



STAFF REPORT

Meeting Date: February 14, 2022

Title: Crematoria, City Policy

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Department: Building and Planning

Report Number: Building & Planning-2022-001

Recommendation:

THAT Council receives this Staff Report, dated February 08, 2022 that provides background information, which includes examination of potentially relevant legislation, agencies, and policies, public consideration, land use compatibility, separation distances, demand for cremation services, application requirements, municipal processes, and discussion as they relate to recommended criteria to consider when granting municipal public interest approvals for crematoria.

THAT Council enacts City Policy CD-CR-01.

Background:

On July 1, 2012, the Funeral, Burial and Cremation Services Act, 2002 (FBCSA) came into effect and established a new regulatory framework for most of the bereavement sector, including crematoria. Among other things, the FBCSA provides that a person who proposes to establish a crematorium must first obtain the approval of the local municipality in which the crematorium is to be located, and approval is to be granted if the municipality has determined that the proposal is in the public interest.

The purpose of this report is to review factors which may be relevant to the public interest determination required by the FBCSA when considering an application for municipal approval of a crematorium, including factors which have been considered relevant by the public, and other municipalities. This report also includes recommendations regarding the

enacting of a City policy establishing a process, and the City's requirements for applicants when seeking municipal approval for proposed crematoria operations in the City of Dryden.

Examination of Potentially Relevant Legislation, Agencies, and Policies

A crematorium, as defined by the *Funeral, Burial and Cremation Services Act*, (2002). S.O. c. 33

"crematorium" means a building that is fitted with appliances for the purpose of cremating human remains and that has been approved as a crematorium or established as a crematorium in accordance with the requirements of this Act or a predecessor of it and includes everything necessarily incidental and ancillary to that purpose"

A crematorium may utilize Cremation or Alkaline Hydrolysis as defined by the Bereavement Authority of Ontario (BAO) as:

"Cremation: *A process that uses incineration to reduce a body to an ash or granular substance."*

"Alkaline Hydrolysis: *A chemical process that uses a heated solution of water and potassium hydroxide or sodium hydroxide under pressure and agitation to reduce a body to components of liquid and bone. The resulting bone fragments are dried and reduced to a substance resembling cremated ashes."*

As a licensing requirement as per the *Funeral, Burial and Cremation Services Act*, (2002). s. 83 (3)(a), *"No person shall establish a crematorium without, the approval of the local municipality in which the crematorium is to be located"*. As such, all crematorium applications located within the City of Dryden require approval from the municipality prior to receiving licensing under the FBCSA.

When considering an application for the establishment of a crematorium in accordance with the *Funeral Burial and Crematorium Services Act*, (2002). s. 84 (1.1) & (2).

(1.1) *"A local municipality that receives a request for approval to establish a crematorium in the municipality shall grant the approval if, in the municipality's opinion, it is in the public interest."*

(2) *"The municipality may hold a public hearing to determine if the approval is in the public interest."*

In this regard a municipality shall determine if a crematorium is in the public interest and may do so by holding a public meeting. This enables municipalities to further consider additional public comments, in an equitable manner, through providing an engagement platform for a wide audience.

Public Considerations

Crematoria are usually considered small-scale installations with relatively low total emissions compared to other types of incineration facilities such as municipal waste incinerators or industrial processes. All industrial emissions must follow the *Environmental Protection Act*, more specifically, O. Reg. 419/05: Air Pollution – Local Air Quality. Land use compatibility, at least in terms of operational emissions, is regulated and enforced by the Ministry of the Environment, Conservation and Parks (MECP). This may require applicants to submit supporting technical studies that detail emissions which indicate the proposed use can operate within MECP guidelines for dust, smoke, and other air quality emissions. This includes performance requirements regarding operating parameters, emission concentration limits, noise limits, operation and maintenance requirements, a complaints response procedure, source testing, monitoring, and record retention.

The public has noted that despite MECP guidelines, consideration should be given to nearby environmental receptors such as wetlands and floodplains, as well as to the findings of the National Collaborating Centre for Environmental Health (NCCEH). According to the NCCEH when human remains are cremated, several by-products or trace air pollutants are created that could pose potential public health impacts. Namely, the production of polychlorinated dibenzo-p-dioxins (PCDDs) and dibenzofurans (PCDFs), and Mercury (Hg). Such that, according to the World Health Organization (WHO) precautionary approach should be adopted that includes following best practice recommendations for siting, design, operation, monitoring, and maintenance of crematoria.

According to the Deputy Registrar of the BAO:

"There is no definition of Public Interest in the Funeral, Burial and Cremation Services Act, 2002. From our practice and experience we consider Public Interest to be the common sense and reasonability consideration of those elements of the specific issue being addressed. What will be the duration of the impact, and will it have a positive or negative effect on that public. The decision of whether or not something is in the public interest cannot be reached simply or made lightly. All possible impact and effect on the public for the long term must be reviewed and all risks and advantages must be balanced. Some rules and regulations that were considered acceptable in the past and are now known or shown to have negative effects on the community must be reviewed and amended. "

Crematoria are traditionally associated with the production of odours, smoke, and dust which can impact the use and enjoyment of nearby lands. Despite operating within MECP guidelines, anecdotally the production of odours, smoke, and dust by crematoria can still constitute a public nuisance, interfering with people's use and enjoyment of land or property, or that could have a negative effect on health. From the perspective of public acceptance and quality of life, and to alleviate public concerns, the BAO recommends a 300-meter setback from sensitive land uses.

Discussion:

Crematoria are regulated at the provincial/territorial level, and regional or municipal authorities determine whether additional development proposal considerations are required based on relevant planning and environmental considerations. Many jurisdictions across Canada and Internationally have established requirements for the siting and operation of crematoria, this includes;

- Mitigation of air, dust, odour, and other fugitive emissions at the source;
- Mandatory setbacks to ensure that land uses which may be particularly sensitive to potential adverse effects arising from the proposed crematorium are not located within the area of influence of the proposed crematorium;
- Requirements for buffering and landscaping.

Further, these requirements have been established with the intent of ensuring that incompatible land uses are protected from each other. It is the goal of such regulations to minimize land use conflicts and associated impacts between nearby land uses, and ensure planning function or viability of the surrounding lands.

Land Use Compatibility

The D-series Guidelines prepared by the Government of Ontario has been designed for municipalities and other planning authorities' use when making land use planning decisions. The objective of these guidelines is to prevent or minimize the encroachment of incompatible land uses, with the intent of protecting people and the environment from the nuisance impacts from facilities like landfills, sewage treatment plants and factories through land use planning tools. As stated in the guidelines "*the municipality should ensure that the principles of the D-series guidelines are adhered to*".

As outlined in the D-series guidelines when a facility is proposed the following should be undertaken:

- a) Identification of the Influence Area or Potential Influence Area Based on:
 - i) Facility operations, components, transport activities are likely to generate contaminant discharges or compatibility problems;
 - ii) Types and extent of contaminants (e.g. noise, odour, dust, etc.);
 - iii) Site plan details; and
 - iv) Facilities' ventilation systems.
- b) Evaluative Impacts
 - i) Distance from sensitive land use(s) and/or all existing and committed sensitive land use within the facility's influence, or potential influence, area;
 - ii) Land use designation/nature of sensitive land use(s);
 - iii) Hours of operation for facility and sensitive land use(s);

- iv) Wind patterns, topography and natural and man-made barriers/buffers (e.g. elevation, vegetation, walls, berms, ground and surface water); and
- v) complaint data from similar industries in the area.

c) Identify/Implement Feasible Mitigation

The use of buffers are to minimize or prevent adverse effects associated with facilities. However, in many cases buffers cannot be expected to eliminate all conflicts but should reduce the contaminant discharges and other compatibility problems to the trivial impact level. Land use separation and other mitigation measures are to be based on the facility's scale and design, and the duration, frequency and the type of discharges/impacts. Buffers which may be satisfactory for the control of noise may not be adequate for dust, odours, or gaseous air contaminants. A berm or wall will usually have little or no effect on these, and distance is often the only effective buffer.

Separation Distances

Various buffers on either of the incompatible land uses or on intervening lands, may be used to prevent or minimize adverse effects. Distance is often the only effective buffer, adequate separation distance based on facilities influence area is the preferred method of mitigating adverse effects.

Through the research conducted by City staff, a list of minimum setback distances for crematoria in other jurisdictions is provided in Table 1.

Table 1.

Minimum setback distances for crematoriums

Jurisdiction	Minimum Setback Distance	Surrounding Land Use
Cambridge, ON	300 m	Residential
Kitchener, ON	250 m	Existing/Planned Residence, School, Day Care
Milton, ON	300 m	Residential
Mississauga, ON	300 m	All
Ottawa, ON	Not within a Floodplain	Floodplain
Thunder Bay, ON	300 m	Sensitive Land Use
Toronto, ON	300 m	Any Non-industrial Zone
Nanaimo, BC	60 m	Residential Lot Line
Saanich, BC	30 m	Any Lot Line

While Ontario Legislation does not mandate a specific separation distance, according to the Deputy Registrar of the BAO:

"The Bereavement Authority of Ontario recommends that municipalities consider the exact proposed location within the specific zoning area and ensure that the crematorium will not then be located within close proximity (less than 300 m) to residences, apartment buildings, schools, playgrounds etc."

Demand for Cremation Services

According to the Cremation Association of North America as of 2020 approximately 73.3% of deaths result in cremation.

Table 2.

Annual Growth Rate of Cremation Usage in Canada

Annual Growth Rate – Five Year Average Canada	
Year	% Cremated
2005	53.8%
2010	61.6%
2015	67.6%
2020	73.1%
% Change 2005 - 2010	7.8%
% Change 2010 - 2015	6.0%
% Change 2015 - 2020	5.5%
Annual Growth Rate per year over 2014-2019	1.10%

This shows an increasing demand for cremations across Canada. The shift towards cremation may be due to a variety of factors including reduced land requirements; lower costs; religious/cultural beliefs; the desire for portability of the remains; and a perceived lower impact on the environment.

Currently, in the City of Dryden there are no proposals that have applied for FBCSA approval. It is reasonably anticipated that citizens and businesses are currently reliant on other communities for these services.

As such, the City should consider the needs and options for new crematoria that can meet current trends in the bereavement industry and the cultural preferences of its residents. In view of the growing demand, it is appropriate for the municipality to examine and implement provisions regarding locations for crematoria.

Recommended Criteria to Consider when Granting Municipal Public Interest Approvals for Crematoria

The Funeral, Burial and Cremation Services Act, (2002). s. 83 (3)(a), states that "*No person shall establish a crematorium without, the approval of the local municipality in which the crematorium is to be located*". As such, as part of the FBCSA licensing of crematoria operations, municipal approval is required. As of today, the City of Dryden has no specific criteria in its Official Plan, Zoning, By-laws, or Policies that guides appropriate siting of crematoria or a crematorium approval process.

Therefore, it is appropriate to develop a City Policy that guides this process in such a manner that protects public health, and the environment, while also providing business the opportunity to meet the growing demand for cremation services.

Based on the information contained in this report, it is recommended that the attached proposed City Policy for municipal licensing approval contain the following:

- 1) The applicant must demonstrate through submission of technical studies that they will meet applicable provincial requirements as they pertain to air, dust, odours, and other nuisance emissions; and
- 2) That crematoria should be appropriately sited, and should comply with the Bereavement Authority of Ontario recommendation of a 300-meter setback from any property zoned to permit sensitive land uses to address nuisance emission concerns on existing and planned surrounding sensitive land uses as follows:
 - i) Residential
 - ii) Hospitals
 - iii) Schools
 - iv) Nursing homes
 - v) Community Centres
 - vi) Childcare Facilities
 - vii) Playgrounds

Application Requirements

Through a jurisdictional review of crematorium approval and planning applications, for the City to make an informed decision regarding public interest with respect to the approval of a proposed crematorium operation the below application requirements and processes have been identified.

Prior to submitting an Application, the applicant shall conduct a pre-consultation with the Building and Planning Department.

Every Application shall be accompanied by the following supporting material:

- a) A detailed sketch identifying any permitted Sensitive Land Uses located within five hundred meters (500m) of the limits of the property where the proposed Crematorium is to be established. This site sketch should also include building and flue stack location relative to the property lines.
- b) Any technical reports already in the applicant's possession. This may include any additional information or reports to support the application.
- c) Submission of a signed application letter, detailing the prescribed information as required by the administrative application requirements below:
 - i) Name of applicant, name of owner, street address, mailing address, statement or details explaining the request, site sketch of the subject property detailing proposed changes to building or property if applicable.
 - ii) Signed letter of authorization from the owner(s) of the property for any application submitted by an agent.

Upon receipt of an Application which complies with all the Application Requirements

- 1) The City will circulate the Application to various internal City departments as deemed necessary for review and comment.
- 2) Posting of public notice on the property which is the subject of the Application by the applicant in a location or locations that shall be clearly visible from all public streets on which the property has frontage for the purposes of notifying surrounding landowners.
- 3) Presentation of the application and a staff report for Council consideration to determine if the application is in the 'public interest' prior to a decision being rendered.

Attachments (Reference Material):

Draft Policy CD-CR-01