

**Rules and Regulations
(By-Laws)**

**for the
Maintenance and Management of**

**Mountain View Cemetery
and St. Patrick's Cemetery**

Owned and Operated by
The Corporation of The City of Thunder Bay

TB1498



**A By-law respecting cemeteries owned by
The Corporation of the City of Thunder Bay.**

WHEREAS Subsection 50(2) of the Cemeteries Act R.S.O., 1990, provides that the Owners of a cemetery or crematorium may make by-laws governing the same:

AND WHEREAS Section 191 of the Municipal Act R.S.O., 1990, provides that municipalities may pass by-laws providing for the use by the public of lands of which the Corporation is the owner and for the regulation of such use and the protection of such lands;

AND WHEREAS offences under Municipal by-laws may be prosecuted pursuant to the Provincial Offences Act;

AND WHEREAS The Corporation of the City of Thunder Bay is the Owner of certain cemeteries;

**NOW THEREFORE THE COUNCIL OF THE
CORPORATION OF THE CITY OF THUNDER BAY
ENACTS AS FOLLOWS:**

INTERPRETATION

1. In this By-law:

“Act” means the Cemeteries Act R.S.O., 1990, and the Regulations thereunder as amended and revised from time to time;

“Cemetery” means any cemetery owned by the Corporation;

“Cemetery Supervisor” means the person appointed as Supervisor of any cemetery or cemeteries;

“City Clerk” means the City Clerk of the Corporation;

“City Manager” means the City Manager of the Corporation or such person as may hold the equivalent office, whether designated as City Co-ordinator, Chief Administrative Officer or otherwise, from time to time;

“City Treasurer” means the City Treasurer of the Corporation;

“Corporation” means The Corporation of the City of Thunder Bay;

“Marker” means any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains;

“Mausoleum” means a building or structure other than a columbarium, used as a place for the interment of human remains in sealed crypts or compartments;

“Price List” means the Price List of all interment rights and cemetery services and supplies that may be sold and all charges that may be made by the Corporation in respect of a Cemetery;

“Vault” means a concrete receptacle or grave liner intended to encase and protect a casketed human body in earth burial.

2. Unless the context requires otherwise, words in this By-law have the same meaning as defined in the Act.

3. Where forms are prescribed as Schedules to this By-law, the use of forms in substantial conformity therewith and that are not calculated to mislead or otherwise unlawful may be utilized and any form prescribed may at any time be varied where necessary in order to comply with the requirement of law without amendment to this By-law.

DUTIES OF CEMETERY SUPERVISOR

- 4.** The Corporation may appoint one or more Cemetery Supervisors whose duties, rights and powers hereunder shall apply to the operation of the cemetery or cemeteries to which his or her appointment relates.

- 5.** The Cemetery Supervisor shall carry out such duties as the Corporation may from time to time require, and without restricting the generality of the foregoing, he or she shall:
 - a) be responsible for all sales, transfers or repurchases of interment rights in the cemetery including preparing for execution all documentation relating to the sale of interment rights, interments, burials, disinterments and removals;

 - b) ensure that all monies received are in the name of the Corporation and deposit all monies with the City Treasurer as may be reasonably required and in any event not less than once each week;

c) keep and maintain such records relating to the cemetery as may be required by law and as the Corporation or the Minister may from time to time require, including, but not limited to records of interment rights sales, interments, disinterments and removals;

d) file such reports as may be required by law or as the Corporation or the Minister may from time to time require;

e) keep the cemetery in good repair and have general responsibility therefore and ensure that all walks, drives and grounds are kept in good order and that the provisions of the Act, this By-law and the lawful directions of the Corporation are complied with;

f) give signed orders for all interments and disinterments and ensure that the same are conducted in a decent and orderly manner, and that quiet and good order are at all times maintained;

g) supervise as required all cemetery employees;

h) attend or ensure that his or her delegate attends at every interment, disinterment and removal;

i) delegate any authority hereunder to other persons as may be approved from time to time by the City Manager;

j) maintain an adequate supply of all forms required under the Act or this By-law and ensure that all persons required under the Act, are provided with copies of all necessary forms and documentation;

k) ensure that all upright markers and other memorial structures are installed and maintained such that public safety is safeguarded at all times.

EMPLOYEES NOT TO ACCEPT GRATUITIES

6. No officer or employee of the Corporation shall accept from any person other than the Corporation any gratuity or other remuneration in connection with any work done or to be done in a cemetery, and no such officer or employee shall canvas or solicit business in connection with any monument or structure to be erected, or in connection with any work to be done, in a cemetery except in the ordinary course of his employment by and for the Corporation.

DUTIES OF CITY TREASURER

7. It shall be the duty of the City Treasurer, and he or she shall have the power to:

- a) perform such duties as the Corporation may from time to time require in connection with the financial operations of the cemeteries;
- b) receive and account for all monies, including all Federal and Provincial taxes and licence fees collected, relating to the operation of the cemeteries;
- c) maintain and account for all monies received for care and maintenance of the cemetery, marker and monument maintenance, and otherwise as required by the Act and to invest the same, subject to the approval of the Corporation, as may be authorized by the Municipal Act and the Act;
- d) ensure that all interest and other accruals on or relating to monies referred to in this Section are maintained and utilized as part of the aforementioned fund;

e) generally oversee the financial affairs of all the cemeteries and ensure that the requirements of law and good accounting and other financial practices are fulfilled.

**CHARGES FOR INTERMENT RIGHTS,
CEMETERY SERVICES
AND CARE AND MAINTENANCE FUNDS**

8. The Price List shall be such as is approved by Resolution of the Council of the Corporation, from time to time.

INTERMENT RIGHTS

9. The Cemetery Supervisor shall keep available for inspection by prospective interment rights holders maps showing all lots available for purchase.

10. Upon payment in full of the price therefore, the Cemetery Supervisor shall prepare for execution a Certificate of Interment Rights in the form of Schedule "A" to this By-law and shall, after due execution thereof, record the same in a Register kept for that purpose; shall ensure that such copies thereof as the Corporation may require are retained in the records of the Corporation; and shall deliver one copy thereof to the interment rights holder.

RIGHTS OF INTERMENT RIGHTS HOLDER

11. The interment rights holder shall be entitled only to rights of interment granted by the Certificate, subject to the limitations and restrictions contained therein and to the provisions of By-laws of the Corporation and the Act as the same relate to the cemetery from time to time and the interment rights holder shall acquire no right, title or interest in the cemetery except as aforesaid.

12. Interment in any area of the cemetery designated as a military plot shall only be permitted following receipt of written confirmation of veteran's status and approval for burial from the Metro Council of the Royal Canadian Legion (Thunder Bay).

13. The interment rights holder or his or her authorized representative may permit the interment of any human remains in a lot for which they hold the interment rights.

14. The interment rights holder or his or her authorized representative may erect a commemorative marker meeting the approval of the Cemetery Supervisor on a lot for which they hold the interment rights.

15. Interment rights may not be resold by the interment rights holder except to the Corporation.

TRANSFER OF INTERMENT RIGHTS

16. Interment rights may be transferred with approval of the Cemetery Supervisor. Upon such approval and following the return of the original certificate of interment rights or other satisfactory documentation of ownership of interment rights and payment of any fee as set out in the Price List, the Cemetery Supervisor shall prepare and arrange for execution by the interment rights holder or his or her legal representative a transfer in quadruplicate in the form of Schedule "B" to this By-law and shall record the transfer in the Register and deliver one copy to the transferee, one to the City Treasurer, one to the Parks Division, Community Services Department and maintain one in the Cemetery Register.

17. The transfer of interment rights shall not be binding until all duly executed transfer documentation is recorded by the Cemetery Supervisor.

CHAPEL

18. The Corporation shall have the right to place bodies in the chapel temporarily when road, weather or other conditions make interment impractical.

FUNERALS AND INTERMENTS

19. Graves shall be dug and interments made only by employees of the Corporation and under the direction of the Cemetery Supervisor.

20. No grave or vault shall be opened for a burial without the Cemetery Supervisor or his or her delegate being in attendance.

21. The burial of the body of any lower animal in the cemetery is prohibited.

22. No burial may take place in any lot with respect to which charges are outstanding. If any such charges remain unpaid three (3) months after demand therefore, the interment rights with respect to such lot may be terminated by the Cemetery Supervisor, who shall thereupon refund any part payment made, without interest. If at least two-thirds of the purchase price has been paid, the interment rights holder is not

entitled to take possession of interment rights upon default without leave of a judge of the Ontario Court (General Division).

23. Not more than one burial shall take place in a single grave, except for the following:

a) the body of a child under the age of two (2) years may be buried in the same adult grave as another body;

b) up to four (4) cremated remains may be buried in the same adult grave as a body provided the location of the burials can be accommodated within the limits of the lot without encroaching upon or disturbing any adjacent lot;

c) up to two (2) cremation burials in any cremation lot or child grave; and in all instances the top of the upper burial case shall be covered by at least three (3) feet of earth.

24. Written permission of the interment rights holder or his or her authorized representative must be presented to the Cemetery Supervisor or his or her delegate before any interment will be permitted in a lot.

25. No funerals shall enter a cemetery and no interments shall be made in a cemetery on a Sunday, Saturday afternoon or statutory holiday except on the written order of the Medical Officer of Health.

26. Saturday morning funerals shall be permitted by the Cemetery Supervisor provided that a complete interment request has been received by noon on the previous Thursday, and upon payment of the extra amount as prescribed in the Price List.

27. Where a statutory holiday falls on a Monday, funeral services shall be permitted by the Cemetery Supervisor on a Saturday morning provided a complete interment request has been received by the Cemetery Supervisor before 12:00 noon on the preceding Thursday and upon payment of the fee as set out in the Price List.

28. All funeral services in a cemetery shall be so arranged that they are conducted and completed between the hours of nine o'clock in the forenoon and four o'clock in the afternoon.

29. During the period between November 1 and April 1 in each year, a written notice of not less than sixteen (16) working hours, and during the remainder of the year, a written notice of not less than eight (8) working hours shall be given to the office of the Cemetery Supervisor, during working hours, of the date and time desired for a funeral or interment. A separate written notice for each burial must be presented to the Cemetery Supervisor.

30. In no case shall the Corporation be liable for errors relating to the date and time for a funeral or interment, howsoever caused.

31. Save as otherwise provided herein, cemetery services available from the Corporation shall not be supplied by any other person. For the purposes of this Section, "cemetery services" shall include but not be limited to, the opening and closing of graves, disinterment or removal of remains, the planting of trees and shrubs, grass cutting and any other services normally provided by the Corporation from time to time.

32. Prior to every burial there shall be delivered to the office of the Cemetery Supervisor, by the Funeral Director or other authorized person, a properly completed Burial Permit Application in the form set forth in Schedule "C", and the person applying for each Permit shall be responsible for all charges in connection therewith.

33. Whenever required by the Cemetery Supervisor, a written authority in the form of Schedule "D" hereto shall be signed by the interment rights holder or one of several interment rights holders or their authorized representative(s) and delivered to the Cemetery Supervisor before a burial takes place.

34. No person shall perform a funeral service unless a written request has been forwarded to the Cemetery Supervisor or his or her delegate.

35. Funeral processions within the cemetery shall follow the route prescribed by the Cemetery Supervisor or his or her delegate.

MEMORIAL SERVICES

36. Before any memorial service is held in the cemetery, the Cemetery Supervisor shall be given at least ten (10) days notice in writing together with a satisfactory undertaking that the cost of repairs of any damage which may be occasioned will be paid.

DISINTERMENTS AND REMOVALS

37. No disinterment or removal of any remains shall take place except under the supervision and direction of the Medical Officer of Health and in the presence of the Cemetery Supervisor or his or her delegate, and upon due observance of all other requirements of the Act, and upon completion of the forms set forth in Schedule "E" hereto.

MARKERS, VAULTS AND MAUSOLEUMS

38. All markers and corner posts shall be of granite or marble.

39. Not more than one (1) flat marker shall be placed on any cremation plot and every marker shall be of the same size, as nearly as practicable, of 12 inches by 20 inches, with a thickness of 4 inches.

40. In any single grave section, every upright marker shall be of a size, as nearly as practicable, of 20 inches by 32 inches (including base and foundation) with a minimum thickness of 6 inches.

41. In the case of a child's single grave, no upright marker shall be larger than 14 inches by 18 inches (including base and foundation) and shall have a minimum thickness of 4 inches.

42. Not more than one (1) upright marker shall be allowed on any single grave or plot. All upright markers shall be centrally located and shall be placed at the head of the lot. No vertical joints shall be permitted on any upright marker and no ornament of stone, metal or other material shall be attached thereto.

43. Every flat marker shall be installed flush with the level of the adjoining ground, without projections. Not more than four (4) flat markers shall be allowed on any single grave and no other marker shall be placed at the same end of the grave as an upright marker. All additional flat markers placed on a single grave shall be positioned so as to indicate the location of each additional interment.

44. Lettering on the reverse side of any upright marker shall be permitted only in the form of the surname(s) of any person(s) interred in the subject grave.

45. No marker or other memorial, vault or mausoleum shall be erected or placed on any lot without the permission of the interment rights holder thereof.

46. No marker or other memorial, vault or mausoleum shall be brought into a cemetery or erected therein or removed therefrom without approval of the Cemetery Supervisor or his or her delegate.

47. No inscriptions which are not in keeping with the dignity of the cemetery shall be made or allowed to remain on any marker or other memorial, or mausoleum in the cemetery, nor any inscription made without the permission of the interment rights holder of the lot or his or her authorized representative.

48. No flat or upright marker or other memorial shall have a base or footing having a horizontal area greater than ten (10) percent of the area of the lot.

49. All bases or footings of upright markers or other memorials shall be of concrete and of a depth of not less than four (4) inches and shall be flush with the level of the adjoining ground and have a length and width at least three inches greater all around than the base of the upright marker.

50. All corner posts or improvements indicating the boundaries of lots shall be of marble or granite with no projections above the ground and shall be placed within the lot. No fence or barrier of any kind or of any material whatsoever shall be erected or placed as an enclosure for any lot or flower bed.

51. Persons desiring to erect or place a vault or mausoleum in the cemetery shall submit for approval a copy of the plans, specifications and any other pertinent data to the Cemetery Supervisor, the Chief Building Official, the local Medical Officer of Health and the Minister and the same shall not be placed or erected until all of the necessary approvals have been obtained.

52. No work of cleaning, repairing or inscribing any marker or other memorial, or mausoleum shall be commenced in the cemetery without the authority of the Cemetery Supervisor or his or her delegate.

53. Persons purchasing interment rights in those portions of the cemetery set aside for veterans shall, at the time the rights are acquired, arrange for the purchase and installation of a standard military upright marker.

**MARKER AND MONUMENT DEALERS,
CONTRACTORS AND WORKMEN**

54. No materials for markers or other memorials, or mausoleums shall be brought into the cemetery, or any materials placed or any work done therein except at such time, in such manner and such place as is authorized by the Cemetery Supervisor.

55. No work shall be done except between 8:30 o'clock in the forenoon and 4:30 o'clock in the afternoon, Monday through Friday, both inclusive, and all litter, debris and loose earth shall be removed at the time set forth for cessation of work.

56. Due care shall be exercised, by the use of planks and otherwise, to avoid causing any damage to any path or lawn or to any thing within the cemetery.

57. No work shall be carried on in the vicinity of a funeral or burial service.

58. The demeanor and behavior of all persons employed by others shall be subject to the direction of the Cemetery Supervisor and all such persons shall leave the cemetery when so ordered by the Cemetery Supervisor.

59. The Cemetery Supervisor may remove and dispose of any material, article, thing, litter or debris left or abandoned in the cemetery by marker or monument dealers, contractors and other persons.

60. Gardeners or florists or their employees shall not enter the cemetery on Sunday for business purposes.

CARE OF LOTS

61. All grading, planting, trimming and other care shall be carried out only by the Corporation saving by special permission of the Cemetery Supervisor and in accordance with his or her direction and no unauthorized person shall remove any wreath, ribbon or other article from any grave.

62. No tree or shrub shall be placed anywhere within the cemetery without the consent of the Cemetery Supervisor and no trees or shrubs shall be removed, destroyed or altered in any way without such consent.

63. The Cemetery Supervisor may, at any time, cause any lot to be entered upon to be cleaned of weeds or grass, wilted floral pieces, funeral designs or other articles or things which may constitute litter or be unsightly.

64. No person shall place on any lot any tripod or stand for flowers, or any grave blanket or any protective box for a wreath and any so placed may be removed by the Cemetery Supervisor.

65. Artificial flowers, Christmas wreaths and other similar articles shall be removed prior to the first Tuesday following Victoria Day each year, in default of which they shall be deemed to be abandoned and may be removed by the Cemetery Supervisor who shall have the power to dispose of them. During the growing season, while natural flowers are available, artificial flowers in any form shall not be permitted on lots.

66. Artificial flowers may be placed in vases which are permanently affixed to the base of any upright marker. Saddle type artificial flower sprays meeting the approval of the Cemetery Supervisor may be affixed to the top of an upright marker.

67. All things placed or planted on any lot is at the risk of the interment rights holder and the Corporation will in no case be responsible for any loss or damage thereto, howsoever caused.

68. Flower beds not exceeding 18 inches in width are permitted around the front and side of the bases of upright markers. Where there is no marker, flower beds may only be placed by authority of and under the supervision of the Cemetery Supervisor.

69. No person shall plant flower beds on individual cremation or military lots in areas of the cemetery expressly designated for cremation or military burials.

RULES FOR VISITORS

70. The cemetery will be open for visitors from time to time as determined by the Cemetery Supervisor, but no person shall enter or be within the cemetery during the period between one-half hour after sunset and

one-half hour before sunrise, except police officers, municipal law enforcement officers or employees of the Corporation in the performance of their duties. No person shall enter the cemetery except through the gates.

71. No vehicle shall be operated at a speed of more than fifteen (15) kilometers per hour in the cemetery nor elsewhere than upon the roadways provided for vehicles. No bicycles shall be brought into the cemetery.

72. During the period October 1 through April 30, vehicular traffic other than funeral processions shall be permitted in the cemetery from 9:00 a.m. to 4:00 p.m. only.

73. No person shall disturb the quiet or good order of the cemetery by noise or improper conduct.

74. Any person violating any of the provisions of this by-law shall forthwith leave the cemetery when required to do so by any employee of the Corporation or any police officer or municipal law enforcement officer.

75. All persons shall avoid, wherever practicable, walking on any lot.

76. Persons wishing to make complaints shall make the same at the office of the Cemetery Supervisor and not to employees of the Corporation on the grounds, unless in writing and addressed to the Cemetery Supervisor.

ANIMALS

77. No person shall bring any animal, bird or reptile whatsoever into the cemetery or cause or permit any animal, bird or reptile to enter the cemetery, provided that such prohibition shall not extend to a blind person accompanied by a seeing-eye dog.

PENALTIES

78. 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 or penalty as provided for in the Provincial Offences Act.

REPEAL

79. By-law Number 157 - 1974 of the Corporation of the City of Thunder Bay and all amendments thereto be and are hereby repealed.

80. This By-law shall come into force and take effect upon the final passing thereof.