

**TOWN OF HARDISTY
HARDISTY CEMETERY BYLAW
BYLAW NO. 1136/08**

A Bylaw of the Town of Hardisty, in the Province of Alberta, for the purpose of regulating the operation of cemeteries owned by the Town of Hardisty;

WHEREAS, the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced for time to time, authorizes the Town to regulate services provided by or on behalf of the Municipality;

NOW THEREFORE, the Council of the Town of Hardisty, in the Province of Alberta, duly assembled enacts as follows:

Section 1 – Short Title

1.1 This Bylaw may be cited as the Town of Hardisty “Cemetery Bylaw”.

Section 2 – Definitions

- 2.1 “Bylaw Enforcement Officer” means a Bylaw Enforcement Officer appointed by the Town pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time, to enforce the Town’s bylaws, and includes a Peace Officer having jurisdiction in the Town;
- 2.2 “Cemetery” means land that is set apart or used as a place for the burial of dead human bodies or other human remains or in which dead human bodies or other human remains are buried;
- 2.3 “Cemetery Supervisor” means an employee of the Town of Hardisty charged with the care and control of the Cemetery and Columbarium, or his designate;
- 2.4 “Columbarium” means a structure designed for storing the ashes of dead human bodies or other human remains that have been cremated;
- 2.5 “Committee” means the Hardisty Cemetery Committee, an advisory committee that may be formed by the Town to advise and make recommendations to Council on matters related to the management, planning and maintenance of the Cemetery and Columbarium;
- 2.6 “Compartment” means a single space contained within a Columbarium also known as “niches” for storing the ashes of up to two (2) dead human bodies or other human remains that have been cremated;
- 2.7 “Council” means the Council of the Town of Hardisty;
- 2.8 “Monument” means any structure in the Cemetery erected or constructed on any grave or plot, for memorial purposes;

- 2.9 “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;
- 2.10 “Town” means the Town of Hardisty;
- 2.11 “Violation Tag” means a tag or similar document issued by the Town pursuant to Section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended or repealed and replaced from time to time.
- 2.12 “Violation Ticket” means a ticket issued pursuant to Part 2 of the *Provincial Offenses Procedures Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time, and the regulations thereunder.

Section 3 – Duties, Rights and Powers

- 3.1. The Cemetery Supervisor and, if applicable, the Committee shall have control over all matters within the Cemetery and Columbarium concerning maintenance of the grounds in a neat and pleasing condition, in accordance with this bylaw, the Town’s policies and the *Cemeteries Act*, R.S.A. 2000, c. C-3, as amended or repealed or replaced from time to time ;
- 3.2. The Cemetery Supervisor is hereby authorized to remove, or have removed, any weeds, grass, funeral designs or floral pieces which may become wilted, or any other article or thing which, in the opinion of the Cemetery Supervisor or Committee, is unsightly;
- 3.3. When, in the opinion of the Cemetery Supervisor or the Committee, any structure located on all or part of a plot, other than a Monument or marker, is in a state of disrepair, the Cemetery Supervisor shall notify the Owner or the owner’s agent in writing, via registered mail, to the last address provided to the Town, and require repairs be undertaken within a specified time frame.
- 3.4. Any structure for which a notice has been provided pursuant to section 3.3, which is not repaired within the specified time period may be removed and the Cemetery Supervisor shall retain possession of the structure for at least THIRTY (30) days. Upon expiry of the THIRTY (30) day period, Council may direct that the structure be retained for a further period of time, be disposed of by public auction or such other directions as Council deems appropriate.
- 3.5. If any tree, shrub or other plant situated in any Plot shall, by means of its roots, branches or otherwise, in the opinion of the Cemetery Supervisor or the Committee, becomes detrimental or dangerous to the adjacent Plots or visitors to the Cemetery, the Cemetery Supervisor may direct that the tree, shrub or other plant be pruned or removed. The cost of such work shall be paid by the Owner or the Owner’s agent within THIRTY (30) days of receiving an invoice from the Town.
- 3.6. No person shall erect upon or around a Plot any fence, railing, wall, stone coping, hedge or such similar thing.
- 3.7. Where any fence, railing, wall, stone coping, hedge or such similar thing has been previously erected upon or around a Plot, prior to the coming into force of this Bylaw, the Owner or

Owner's agent shall maintain the same in a neat and aesthetically acceptable condition. Where, in the opinion of the Cemetery Supervisor or the Cemetery Committee, any fence, railing, wall, stone coping, hedge or such similar thing has, by reason of age or neglect, become unsightly or objectionable, the Cemetery Supervisor may cause that structure to be removed. The cost of removal or restoration, if required, may be charged against the Owner, the Owner's agent or the person who erected the structure, as determined by the Cemetery Supervisor or the Cemetery Committee, in their sole discretion;

Section 4 – Plots or Compartments

- 4.1. Plots or Compartments may be obtained from the Town upon payment of the appropriate fee as set out in Schedule "A";
- 4.2. No Plot or Compartment shall be used for any purpose other than as a burial site for dead human bodies or other human remains in the case of a Plot or the ashes of dead human bodies or other human remains that have been cremated in the case of a Plot or Compartment;
- 4.3. No Owner of a Plot or Compartment may sell or transfer the same to any other person, except the Town. An offer for resale to the Town must be in writing and signed by the Owner or legal representative of the Owner.
- 4.4. Where the Town receives a written offer to repurchase a Plot or Compartment pursuant to section 4.3. the Town shall purchase the Plot or Compartment and shall pay 85% of the market value of the Plot or Compartment calculated as of the day the Town receives the written offer; [85% is the minimum payable according to the regulations]
- 4.5. Notwithstanding the provisions of section 4.3, a Plot or Compartment may be transferred between members of the same family provided notice of this intention, including written consent of the Owner or the legal representative of the Owner, is submitted to the Town prior to the transfer. No transfer to a family member is valid unless it is the subject of a written consent issued by the Town.
- 4.6. All applications for a burial permit shall be made at least 48 hours before the time for interment. In the calculation of this time limit, Sundays and holidays shall not be included.
- 4.7. No person shall inter any remains without first obtaining a burial permit;
- 4.8. No person other than a Town employee or person designated by the Chief Administrative Officer of the Town, shall open or close a Plot or Compartment or make a disinterment in the Cemetery;
- 4.9. No Plot shall contain more than one (1) dead human body in casket and four (4) cremains buried in a single plot at any one time unless prior written permission has been received from the Cemetery Supervisor.
- 4.10. No compartment shall contain more than two (2) cremains.

- 4.11. Regardless of the specific wording of any sale agreement or other agreement between the Town and a purchaser of a Plot or Compartment, it is a condition of every agreement relating to the sale or use of a Plot or Compartment, that the parties to the agreement expressly waive any right to claim against the Town and its officers and employees, arising by reason of any error or mistake in relation to the description of any burial plot.

Section 5 - Monuments

- 5.1. No person shall install, erect or place within the Cemetery, any Monument, marker or structure without first obtaining written approval from the Cemetery Supervisor.
- 5.2. The Cemetery Supervisor, upon receiving a written request for the placement of a Monument, may request such information as may, in the opinion of the Cemetery Supervisor, be required to ensure that the Monument is placed in a manner that accords with this bylaw and any Town policy, and may place conditions upon any approval granted;
- 5.3. A Monument or marker placed upon any Plot shall be maintained in proper state of repair;
- 5.4. Each Plot may have, upon receiving written approval from the Cemetery Supervisor, one foundation with a maximum of five plaques, or one Monument with a maximum of five names;
- 5.5. No Plot shall be covered, or partially covered by a concrete, stone or other type of slab, except where such a covering was already purchased prior to the coming into force of this Bylaw.

Section 6 – Interments and Disinterments

- 6.1. Prior to any interment or disinterment occurring, the appropriate permit issued by the Province of Alberta, shall be provided to the Cemetery Supervisor;
- 6.2. The owner or the person applying for the interment or disinterment permit shall be responsible for all costs and charges in connection with an interment or disinterment and shall comply with the requirements of this Bylaw and the *Cemeteries Act*, RSA 2000, c.C-3, as amended or repealed and replaced from time to time.
- 6.3. No interment shall occur without written proof of ownership of the Plot or Compartment, or without written consent of the owner or legal representative of the owner, where the permit holder is not the owner;
- 6.4. All burials shall occur within the confines of a single Plot;
- 6.5. All burials for non-cremated remains shall be placed in a concrete grave liner. The grave liner is available from the Town upon the payment of the appropriate fee as set out in Schedule “A”;
- 6.6. The Town shall not be liable nor responsible for any errors or omissions in relation to a disinterment when the instructions provided to the Town were incomplete, incorrect or lacked specificity;

Section 7 – Maintenance

- 7.1. The Cemetery Supervisor, or if applicable, the Committee, may designate at least one day each Spring for clean-up of the Cemetery and the area around the Columbarium;
- 7.2. The Cemetery Supervisor, under the advice of the Committee shall be responsible for the maintenance of the Cemetery grounds and the area around the Columbarium throughout the summer and fall;
- 7.3. The Town, Cemetery Supervisor and Committee shall have no obligation to maintain individual Plots, Monuments or other structures placed on Plots.
- 7.4. All excess dirt from a Plot shall be removed from the Cemetery within three (3) days of the Plot being dug. Any person who fails to remove excess dirt within the time prescribed is guilty of an offence;
- 7.5. All perpetual care agreements must be provided to the Town;
- 7.6. No person shall throw, abandon or otherwise dispose of rubbish anywhere within the Cemetery or Columbarium except in the receptacles specifically provided for that purpose by the Town;
- 7.7. No person shall change the grade of any Plot. Where the grade of a Plot has been changed, the Town may, without notice, proceed to restore the grade at the owner's sole expense.
- 7.8. No person shall place any thing on or adjacent to a Plot or Compartment, which in the opinion of the Cemetery Supervisor or the Committee, restricts or hampers regular maintenance activities;
- 7.9. No person shall plant any shrub, tree or flowers in any part of the Cemetery without first obtaining written approval from the Cemetery Committee, as applicable;

Part 8 – Cemetery

- 8.1. No person shall drive any vehicle through the Cemetery at a speed exceeding 15 KM, or upon any part of the Cemetery except for the roadways provided specifically for vehicular access;
- 8.2. No person shall ride an All Terrain Vehicle, snowmobile, or horse in the Cemetery except as part of a funeral procession;
- 8.3. The owner of any vehicle causing or contributing to damage to a Plot, Compartment, Monument, structure, or any part of the lands, or facilities of the Cemetery shall be responsible for cost and expenses incurred by the Town as a result of that damage;
- 8.4. No person shall drive any vehicle with a trailer within the Cemetery without first obtaining the written permission from the Cemetery Supervisor prior to entering the Cemetery;

- 8.5. No person shall enter the Cemetery carrying a firearm unless such person is participating in a military funeral and has lawful authority to bear such a firearm;
- 8.6. No person shall destroy, damage, alter, write on, deface, injure or remove any Monument, marker, structure, railing, fence, or other work for the protection, maintenance or ornamentation of the Cemetery, Columbarium or Plot, or any vehicle, building, machinery, tool, equipment, or any other material placed or left in the Cemetery or Columbarium;
- 8.7. No person shall destroy, cut, pick, break or injure any tree, shrub or plant in the Cemetery, or Plot;
- 8.8. No person shall create any nuisance, engage in activities such as games or sport, or otherwise engage in any activity that is, in the opinion of the Cemetery Supervisor, a Peace Officer or Bylaw Enforcement Officer, indecent or disrespectful, disturbing to the solemnity or repose of the Cemetery, or disturbing of other persons assembled for the purpose of a funeral or interment within the Cemetery or Columbarium;

Section 9 – Offences & Penalties

- 9.1. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable upon summary conviction, to the specified penalty for that offence as set out in Schedule “B” to this Bylaw;
- 9.2. Notwithstanding section 9.1 of this Bylaw, any person who commits a second or subsequent offence under this Bylaw within one (1) year of committing a first offence under this Bylaw, is liable on summary conviction to double the fine set out in Schedule “B” to this Bylaw, for the offence;
- 9.3. Under no circumstances shall a Person contravening any provision of this Bylaw be subject to the penalty of imprisonment.

Section 10 – Violation Tag

- 10.1. A Bylaw Enforcement Officer is hereby authorized and empowered to issue Violation Tags to any person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 10.2. A Violation Tag may be issued to such person:
 - 10.2.1. Either personally; or
 - 10.2.2. By mailing a copy, via registered mail, to such person at his or her last known postal address.

- 10.3. The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
 - 10.3.1. The name of the person;
 - 10.3.2. The offense;
 - 10.3.3. The appropriate penalty for the offense as specified in Schedule “B” of this Bylaw;
 - 10.3.4. That the penalty shall be paid within 21 days of the issuance of the Violation Tag; and,
 - 10.3.5. Any other information as may be required by the Town.
- 10.4. Where a Violation Tag is issued pursuant to this Bylaw, the person to whom the Violation Tag is issued may in lieu of prosecution of the offense, pay the Town the penalty specified in the Violation Tag.

Section 11 – Violation Tickets

- 11.1. A Bylaw Enforcement Officer is hereby authorized and empowered to issue Violation Tickets to any person who the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw;
- 11.2. A Violation Ticket issued with respect to a contravention of this Bylaw shall be served upon the person responsible for the contravention in accordance with the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time;
- 11.3. The person to whom the Violation Ticket has been issued may plead guilty by making a voluntary payment in respect of the Summons by delivering to the Provincial Court, on or before the initial appearance date, the Violation Ticket together with an amount equal to the specified penalty for the offence as provided for in Schedule “B” to this Bylaw;
- 11.4. When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to section 11.3 and the *Provincial Offences Procedure Act*, R.S.A. 2000, c. P-34, as amended or repealed and replaced from time to time, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.

Section 12 – Severability

- 12.1. Should any provision of this Bylaw be found invalid, the invalid provision shall be severed and the remaining bylaw shall be maintained.

Section 13 – Repeal

13.1. Bylaw No. 1061/03 and Bylaw No. 1110/06 are hereby repealed.

Section 14 – Effective Date

14.1. This Bylaw shall come into force upon receipt of its third and final reading.

READ a first time in Council this 26th day of November, 2008.

READ a second time in Council this 26th day of November, 2008.

READ a third and final time in Council this 26th day of November, 2008.

Mayor – Anita Miller

Chief Administrative Officer – Tony Kulbisky