



CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT
Environmental Services Division

TO:	Chair and Members Public Works Committee
COMMITTEE DATE:	April 2, 2024
SUBJECT/REPORT NO:	City of Hamilton's Cemeteries By-law Update (PW24023) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	John Perrotta (905) 546-2424 Ext. 4402
SUBMITTED BY:	Cynthia Graham Director, Environmental Services Public Works Department
SIGNATURE:	

RECOMMENDATION

That City of Hamilton By-law No. 12-151, being a By-law respecting the City of Hamilton's Cemeteries, as amended, be further amended as detailed in Appendix "A" attached to Report PW24023.

EXECUTIVE SUMMARY

The City of Hamilton owns and operates 69 municipal cemeteries. To properly regulate and manage the cemeteries system, the City has enacted a by-law respecting the City of Hamilton's Cemeteries (By-law 12-151). The purpose of Report PW24023 is to amend By-law 12-151, as amended, to add White Brick Church Cemetery as a municipally operated cemetery and to make other housekeeping amendments to include cemeteries that are operated, but not owned by the City, within the scope of By-law 12-151.

Alternatives for Consideration – See Page 3

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: N/A

Staffing: N/A

Legal: Legal Services has drafted the necessary amendment to By-law 12-151.

HISTORICAL BACKGROUND

On February 13, 2023, Report PW22050(a) was approved at the Public Works Committee and subsequently by City Council on February 22, 2023. That report approved the City of Hamilton voluntarily accepting the administration and operation of the White Brick Church Cemetery, located at 99 Garner Road East, Ancaster, ON L9G 3K9, and approved an amendment to By-law 12-151 to add the White Brick Church Cemetery, following transfer of operations. Additionally, the report approved the acquisition of the Cemetery lands on an as-is, where-is basis for nominal consideration.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

The City has an existing By-law 12-151, which governs the operation of the City's cemeteries, as per the Funeral, Burial and Cremation Services Act (FBCSA) 2002, Ontario Regulation 30/11, Section 150. The recommendation in Report PW24023 is compliant with this legislation. The proposed By-law amendment will also require the approval from the Registrar of the Bereavement Authority of Ontario as per the Funeral, Burial and Cremation Services Act, Ontario Regulation 30/11, Section 151.

RELEVANT CONSULTATION

The following groups have been consulted and are supportive of the recommendations:

- Corporate Services Department - Legal and Risk Management Services Division, Legal Services Section
- Public Works Department - Environmental Services Division, Parks and Cemeteries Section

ANALYSIS AND RATIONALE FOR RECOMMENDATION

The administration and maintenance of the White Brick Church Cemetery has been transferred to the City of Hamilton, effective January 22, 2024, by the Bereavement Authority of Ontario. As the City of Hamilton has a cemetery operator licence with the Bereavement Authority of Ontario (Operator License 3275808), the White Brick Church Cemetery has been transferred to the existing licence held by the City and given site number CM-01260.

The acquisition of the Cemetery lands is currently on-going, and it is expected to be completed by Q4 2024. By-law 12-151, as amended, sets out regulations to manage the cemeteries that are owned and operated by the City of Hamilton. Until completion of the land acquisition, the White Brick Church Cemetery is only operated by the City of

Hamilton, and therefore the Cemetery By-law requires several amendments to include cemeteries that are only operated by the City, but not owned, to ensure the Cemetery By-law will govern the White Brick Church Cemetery prior to completion of the acquisition of lands.

Additionally, as approved in Report PW22050(a), recommendation (g), the City of Hamilton's Cemeteries By-law will be amended to include the White Brick Church Cemetery under the list of Cemeteries Owned and Operated by Hamilton Municipal Cemeteries.

ALTERNATIVES FOR CONSIDERATION

Council could decide to not approve the full recommendation of Report PW24023 and postpone the addition of the White Brick Church Cemetery to Part 2 - List of Cemeteries Owned and Operated by Hamilton Municipal Cemeteries until the lands of the White Brick Church Cemetery are owned by the City of Hamilton.

Financial: N/A

Staffing: N/A

Legal: Pursuant to section 4.4 of By-law 12-151, the provisions of the Cemeteries By-law apply to cemeteries owned by the City of Hamilton and without amendments to the By-law to include cemeteries operated, but not owned by the City, the By-law would not apply to the regulation and management of the White Brick Church Cemetery until such time as ownership is transferred to the City.

Pursuant O. Reg 30/11 made under the Funeral, Burial and Cremation Services Act, it is the cemetery operator that is entitled to make by-laws governing the operation of the cemetery, and "operator" is defined as: "a person who is licensed to operate a cemetery, ... and includes a cemetery owner who is deemed to be a cemetery operator..."

APPENDICES AND SCHEDULES ATTACHED

Appendix "A" attached to Report PW24023 – Proposed Amendment to the City of Hamilton Cemeteries By-law 12-151

Appendix "B" attached to Report PW24023 – Tracked Changes to Existing By-law 12-151