

Authority: Item 3, Public Works Committee
Report 21-003 (PW21005)
CM: February 24, 2021
Ward: City Wide

Bill No. 024

CITY OF HAMILTON

BY-LAW NO. 21-024

To Amend By-law No. 12-151, being a By-law Respecting the City of Hamilton's Cemeteries

WHEREAS Council enacted a By-law Respecting the City of Hamilton's Cemeteries being By-law 12-151; and

AND WHEREAS this amending by-law amends By-law 12-151 to add provisions relating to natural burials, the interment of pets, and to make other housekeeping amendments relating to cemetery operations.

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. The amendments in this By-law include any necessary grammatical, numbering and letter changes.
2. That subsection 3.1 to By-law No. 12-151 be amended by repealing the definition of "cemetery" and replacing it with the following definition:

"cemetery" means land set aside to be used either for the interment of human remains or for the scattering of cremated human remains (in designated sections, only), interment of pet remains (in designated sections, only) and includes a mausoleum, columbarium or any other structure or building intended for interment that is situated on the land.

3. That subsection 3.1 to By-law No. 12-151 be amended by adding the following definitions:

"Natural Burial Grave" means any Interment Right in a Natural Burial Section which permits the interment of human remains in a biodegradable casket, container, shroud, or cremation urn.

"Natural Burial Section" means an area within a cemetery which is specifically designed to permit human remains to be returned to the earth as naturally as possible.

“Pet Burial Section” means an area within a cemetery that is reserved for the interment of both human and animal remains.

4. That subsection 6.8 to By-law No. 12-151 be repealed and replaced with the following:

6.8 Human Remains

Only human remains shall be interred in a lot, unless the interment takes place in a designated Pet Burial Section of the cemetery.

5. That Part 6 to By-law No. 12-151 be amended by adding subclause 6.16.1 as follows:

6.16.1 Outer Interment Container- Material

- (a) The Cemetery reserves the right to require an outer Interment container made of concrete or other comparable materials in certain areas of the Cemetery as noted on the Tariff of Charges and the Interment Rights Certificate at the time of sale.
- (b) Interments placed at extra depth require an outer Interment container made of concrete or other comparable materials, where space permits.

6. That Subsection 6.17 to By-law No. 12-151 be repealed and replaced with the following:

6.17 Hours for Interments

Interments may take place between the hours of 9:00 a.m. and 3:00 p.m. from Monday to Friday and between the hours of 8:30 a.m. and 11:30 a.m. on Saturdays of three-day weekends. Notwithstanding the foregoing, an interment may take place on any day and at any time:

- (a) with the advance permission of the Director and for the applicable fee; or
- (b) set out in a certificate issued by the Ministry of Health or an order issued by the Coroner's Office.

7. That Subsection 6.18 to By-law No. 12-151 be repealed and replaced with the following:

6.18 Scattering

- (a) No person shall scatter cremated human remains in a cemetery. Notwithstanding the foregoing, if scattering grounds have been set aside, cremated human remains may be scattered in such scattering grounds with the advance notice; and,
 - (i) a Certificate of Cremation under the Vital Statistics Act has been issued;
 - (ii) all applicable fees under the Tariff of Charges have been paid; and,
 - (iii) a Scattering Rights Contract has been signed.
- (b) No person shall scatter cremated human remains on a cemetery lot containing human remains.
- (c) Where a scattering is permitted under this By-law, it shall be performed by a member of the cemetery staff, or a member of the cemetery staff shall be in attendance when the cremated remains are scattered within the designated Scattering Ground.
- (d) Each purchase of scattering rights shall be limited to one (1) scattering opportunity for one (1) set of cremated human remains.

8. That Part 6 to By-law No. 12-151 be amended by adding subclause 6.18.1 as follows:

6.18.1 Pets or Other Animals

6.18.1.1 Requirements for Interment

No pets or other animals are permitted to be interred on cemetery grounds, except where:

- (a) the interment takes place in a designated Pet Burial Section of the cemetery;
- (b) the applicable fee under the Tariff of Charges for an interment within the Pet Burial Section has been paid;
- (c) permission of the Director has been granted and is shown on the Certificate of Interment Rights; and
- (d) the pet or other animal is in the cremated form or, if not in the cremated form, enclosed within an approved container no larger than 24 inches in length and 18 inches in width and height.

6.18.1.2 Interment of Human Remains Provisions Apply

The provisions of section 6.18.1 shall apply in addition to any other provision of this By-law that applies to the interment of human remains.

9. That Part 6 to By-law No. 12-151 be amended by adding subclause 6.18.2 as follows:

6.18.2 Natural Burial Sections

6.18.2.1 Number of Interments

A maximum of one (1) interment of human remains that are not cremated and one (1) interment of cremated human remains, or two (2) cremated remains may be buried in each lot within the Natural Burial Section. The interment of human remains that are not cremated shall be performed at standard depth, at least two feet beneath the natural level of the ground surface.

6.18.2.2 Cremation Interment

Where Interment Rights are purchased in the Natural Burial Section with the intent of having an interment of cremated human remains as the second Interment in the grave, the interment of the cremated human remains must not proceed until the interment of human remains that are not cremated have been completed.

6.18.2.3 Witnessing the Interment

The Director may limit the number of witnesses to an interment service in the Natural Burial Section to preserve the environmental sanctity or health and safety of those persons attending the interment.

6.18.2.4 Caskets or Container for Full Body Interment

A casket, shroud or container meeting the following criteria shall be provided by a licenced funeral establishment for the Interment of human remains that are not cremated within the Natural Burial Section:

- a) Composed of sustainable and full biodegradable fibers or materials;
- b) Free of non-biodegradable resins, glues or bonding agents;
- c) Composed of interior finishing fabricated from biodegradable fibers or material;

- d) Free from high gloss finish lacquers, paints or prepared surfaces that are non-biodegradable;
- e) Free of any interior liner, bag or wrapping that is fabricated from a non-biodegradable material;
- f) Free of any memento, article or personal belonging that is composed of non-biodegradable material;
- g) Fashioned to include a supportive bottom that is made from sustainable and biodegradable materials and that is stable and strong enough to be transported and placed on a grave lowering device; and
- h) Include handles in the event of a casket.

6.18.2.5 Container for Cremated Remains Interment

A container meeting the following criteria shall be provided for the Interment of cremated remains within the Natural Burial Section:

- a) Composed of sustainable and fully biodegradable fibers and material;
- b) Free of non-biodegradable resins, glues or bonding agents;
- c) Composed of interior finishing fabricated from biodegradable fibers or bonding agents;
- d) Free from high gloss finish lacquers, paints or prepared surfaces that are non biodegradable;
- e) Free of any interior liner, bag or wrapping that is fabricated from a non-biodegradable material; and
- f) Free of any memento, article or personal belonging that is composed of non-biodegradable material.

6.18.2.6 Outer Containers

No concrete, metal vaults, or other outer containers will be permitted in Natural Burial Section.

6.18.2.7 Scattering of Cremated Remains

The scattering of cremated remains will be permitted only within designated areas within the Natural Burial Section. Surface scattering is not permitted in any other area of the Natural Burial Section.

6.18.2.8 Removal of Caskets, Containers, or Cremated Remains

Interments performed within the Natural Burial Section will be regarded as permanent and irreversible from the interment date as all Interments are performed using biodegradable containers. The Cemetery shall have no obligation to disinter any remains within the Natural Burial Section unless required to do so by applicable law or court order. Where ordered to disinter human remains that are not cremated or cremated human remains, the requesting party shall be responsible to pay any and all fees associated with the disinterment.

6.18.2.9 Human Remains

Human remains to be interred within the Natural Burial Section shall be free from embalming solutions, prosthetics and any other non-naturally occurring elements.

6.18.2.10 General Care of Natural Burial Graves

In order to preserve the natural environment, the use of pesticides within the Natural Burial Section will not be permitted.

6.18.2.11 Planting Restrictions

No person shall place live or artificial plant material on a grave within the Natural Burial Section.

6.18.2.12 Tributes of Remembrance

To preserve the natural setting, no person shall place an article of any kind within the Natural Burial Section.

6.18.2.13 Memorialization

To preserve the natural surroundings of the Natural Burial Section, no person shall place a memorial on a grave within the Natural Burial Section.

6.18.2.14 Inscription on Communal Memorial

Inscriptions on a communal memorial feature within the Natural Burial Section as provided by Hamilton Municipal Cemeteries may be purchased by paying the applicable fee under the Tariff of Charges.

10. That Part 6 to By-law No. 12-151 be amended by adding subclause 6.18.3 as follows:

6.18.3 Pallbearers

For safety reasons, municipal cemetery staff are not permitted to act as pallbearers during a funeral service. All funeral service providers shall contract out pallbearer services to companies with staff specifically trained and insured for this purpose or use their internal staff.

11. That Schedule A to By-law No. 12-151 be amended by adding subclause 1.10.1 and 1.10.2 under the heading General as follows:

1.10.1 Memorial benches and Memorial Niche benches:

Memorial benches and memorial niche benches shall be purchased through the Hamilton Municipal Cemetery office by paying the applicable fee under the Tariff of Charges. Memorial benches and a concrete pad with a minimum size of 3' x 6' x 4" shall be installed by Cemetery staff.

1.10.2 Pictures, Etchings and Photographs on Monuments and Markers:

- (a) Prior to the placement of any picture, etching or photograph on a monument or marker, the written consent of the Interment Rights Holder(s) shall be provided to cemetery staff.
- (b) Pictures, etchings and photographs shall be in keeping with the dignity and decorum of the cemetery. If, in the opinion of the Director, a picture, etching or photograph is not in keeping with the dignity and decorum of the cemetery, they may have such inscription removed at the cost of the Interment Rights Holder or their heir or representative.
- (c) Pictures or photographs must be manufactured in a permanent, weather resistant material.
- (d) Pictures, etchings or photographs of a non-permanent material will be removed and disposed of by the Cemetery without notification and at the cost of the Interment Rights Holder or their heir or representative.

- (e) The Cemetery assumes no responsibility or liability for a picture, photograph or etching on a monument or marker that becomes lost, faded, cracked, damaged, or needs to be removed.

12. This By-law shall come into force on the day the Registrar approves it.

13. That in all other respects By-law 12-151 is confirmed.

PASSED this 24th day of February, 2021.

F. Eisenberger
Mayor

A. Holland
City Clerk