

TOWN OF MAGRATH
BYLAW # 1271 as Amended
Consolidated up to BYLAW #1291
(Cemetery Bylaw)

A Bylaw of the Town of Magrath to provide for the regulation and operation of the Magrath and District Cemetery.

WHEREAS, pursuant to Sections 3, 7, and 10 of the Cemeteries Act, R.C.A. 2004, c. C-3 the Council of the Town of Magrath shall keep the Town's cemetery in the manner required by regulations, and to keep it in good order and repair.

NOW THEREFORE the Council of the Town of Magrath duly assembled enacts as follows:

1. In this Bylaw,
 - a. "Administrator" means the Municipal Administrator of the Town of Magrath or his designate.
 - b. "Foreman" means the Parks and Recreation Foreman in direct charge of cemetery operations for the Town of Magrath.
 - c. "Magrath Cemetery" means Magrath and District Cemetery.
 - d. "Niche" means a burial plot in a columbarium specifically designated for the placement of cremated remains.
 - e. "Plot(s)" means a burial plot of ground that may be used for either a casket burial or a burial of cremated remains in an urn.
2. That the land described in Schedule "A" to this Bylaw including those parts which have heretofore been set aside and used for cemetery purposes, be and the same are hereby established and set apart for use as a Public Cemetery to be known as the Magrath and District Cemetery in accordance with and subject to the provisions of this Bylaw.
3. That the Administrator shall have general supervision, charge and control of the management and operation of the Magrath and District Cemetery so established and set apart as aforesaid, and of all books, plans, records and documents relating thereto.
4. That those parts of the above-mentioned areas of land not heretofore laid out and subdivided into plots for burial purposes shall be suitably laid out and subdivided into plots for burial purposes as required from time to time by plans to be prepared under the supervision of the Administrator.
5. That the Foreman shall, subject to the general supervision, control, and direction of the Administrator, have charge of the said cemetery and of all persons employed therein, and of all works whatsoever nature carried out therein, and

shall be charged with the duty of seeing that the said cemetery is kept in good order.

6. Council shall approve each new section prior to opening for sale of burial rights in the cemetery and shall specify at that time the type and form of monuments, memorials, plaques or other markers to be used and once the first plot has been sold the designation shall not be changed without the approval of the Council.

GENERAL PROVISIONS

1. Burial Rights
 - a. Where there is reasonable proof of ownership the Town is morally obligated to honor the rights to those plots/niches.
 - b. "Proof of Inheritance" - When the owner of a plot/niche dies and the burial rights pass to the new owners, before the new owners can obtain registration of their interest to it, the Town requires proof of their right to such interest.
 - c. Where there is no reasonable proof of ownership, then it must be assumed that ownership of rights lies only in occupied graves.
 - d. Rights of burial in plots/niches in the said Magrath Cemetery for residents and non-residents shall be sold in accordance with the provisions set out in the current Fees and Rates Bylaw.
 - e. If a plot/niche owner desires to sell their plot/niche, they may only sell the plot/niche back to the Town of Magrath for 85% of the market value of the plot/niche on the date of resale.
 - f. No more than one body shall be buried in a single grave, unless it is in the same casket.
 - g. A maximum of 3 cremated remains may be buried in a plot. This **must** be in conjunction with an existing buried casket but not before a regular casket burial. **Full burial plots will not be sold for cremation only burials. Cremation only burials shall be placed in the cemetery's columbarium.** Plots purchased before this bylaw's third and final reading shall not be affected and may be used for cremation only burials.
 - h. Columbarium niches must be used for the interment of cremated human remains and must not be used for memorialization purposes only.
 - i. Columbarium niches are for placement of up to two (2) urns with each urn containing the cremated remains of one individual.
2. Maintenance
 - a. "General Maintenance" will include the planting of trees on the borders of the Magrath Cemetery and also includes seeding of lots and grave surfaces, and reseeding when necessary, and such cultivation as may be necessary in connection with such seeding and reseeding, watering, seasonal cutting of grass and weeds and keeping lots in neat condition and of good appearance, and such other cemetery work as may be authorized by the Town Council.

- b. "General Maintenance" shall not include the care, maintenance, upkeep, repair or replacement of any monument, plaque, tablet, cross, or similar object which has been placed, or may be placed in the future, in the cemetery.
- c. No trees, plants, shrubs, flowers or any other thing intended for growth shall be planted, seeded, grown or maintained on any plot in the cemetery. The foreman may remove or prevent the placing of any stand, holder, vase or other receptacle for flowers or plants which he deems to be unsuitable for such purpose or unsightly in appearance.
- d. No fence, railing, coping, bench or any other enclosure or structure of any kind other than a tablet, monument, or plaque which is in accordance with the provisions of this by-law shall be erected or installed on any plot of the said Magrath Cemetery.
- e. The Administrator, foreman or their designates shall have the right, without notice to any interested person, to remove from the cemetery or from any plot therein any tablet, monument, plaque, cross, fence, railing, coping, grave cover, or other enclosure or structure, or any tree, shrub, plant or growing thing, or any inanimate object found contrary to this bylaw or policies attached hereto.
- f. Potted plants and artificial flowers will be allowed on lots provided they are totally contained and secured in a permanent vase that is part of the monument.
- g. The Town must be notified that grave preparation is required at least two (2) regular working days prior to the time set for burial. Saturdays, Sundays and Statutory Holidays shall not be classified as regular working days.

3. Sales and Records

- a. The administrator shall make all sales of burial rights in plots/niches within the said Magrath Cemetery and shall receive and account for all money derived therefrom and shall enter all particulars of such sales on systems kept only for such purpose and shall keep a record of the name or names of any person or persons buried in any plot/niche together with the date of any such burial.
- b. The administrator shall issue to each purchaser of burial rights in any plot/niche, a certificate for purchase in the form set out in Schedule "C" to this Bylaw, and the administrator shall collect any and all fees for the opening and closing of graves and other works as provided for in this Bylaw.
- c. The fees and charges which purchasers or holders of burial rights must pay to the Administrator for work to be done for or at the expense of the Town for opening, preparing and closing graves, and for similar matters shall be set forth in Schedule "B" to this Bylaw.
- d. If a plot owner desires to sell their plot/niche, they may only sell the plot/niche back to the Town of Magrath for 85% of the market value of the plot/niche at the date of resale.

- e. In the event of the Town of Magrath not being able to contact an owner of a purchased or reserved plot/niche that has not been utilized for burial for a period of 20 years, the plot/niche ownership will revert back to the Town of Magrath who may then sell the plot to a new owner.
- f. It shall be a condition of each sale of plots/niche that the plot/niche owner expressly waives any rights to claims 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 its liability shall only extend to refund in case of error, of any money paid to the Town for a plot/niche; or the Town undertaking to make available equivalent quality of plots/niche, in lieu of those originally allocated.

4. Burial Permits

- a. No burial shall be permitted in the Magrath Cemetery unless and until there shall have been produced and shown to the Administrator the following documents:
 - i. Burial Permit, issued by the proper official of the Province of Alberta, or such other written authority as may be required from time to time under the laws of the Province of Alberta.
 - ii. Interment shall not occur until the Administrator has received the following information:
 1. Name of Deceased;
 2. Place and date of birth;
 3. Sex;
 4. Date of death and place of death;
 5. Name and address of closest relative;
 6. Number of lot and block in which burial is to be made;
 7. Date and time of burial;
 8. Name of undertaker.
- b. A permanent outer box must be placed in the grave before interment.
- c. No vault or similar structure may be erected, constructed or be placed in the cemetery except such vaults are totally buried and the highest point is over 3 feet below the soil surface, and where the size is such as to fit normal grave excavations.
- d. No concrete, fibreglass, or plastic grave covers shall be constructed or installed in any area of this cemetery.
- e. No lots or graves shall be raised above the level of the surrounding ground.

5. Regulations Governing Markers – See Schedule “D”

- a. No work shall be undertaken in the Magrath Cemetery by a family, corporation or contractor without prior authorization from the Town of Magrath Parks and Recreation Foreman.

6. Damaging Property

- a. No person shall injure any tree, shrub or plant growing in the cemetery, nor pick or destroy any flower growing therein, or write upon, mark, scratch or deface any tablet, monument, plaque, cross, fence, gate, guiding or structure within or around the cemetery.
- b. The Town is not responsible for any damage to any plot or marker unless it was due to the negligence of its employees.
- c. No animals shall be brought into or permitted to be within the said cemetery except that pets may be carried in motor vehicles, provided that they are not allowed out of the vehicle.
- d. Notwithstanding 6.c., animals participating in the burial ceremonies, such as horse-drawn hearse or horse-mounted mourners, or the deceased person's beloved pet, may be in the cemetery for the period of the graveside service so long as they are constantly monitored and controlled and are contained in the vicinity of the actual service.

7. Penalties

- a. Any person or corporation guilty of any infraction or breach of any of the provisions of the Bylaw shall upon conviction, therefore, before a Provincial Judge, be liable to a penalty not exceeding Two Thousand (\$2,000.00) Dollars.

Bylaws #1184 and #1227 which were previously passed are hereby repealed.

This Bylaw comes into full force and effect on the day of the final passing of the bylaw.

Signed copy available at Town Office

Mayor

Signed copy available at Town Office

CAO

SCHEDULE "C"
Certificate of Burial Rights
Town of Magrath
Magrath Cemetery

This is to certify that the Town of Magrath has sold to:

Name: _____

Next of Kin Name: _____

Address: _____

Address: _____

Phone: _____

Phone: _____

Burial Rights for _____ (#) graves in Block _____ Lot _____ for the price of \$ _____ Dollars.

Columbarium Rights for _____ (#) niches in Row _____ Niche _____ for the price of \$ _____ Dollars.

The said Burial Rights are sold and to be held subject to all Bylaws and regulations of the Town of Magrath, now existing or hereafter passed or prescribed for the maintenance, improvements, management, control or operation of its cemetery.

The plot owner expressly waives any rights to claims arising by reason of any error or misdescription of any burial plot. The Town undertakes that it will attempt, insofar as is reasonably possible, to avoid such errors, but its liability shall only extend to refund in case of error, of any money paid to the Town for a plot/niche; or the Town undertaking to make available equivalent quality of plots/niches, in lieu of those originally allocated.

If a plot/niche owner desires to sell their plot, they may only sell the plot/niche back to the Town of Magrath.

Dated at the Town of Magrath in the Province of Alberta, this _____ day of _____, A.D., _____.

TOWN OF MAGRATH

Authorized Signature

SCHEDULE "D"

Regulations Governing Markers

A. Flat Markers

A Flat marker shall mean a marker of approved granite, marble, or bronze inscribed with such lettering as may be desired by the owner of the burial rights and approved by the Administrator. The top of the flat marker shall not exceed one inch above the level of the ground in which it is set and it shall align with existing markers. Metal flat markers must be set in/on a suitable foundation.

Size of Flat Markers (including foundations)

	<u>Length</u>	<u>Width</u>	<u>Thickness</u>
Single	36"	24"	3"
Double or Multiple	***	24"	3"

*** Maximum length will be determined by the number of plots the monument is intended to service. At no time may the monument exceed the combined total width of the plot.

B. Pillows

A pillow shall mean a rectangular, flat, or sloped section of marble or granite set so that the highest portion of the top of the pillow shall not be more than 16" measured vertically from the concrete foundation, and inscribed with such lettering as may be desired by the owner of the burial rights and approved by the Administrator. The pillow may or may not be set on a marble or granite base. If a marble or granite base is used, it shall project not less than 3" on all sides of the pillow and be of a thickness not greater than 8" and not less than 3". All pillow stones with or without marble or granite bases shall be set on a concrete foundation projecting a minimum of 4" on all sides of the pillow which foundation will be set to ground level.

Foundation sized for Pillows

	<u>Length</u>	<u>Width</u>	<u>Thickness</u>
Single	36"	24"	3"
Double or Multiple	***	24"	3"

*** Maximum length will be determined by the number of plots the monument is intended to service. At no time may the monument exceed the combined total width of the plot.

- C. Additional upright monuments may be installed on plots to identify the interment of cremated remains, provided all monuments on the plot are set on one continuous foundation in line with others, and a minimum of 4" clearance from the edge of the monuments to the edge of the foundation is maintained on all sides.
- D. Additional flat markers may be installed to identify the interment of cremated remains provided all flat markers on the lot are poured and set in one continuous concrete pad. All flat markers set in concrete shall have a minimum of 2" of concrete on all sides of the marker.
- E. All monuments shall be installed facing on to the lot or grave, regardless of previous installations.
- F. Foot markers will not be permitted.
- G. Vases will be permitted in the cemetery provided that they are not of glass, pottery or other brittle material, and provided that they are permanently attached to the monument and be such that they can be recessed flush with the surface of a flat marker or with the base on a monument.

Vases must be of a permanent finish that will not wear, chip or deteriorate under normal cemetery conditions.

Any vases which are deteriorated or damaged may be removed at the Parks and Recreation Foreman's discretion.