be served; or
  - (c) mailed by registered mail to the address of the person who has contravened the bylaw.
70. The offence ticket shall state:
  - (a) the name and address of the offender if ascertainable;
  - (b) the offence;
  - (c) the location, date and time of the offence;
  - (d) the specified penalty, and
  - (e) that the penalty shall be paid with fourteen (14) days of the issuance of the offence ticket to avoid prosecution for the offence.

71. Unless otherwise stated in this bylaw, where contravention of this bylaw is of a continuing nature, further offence tickets may be issued by a bylaw enforcement officer, provided, however, that no more than one offence ticket shall be issued for each day that the contravention continues.

**PART 9 – EFFECTIVE DATE**

72. This bylaw shall come into force and effect upon receiving third (3<sup>rd</sup>) and final reading.

READ a First Time in Council this 19<sup>th</sup> day of May 2009.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

READ a Second Time in Council this 2<sup>nd</sup> day of June 2009.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

READ a Third Time in Council this 2<sup>nd</sup> day of June 2009.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Chief Administrative Officer

**SCHEDULE A – PENALTIES**

**Specified Penalties for Municipal Tags**

First Offence:                                   \$100.00  
Second Offence:                                \$200.00

**Note:**  
A second or subsequent offence is deemed to be committed if it occurs within one (1) year of the previous offence.