



Committee of the Whole Report

Report Number:	CEM2022-002
Meeting Date:	April 5, 2022
Title:	Revised Cemetery By-laws
Description:	Revisions to current Cemetery By-Laws last revised July 2012
Author and Title:	Patricia Wykes, Cemetery Administrator

Recommendation(s):

That Report CEM2022-002, **Revised Cemetery By-laws**, be received; and

That staff be authorized to proceed with the process required by the Bereavement Authority of Ontario (BAO), the governing body of Cemeteries, prior to submission of the Revised Cemetery By-laws to the BAO for approval; and

That this recommendation be brought forward to Council for consideration at the next Regular Council Meeting.

Department Head: _____

Financial/Legal/HR/Other: _____

Chief Administrative Officer: _____

Background:

On July 1, 2012 the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) was proclaimed to replace the Cemeteries Act in Ontario. The new legislation and regulations had a significant impact on the conduct of business in the bereavement industry. Cemetery owners were required to file amended By-laws with the Ministry of Consumer Services to comply with the new legislation.

On January 16, 2016 The Bereavement Authority of Ontario (BAO) was delegated as the administrative authority of the FBCSA on behalf of the Ministry of Government and Consumer Services. The BAO, which is governed by an independent board, regulates and supports the funeral and burial industry and protects the interests of the public.

The City of Kawartha Lakes is responsible for the maintenance and administration of 46 cemetery properties. There are 17 sites which are deemed to be "active" and 29 sites which are "inactive". Cemetery administration and operations are overseen by the Community Services Department. In 2019 the Joint Cemetery Board was replaced by the Kawartha Lakes Cemetery Board. It continues to be composed of community cemetery representatives and meets to discuss issues such as needed capital improvements and annual Decoration Day services. Administration and operational maintenance is handled by staff resources.

The City has a duty of care to ensure that maintenance and administration undertaken for its municipally owned cemeteries complies with provincial legislation.

In 2009, Council approved a consolidated by-law so that all municipal cemeteries operate by the same set of rules. The By-laws document attached to this report (Appendix A) incorporates the rules approved in 2009 and those approved in 2012 as well as specific regulated clauses. The exception to this consolidation is the "by-law" for the Fenelon Falls Cemetery, which is currently licensed and operated under a separate agreement.

Rationale:

For the purposes of the Funeral, Burial and Cremation Services Act, the term "by-law" has a definition that does not consider it as a municipal bylaw in the legislative sense. It is, in effect, a document that outlines the "rules" associated with the operation of a cemetery. The act stipulates the rationale and regulations for cemetery by-laws as:

Cemetery by-laws

150. (1) A cemetery operator may make by-laws governing the operation of the cemetery and, in particular, governing rights, entitlements and restrictions with respect to interment and scattering rights. O. Reg. 30/1 1, s. 150 (1).

(2) A cemetery by-law shall not prohibit an interment or scattering rights holder from making required arrangements with the cemetery operator by telephone or otherwise if the arrangements are necessary to exercise the rights. O. Reg. 30/11, s. 150 (2).

(3) No cemetery operator shall operate a cemetery except in accordance with the by-laws of the cemetery. O. Reg.30/1 1, s. 150 (3).

(4) A cemetery's by-laws shall specify the documentation required in order to carry out an interment, scatterings or the installation of a marker. O. Reg. 30/1 1, s. 150 (4).

(5) A provision of a cemetery by-law made before the day the Act comes into force that is inconsistent with the Act or regulations is invalid and of no effect and the approval of the registrar of it shall be deemed to be revoked without any further notice. O. Reg.30/1 1, s. 150 (5).

In accordance with the Act, these by-laws need to be approved by the City (as the owner) and then be directed to the Registrar for ministerial approval. These by-laws act to govern the actions of the public, customers, operations and administration of the cemetery. These by-laws are critical for the purposes of consumer protection and must be provided to any individual that contracts to the cemetery for the purchase of interment rights or any other service.

The Ministry has pre-approved a standardized by-law for use of cemetery owners when drafting their by-laws. This template has been used to compile these bylaws with allowable inclusions specific to the City's previously approved by-laws (2012). These By-laws have been reviewed by the Kawartha Lakes Cemetery Board for submission to Council and ultimate approval by the Registrar.

Other Alternatives Considered:

It is recommended that Council approve the by-laws for submission to the Registrar in compliance with the Act.

Alignment to Strategic Priorities

The recommendations within this Report support the following goal from the Council adopted Strategic Plan:

- Good Government-by ensuring municipal assets are well maintained and well managed through clear and concise rules that align with legislative processes and help to develop and increase effectiveness of service delivery

Financial/Operation Impacts:

There will be a small cost associated with the public notices required by the BAO but no significant impact to the budget. The current Cemetery Fee Schedule continues to be in effect.

Consultations:

Compliance Officer, Bereavement Authority of Ontario
Licensing Officer, Bereavement Authority of Ontario
Supervisor, Capital Projects, Cemeteries and Trails
Kawartha Lakes Cemetery Board

Attachments:

Appendix A



Cemetery By-Laws
2022 Final Draft.pdf

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Department Head: Craig Shanks, Director of Community Services