



P.O. Box 1749  
Halifax, Nova Scotia  
B3J 3A5 Canada

**Item No. 9.1.4**  
**Heritage Advisory Committee**  
**October 8, 2024**

**TO:** Chair and Members of the Heritage Advisory Committee

**FROM:** Cathie O'Toole, Chief Administrative Officer

**DATE:** 09-20-2024

**SUBJECT:** HRTG-2023-00650 – [Supplementary Report] Proposed Demolition of a Municipally Registered Heritage Property at 1259 South Park Street, Halifax

---

### **SUPPLEMENTARY REPORT**

#### **ORIGIN**

February 27, 2024 Heritage Advisory Committee motion (item 9.1.3):

MOVED by Councillor Hendsbee, seconded by Councillor Lovelace

THAT the Heritage Advisory Committee recommend that Regional Council:

1. To refuse the application by the Archdiocese of Halifax-Yarmouth under the Heritage Property Act to demolish the registered heritage property at 1259 South Park Street, Halifax; and
2. To refuse the associated application under the Schmidt Ville Heritage Conservation District Plan and By-law for a Certificate of Appropriateness for the demolition of a contributing heritage resource.

MOTION PUT AND PASSED

March 19, 2024 Regional Council motion (Item No. 15.4.4):

MOVED by Councillor Mason, seconded by Councillor Cleary

THAT Regional Council set a public hearing date to consider the proposed demolition of the registered heritage property and contributing heritage resource at 1259 South Park Street, Halifax, in accordance with Attachment G of the staff report dated January 31, 2024 and By-law H-700 (the Schmidville Heritage Conservation District By-law).

MOVED by Councillor Mason, seconded by Councillor Cleary

THAT Item 15.4.4 HRTG-2023-00650 – Proposed Demolition of a Municipally Registered Heritage Property at 1259 South Park Street, Halifax be deferred to a future meeting Regional Council pending a

supplementary report regarding the process and implications to restore the property at 1259 South Park to Holy Cross Cemetery and rezoning the property to PCF.

MOTION TO DEFER PUT AND PASSED UNANIMOUSLY.

### **EXECUTIVE SUMMARY**

- This report provides information regarding the need, process, and implications of restoring (i.e. consolidating) the subject property at 1259 South Park Street, Halifax (The Cemetery Keeper's House) to the surrounding Holy Cross Cemetery lands and rezoning the property to Parks and Community Facilities (PCF) zone.
- This report also addresses the applicant's amended application for demolition of a registered heritage property / contributing heritage resource, which now proposes demolition with conditions for the partial conservation and re-use of the property, including the conservation of the northern stone masonry wall and the conservation, daylighting, and interpretation of the 1846 stone foundations of the Cemetery Keeper's House.
- In consideration of these amendments, staff's recommendation for this demolition application has changed from recommending refusal, to recommending approval with conditions.

### **RECOMMENDATION**

It is recommended that Heritage Advisory Committee:

1. Rescind the motion passed on February 27, 2024 as item 9.1.3.
2. Recommend that Halifax Regional Council:
  - a) Set a public hearing date to consider the proposed demolition of the registered heritage property and contributing heritage resource at 1259 South Park Street, Halifax, in accordance with Attachment G of the staff report dated January 31, 2024 and By-law H-700 (the Schmitville Heritage Conservation District By-law);
  - b) After the public hearing, approve the application by the Archdiocese of Halifax-Yarmouth under the *Heritage Property Act* to demolish the registered heritage property at 1259 South Park Street, Halifax, subject to the following conditions:
    - i. The stone masonry wall on the northern boundary of the subject property must be retained in-situ;
    - ii. The original 1846 stone foundations of the Cemetery Keeper's House (1259 South Park Street) must be retained in-situ and daylighted (made visible to the public);
    - iii. Interpretive signage explaining the heritage significance of the foundations must be installed by the applicant near the foundations;
    - iv. Any columbaria or other structures to be erected on the property must be built within and/or around the foundations without removing or unduly obscuring the foundations; and
    - v. The applicant must comply with Schmitville HCD By-law requirements for a Certificate of Appropriateness for any new buildings or structures, including columbaria; and,

- c) Direct the Heritage Officer to issue a Certificate of Appropriateness in accordance with the Schmidville Heritage Conservation District Plan and By-law for the demolition of the contributing heritage resource.

## **BACKGROUND**

The Cemetery Keeper's House (1259 South Park Street, Halifax) was added to the municipal registry of heritage properties in 1982. When the Schmidville Heritage Conservation District (HCD) was established in 2018, the Cemetery Keeper's House was additionally identified as a contributing heritage resource for the district. The Cemetery Keeper's House has housed successive generations of cemetery superintendents since its construction in 1846. The house has remained vacant since 2015, as the present cemetery superintendent does not require lodging, and the house has significantly deteriorated from disuse.

Considering the house's deteriorated state, its limited utility to the property owner, and the high cost to rehabilitate it to a habitable standard, the applicant has applied to demolish the registered heritage property / contributing heritage resource. Staff previously brought forward a report dated January 31, 2023 to the Heritage Advisory Committee and Regional Council recommending the refusal of this application to demolish. On February 27, 2024, Heritage Advisory Committee recommended that Regional Council refuse the application to demolish. On March 19, 2023, at first reading, Regional Council deferred the motion to set a public hearing and requested a supplementary report addressing questions regarding rezoning and consolidation / subdivision. Since that deferred motion, HRM staff have worked with the applicant to develop an approach for the partial conservation and re-use of the registered heritage property / contributing heritage resource, and the applicant has accordingly amended their demolition application to include conditions to that effect (see Attachment A). In addition to addressing the questions raised by Regional Council at first reading, this supplementary report will address the amended scope and nature of the applicant's demolition application.

To consider the amended demolition application, Heritage Advisory Committee must rescind the previous motion that recommended that Regional Council refuse the demolition application.

## **DISCUSSION**

### **Rezoning:**

The subject property is presently zoned Schmidville Heritage Conservation District (HCD-SV) under the Regional Centre Land Use By-law (RC-LUB). As outlined in Table 1D of said Land Use By-law, the HCD-SV zone permits religious institution use, among other uses. Religious institution use is defined in the RC-LUB as follows:

***Religious Institution Use** means a place of worship, a place of religious gathering, or a columbarium, including accessory uses that are on-site, such as a rectory, a convent, a private school, a meeting hall, offices for administration of the institution, a daycare use, and a shelter use.*

Whereas the present zoning of HCD-SV permits a columbarium use as-of-right under the definition of religious institution use, staff find that the rezoning of the subject property is not required to enable the columbarium use desired by the applicant.

If the applicant were to apply for and successfully rezone the property to Parks and Community Facilities (PCF) to match the abutting Holy Cross Cemetery property, it would not remove the subject property from the Schmidville Heritage Conservation District, and the property would still be subject to the requirements of the Schmidville HCD Plan and By-law. In addition to the columbarium use already permitted under the existing HCD-SV zoning, PCF zoning would permit cemetery use, such as use of the land for burials of the dead and accessory purposes (excluding crematorium use). However, this is not necessary to enable the desired columbarium use.

### Consolidation / Subdivision:

The subject property (1259 South Park Street) is located directly abutting the Holy Cross Cemetery property (1249 South Park Street) and historical mapping suggests that it was originally part of the cemetery grounds conveyed to trustees on behalf of Halifax's Roman Catholic population in 1843 by an Act of Assembly (see Attachment B). Historical mapping also shows the subject property was subdivided from the greater cemetery lot sometime between 1914 and 1918. It remained a separate and distinct lot from the neighbouring cemetery at the time of its municipal heritage registration in 1982 and into the present.

The applicant may, if they so wish, apply for subdivision to consolidate the subject property with the abutting Holy Cross Cemetery property or to adjust the property boundaries. Consolidation or boundary adjustment of these two lots is not required to enable the desired columbarium use and will not impact the zoning of either lot as the zoning boundaries remain unchanged by subdivision. As with rezoning, the consolidation or boundary adjustment of the subject property and the neighbouring cemetery property would not remove the subject property from the Schmidville Heritage Conservation District, and the property would still be subject to the requirements of the Schmidville HCD Plan and By-law. The consolidation or boundary adjustment of these two properties would also not negatively impact their status as registered heritage properties.

### Amended Demolition Application:

In consultation with HRM heritage planning staff, the applicant has explored options for partial conservation and adaptive re-use of the registered heritage property / contributing heritage resource. In the time since Regional Council's motion requesting this supplementary report, the applicant has amended their demolition application via a letter submitted to the Municipality on August 21, 2024 (see Attachment A). This letter establishes a series of conditions to which the applicant is prepared to commit, in order to secure the support of HRM staff and Regional Council in this demolition application. Council is enabled by Section 17 of the *Heritage Property Act* to approve an application for demolition of a registered heritage property with conditions. The conditions proposed by this amended demolition application constitute a partial conservation, interpretation, and re-use approach for the Cemetery Keeper's House. Such an approach is generally used as a last resort for heritage resources which cannot be conserved and adaptively re-used in whole.

The Cemetery Keeper's House was originally a small, 1-storey home in the vernacular style, with a square plan and hipped roof (see Figure 1). The home was greatly modified and expanded in the 1910s, becoming the two-storey, Late Victorian plain style dwelling it remains today. The partial conservation approach proposed (see Figure 2) would see the applicant retain and conserve the property's most historically valuable character-defining elements, including the mid-1800s stone masonry wall running along the northern bound of the property, and the original 1846 stone foundations, while demolishing the rest of the building whose character-defining elements date from the 1910s renovation. The applicant would infill the basement with dirt, preserving the foundations in-situ and daylight the tops of these foundations, so they may be viewed by the public. The applicant would also install interpretive signage next to the daylighted foundations explaining their significance and the history of the cemetery. The historical foundations would remain as a landscape element around which a new columbarium use could be constructed.



**Figure 2:** A 3D model providing a conceptual example of how the 1846 stone foundations and the northern stone masonry wall can be sensitively incorporated into the design of a new columbarium. *Note:* Conceptual only; not a final design proposal.

**1843 Act of Assembly and Limited Adaptive Re-Use Potential:**

While it is atypical for heritage planning staff to recommend the approval of a demolition application in response to the poor condition of a registered heritage property / contributing heritage resource, there is a unique legislative context surrounding this application, which lends justification for such an approach.

The General Assembly of the Province of Nova Scotia (Legislative Assembly) established Holy Cross Cemetery by an Act of Assembly in 1843 (see Attachment B). This Act, which directed the conveyance of lands formerly of the Halifax Common to the trustees for Halifax’s Roman Catholic population, restricts the landowner from using these lands for non-cemetery uses. The terms of this Act of Assembly remain in-effect today and thus hinder the property owner’s ability to adaptively re-use the Cemetery Keeper’s House as a residence, commercial office, or other income-generating non-cemetery use that might financially support the significant expense of its total rehabilitation from its present state.

**Conclusion:**

Given the Cemetery Keeper’s House’s poor condition, its limited potential for adaptive re-use due to the 1843 Act of Assembly, and the extensive modification of the house from its original 1846 vernacular form and style to its present c.1910s form and style, staff find that the proposed approach of partial conservation and interpretation as well as the proposed new columbarium use to be an appropriate mitigative strategy which respects the significant heritage value of the original 1846 foundations and the stone masonry wall running the northern bound of the property. This columbarium use is permitted as-of-right, without any requirement for rezoning or subdivision. Staff therefore recommend approval of this demolition application with conditions, as laid out in the recommendations section of this report, to ensure that the proposed partial-conservation, interpretation, and re-use measures are carried out.

**FINANCIAL IMPLICATIONS**

No financial implications were identified.

**RISK CONSIDERATION**

No risk considerations were identified.

**COMMUNITY ENGAGEMENT**

A Public Information Meeting was held June 7th, 2023, at Halifax Hall in City Hall. Notes from this public information meeting and public submissions received at this meeting can be found in Attachment I and Attachment H of the original staff report dated January 31, 2024.

A Public Hearing to consider the proposed demolition of the registered heritage property and contributing heritage resource at 1259 South Park Street, Halifax, shall be held by Regional Council in accordance with Attachment G of the original staff report dated January 31, 2024 and By-law H-700 (the Schmidtville Heritage Conservation District By-law).

**ENVIRONMENTAL IMPLICATIONS**

No environmental implications were identified.

**ALTERNATIVES**

1. The Heritage Advisory Committee could choose to recommend that Regional Council refuse the

application under the *Heritage Property Act* to demolish the registered heritage property at 1259 South Part Street, Halifax; **and** refuse the associated application under the Schmitville Heritage Conservation District Plan and By-Law for a Certificate of Appropriateness for the demolition of a contributing heritage resource.

2. The Heritage Advisory Committee could choose to recommend that Regional Council approve (without conditions) the application under the *Heritage Property Act* to demolish the registered heritage property at 1259 South Part Street, Halifax; **and** approve the associated application under the Schmitville Heritage Conservation District Plan and By-Law for a Certificate of Appropriateness for the demolition of a contributing heritage resource.

### **LEGISLATIVE AUTHORITY**

The *Heritage Property Act* of Nova Scotia, Sections 17 (Approval to alter or demolish municipal heritage property) and 18 (Consideration by municipality of application to alter or demolish).

### **ATTACHMENTS**

Attachment A – Letter from Applicant Amending their Application

Attachment B – 1843 Act of Assembly Establishing Holy Cross Cemetery

---

Report Prepared by: Carter Beaupre-McPhee, Planner III – Heritage, Phone # 902.719.9604

---

# Attachment A: Letter from Applicant Amending their Application



Archdiocese of | Archdiocèse d'  
**Halifax-Yarmouth**

1559 Brunswick Street, Suite 101, Halifax, Nova Scotia, B3J 2G1  
Tel. (902) 429-9800 | Fax. (902) 423-5201

---

August 21, 2024

Halifax Regional Municipality  
5251 Duke Street, Suite 330  
Halifax, NS B3J 3S1

Attn: Carter Beaupre-McPhee, LPP, MCIP, CAHP

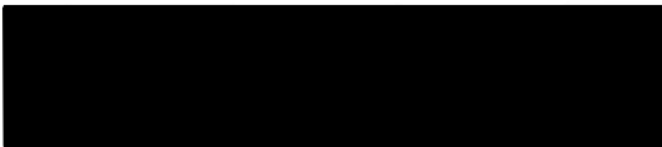
## **1259 South Park Street, Halifax – Demolition Application**

Dear Carter;

As per our previous communication, on behalf of the Archdiocese Halifax Yarmouth, I am applying for a demolition permit for the dilapidated house at 1259 South Park Street, Halifax. Please note that the following conditions will apply to the work in question.

- The stone wall on the northern line of the property will not be disturbed due to its historic relevance. **A surveyor has been retained to identify the owner of this wall.**
- That the original 1846 stone foundations of the cemetery keeper's house (1259 South Park St) will be retained and daylighted in order to make it visible to the public.
- Interpretive signage explaining the heritage significance of the foundations be installed near the foundations.
- That any columbaria or other structures to be erected on the property be built within and/or around these foundations without removing or unduly obscuring the foundation.
- A design plan will be developed and submitted for applicant in accordance with the above.

Yours truly,



John Kennedy, CPA, CMA  
Financial Administrator  
Roman Catholic Episcopal Corporation of Halifax

**ACTS**

OF

**THE GENERAL ASSEMBLY**

OF THE

**PROVINCE OF NOVA-SCOTIA.**

1843.

---

**HALIFAX:**

PRINTED AT THE ROYAL GAZETTE OFFICE.



there held for three days; and be thence adjourned to some central and convenient place at Brookfield, and be there held for three days; and be thence adjourned to some fit and convenient place at Port Mutton, and be there held for three days.

TOWNSHIP OF LIVERPOOL.

The Poll shall be opened at the Court House in Liverpool, and there be continued for the space of four days; and be thence adjourned to some fit and convenient place at Port Medway, and be there held for two days.

Township of Liverpool

COUNTY OF DIGBY.

The Poll shall be opened at the Court House in Digby, and be there continued for the space of four days; and be thence adjourned to some central and convenient place near the Church at Weymouth, there to be continued for the space of two days; and be thence adjourned to some central and convenient place near the Chapel at Montegan, and be there continued for the space of four days.

County of Digby

TOWNSHIP OF DIGBY.

The Poll shall be opened at the Court House at Digby, and be there continued for the space of four days; and be thence adjourned to some central and convenient place near the Church at Weymouth, and be there continued for two days.

Township of Digby

TOWNSHIP OF LUNENBURG.

The Poll for the Township of Lunenburg, shall be opened at Lunenburg, at the same time as the Poll for the said County, and be there continued open for the space of four days only, unless sooner closed by operation of the Law now in force.

Township of Lunenburg

II *And be it enacted*, That all such parts or portions of the said Act hereby amended, which relate to the times and places of holding Polls for Elections, for the several Counties and Townships within this Province, hereinbefore specified and enumerated, shall be, and the same are hereby repealed, but all other the provisions and enactments of the said Act, shall extend to any Election for such respective Counties and Townships, in the same manner as if the times and places hereby established for holding the Poll for any such Election had been, and were originally inserted in the said Act hereby amended.

Former Acts repealed

CAP. XXXVI.

An Act in further addition to and amendment of the several Acts now in force concerning Cemeteries or Burial Grounds in the Town of Halifax.

*Passed the 29th day of March, 1843.*

**W**HEREAS the Deed contemplated by the Act, passed in the second year of the Reign of Her present Majesty Queen Victoria, entitled, An Act additional to, and in further amendment of, the Act concerning Cemeteries or Burial Grounds in the Town of Halifax, to be made by the respective Officers of Her Majesty's Ordnance Department at Halifax, to convey to the Commissioners of Public Cemeteries in Halifax, a certain piece of Land bounded on the east by Fort Massey, extending westwardly across the Brook running from the Common to Fresh Water Bridge, has never been executed by such Officers although the conveyance of Land in lieu thereof hath been completed by the said Commissioners, and the respective Officers of Her Majesty's Ordnance Department have taken possession of the same, by virtue thereof, to the use of our Sovereign Lady the Queen, in accordance with the said Act; and it is proper for perfecting the exchange of Lands in the said Act mentioned, and the object of this Act, that the said piece of Land should be conveyed to and vested in, the City of Halifax.

Preamble

2 Vol. 9. 25

Wendell Hill

I. *Be it therefore enacted, by the Lieutenant-Governor, Council and Assembly*, That it shall and may be lawful for the respective Officers of Her Majesty's Ordnance Department at Halifax, for the time being, by any Deed to be made and executed by such Officers therein particularly to describe, convey and assure, to the Corporation of Halifax, by the name

Respective Officers of Ordnance to convey a certain piece of land near Fort name

Massey to the  
City of Halifax

name of the City of Halifax, the said piece of land near Fort Massey, in fee simple, in consideration of the land so conveyed by the said Commissioners to Her Majesty as aforesaid; and the same land, near Fort Massey, shall immediately vest in, and be possessed by, the said Corporation, and thereafter be under and subject to the regulation, direction, management, and control of the City Council, to and for the purposes hereinafter mentioned respecting the same.

*And whereas* the Committee of Cemeteries appointed under the Act to Incorporate the Town of Halifax, have, upon careful examination, ascertained that the said piece of land, near Fort Massey, is not adequate or the most eligible for a general Cemetery for the said City.

*And whereas* the respective officers of Her Majesty's Ordnance Department are willing to accept an absolute Conveyance of that part of the said land which includes the present Military Burial Ground, with an addition equal to the contents of a road to be taken off the north side thereof, of thirty feet wide, and to erect and sustain the fences around the same, in lieu of a portion of the public Cemetery which by the Acts in force relating to Cemeteries, was directed to be appropriated for the purpose of a burial place for the military.

*And whereas* the Congregation of Saint Mary's have applied for a part of the said land, as a Cemetery for the exclusive use of the Roman Catholic portion of the citizens of Halifax, and have also agreed to erect and sustain the fences around the same, in lieu of the portion to which they would be entitled in the General Cemetery:

City of Halifax on the Execution of deed from the officers of Ordnance to convey part of the land at Fort Massey to them for a Military burial ground

II. *Be it therefore enacted*, That when and so soon as such Deed or Conveyance of the said land near Fort Massey, shall have been executed by the respective Officers of Her Majesty's Ordnance Department at Halifax, to the City of Halifax, as aforesaid, it shall and may be lawful for the said City of Halifax, by Deed, signed by the Mayor, under the Seal of the said City, to convey and assure to the principal Officers of Her Majesty's Ordnance Department, in fee simple, the said Military Burial Ground, part of the said land, except such road, and with such addition as aforesaid, for the purpose of a place of Interment or burial for the Military; and which Deed shall effectually in Law convey and assure to the said principal Officers for such use, for ever, the land hereby directed to be conveyed thereby, when and so soon as such Deed shall be accepted and received by the respective Officers of the said Department at Halifax, or some or one of them for such purpose.

Proviso

III. *Provided always, and be it enacted*, That such conveyance, when accepted and perfected, shall be, and be taken and held to be, a full performance of all the directions contained in the said Acts relating to Cemeteries, and each of them, for the laying off of a portion of the Public Cemetery for the purpose of a place of Burial for the Military, or as and for a just and satisfactory equivalent for such right.

Further proviso

*And provided also*, That the City of Halifax, or any Commissioners of Cemeteries heretofore in office, or the present, or any future Committee of Cemeteries, or other persons who may have the charge or care of the Public Cemeteries of the said City, shall not be bound or liable to erect or sustain the fences around the land so to be conveyed for a Military Burial Ground, or to contribute to the expense or charge thereof.

City of Halifax to convey to Trustees for the Roman Catholics a piece of land at Fort Massey

IV. *And be it enacted*, That when and so soon as such Deed or Conveyance of the said land shall have been executed by the respective Officers of Her Majesty's Ordnance Department at Halifax, to the City of Halifax as aforesaid, it shall and may be lawful for the said City of Halifax, by Deed, signed by the Mayor, under the Seal of the said City, to convey and assure to Trustees on behalf of the Roman Catholic population of the said City, for the exclusive purpose of a Cemetery, so much as shall be adequate and satisfactory of the said land lying between the said Military Burial Ground and a certain Brook to the westward running through the said land, not exceeding four and a half acres, so as not at any part to extend westward so far as to reach within thirty feet of the said Brook.

Proviso

*Provided always*, That the said portion of the land aforesaid so to be assigned to Trustees as aforesaid, shall not be used for any other purpose than as a Cemetery or Burying Ground as aforesaid, and shall be fenced in, ornamented with Trees, and otherwise beautified by Saint Mary's Congregation or the Roman Catholic citizens as aforesaid, at their own expense and charge.

*And*

*And provided also,* That the said Cemetery shall at all times be open and subject to a general supervision of the Committee of Cemeteries for the said City, and to such rules and regulations as they or the City Council may from time to time make and ordain, to apply generally to all the Cemeteries of the said City: *Provided also,* that a certain Drain, Water Course or Sewer, passing through the said piece of ground, and necessary for draining the land and building grounds lying to the northward thereof, or otherwise contiguous thereto, shall at all times be kept free, open and unobstructed, by the said Trustees and their Successors, at their expense or the expense of the Roman Catholic Congregations of the said City.

V. *And provided always, and be it enacted,* That such Conveyance when accepted and perfected, shall be, and be taken and held to be, a full performance of all the directions contained in the said Acts relating to Cemeteries, and each of them, for the laying off of a portion of the Public Cemetery for the purpose of a place of Burial for the Roman Catholic Congregation of the said City, or as and for a just and satisfactory equivalent for such right: *And provided also,* that the City of Halifax, or any Commissioners of Cemeteries heretofore in office, or the present or any future Committee of Cemeteries, or other persons who may have the charge or care of the Public Cemeteries of the said City, shall not be bound or liable to erect or sustain the fences around the land so to be conveyed for a Roman Catholic Burial Ground, or to contribute to the expense or charge thereof.

VI. *And be it enacted,* That the remainder of the said piece of land near Fort Massey, together with the Brook thereon, so to be conveyed by the said Officers of the Ordnance Department to the City of Halifax as aforesaid, shall remain in the said City of Halifax, under the direction, management, and control of the City Council, to and for the use and benefit of the said City, as part of the Real Estate thereof.

*And whereas,* that part of the Common of Halifax, hereinafter next described, has, after due examination, been selected for the purposes of a general Cemetery or Burial Ground for the use of the Parishes, Congregations, and Citizens of Halifax aforesaid, that is to say—All that piece of Land, bounded as follows, that is to say—beginning at the north-west corner of a piece of land formerly taken from the Common, and laid out into lots known by the name of the Spring Garden Lots, and bounded on the west side by a line running from thence northerly along the east side of a highway, which, at the said place of beginning, lies between the said Common and land of the late Chief Justice Blowers, to a point immediately opposite the north-east corner of the land of the said late Chief Justice Blowers, where the said highway is intersected by a highway leading thence to the North-west Arm, and bounded on the north side by a line running easterly from the last mentioned point, on a course parallel with the rear line of the said Spring Garden lots, until it shall meet or intersect the east side line hereinafter mentioned, of the land hereby now being described, and bounded on the south side by the rear line of the said Spring Garden lots, running from the first mentioned place of beginning to the eastward across one of the Spring Garden roads, and thence along the said rear line to another of the said Spring Garden roads, or the north-east corner of the Spring Garden lot, formerly held by one James Smith, now occupied by one Robert Smith, and bounded on the east side by a line or a course in continuation of the east side line of the last mentioned Spring Garden lot, and paralld with the west side line hereinbefore mentioned, of the land now under description, until it shall meet or intersect the north side line hereinbefore described.

VII. *And be it enacted,* That immediately after the passing of this Act, it shall and may be lawful for the Committee of Cemeteries to take possession of the said last described piece of land; and the same shall thenceforth vest in the City of Halifax, and be and remain in the custody and under the management and control of the City Council, or the Committee of Cemeteries, for the said City, for the time being, in the same manner, for the same purposes, and to the same intent, as if such piece of land had been originally described and inserted in the Act, passed in the Third year of the Reign of His late Majesty King William the Fourth, entitled, An Act concerning Cemeteries or Burial Grounds for the Town of Halifax, instead of the piece of land therein described and appropriated for a Public Cemetery; and that the said Act, and all Acts in amendment thereof, or such parts of the same as remain in force, shall continue to be in force, and fully apply to the land

Proviso

The lot conveyed to the Roman Catholics to be an equivalent for any land conveyed to them by former Act

City of Halifax do not to fence the Roman Catholic Burial Ground

Remainder of the land at Fort Massey to be held by the City

Bounds of the General Cemetery

The General Cemetery to vest in the City and to be under the control of the City Council

Proviso

land now selected and herein appropriated as aforesaid, except as the same shall or may be altered or affected by this Act: *Provided*, that no part of the land herein last described and hereby intended to be set off, appropriated, and used as and for a Public Cemetery, shall be subject or liable to be appropriated, set apart, or used as, or for a Military Burial Ground, or as or for a Roman Catholic Burial Ground, or place of Interment, the said respective Officers of Her Majesty's Ordnance, and the Roman Catholic portion of the citizens of Halifax, having respectively chosen, to have and use the separate allotments for Cemeteries hereinbefore provided, in preference to receiving any appropriation or distinct portion of the said Public Cemetery, for the use of the Military or the Roman Catholics respectively.

A road to be laid off adjoining the east side of the Cemetery

VIII. *And be it enacted*, That there shall be taken from the said Common, and laid off, a public road or highway, adjoining and along the east side of the said Public Cemetery, or last described piece of land, being of the same width, and in continuation of the Spring Garden road which runs between the said lot formerly occupied by James Smith, and now occupied by one Robert Smith, and the Spring Garden lot, formerly owned by Thomas Wallace, and now used as a vegetable garden, and also as public road or highway adjoining and along the north side of the said Public Cemetery, or last described piece of land, of the same width, and which said roads or highways shall be forever hereafter kept free, open and common, for the use of all Her Majesty's subjects, and subject to all such management, supervision and care, as other highways in or through the said City or the suburbs thereof.

Preamble

*And whereas*, it is believed that a part of the said highway to be laid out on the north side of the said Public Cemetery will encroach upon that part of the said Common which was heretofore conveyed to the use of Her Majesty, in exchange for the said land near Fort Massey; and the respective Officers of Her Majesty's Ordnance, at Halifax, have agreed that so much thereof as may be required for such highway, may be taken for the purpose of such highway, in consideration that an equal quantity of land shall be taken from the Common and added to the said land of Her Majesty, on the north side thereof.

An equivalent to be given the Ordnance for a piece of Land to be taken from them for the road

IX. *Be it therefore enacted*, That it shall and may be lawful for the respective Officers of Her Majesty's Ordnance at Halifax, for the time being, or some or one of them, by any Deed or Deeds, under their or his hands and seals, to convey and assure to the City of Halifax, for the purpose of such highway, so much of the said land of Her Majesty off the south side thereof as may be necessary for such highway, and for the said City of Halifax, by Deed, under the hand of the Mayor and seal of the said City, to convey and assure to Her Majesty, or to Her Majesty's principal Officers of Ordnance in Great Britain, so much of the Common of Halifax lying to the north of the said land of Her Majesty as shall in size and quantity be similar and equal to such part thereof as shall so be conveyed in exchange as aforesaid; and the said Deed shall respectively be and enure in Law as, and for a full and absolute Conveyance, in fee simple, for the respective purposes aforesaid.

## CAP. XXXVII.

An Act for setting off a part of the Township of Egerton as a separate District for the support of the Poor.

*Passed the 29th day of March, 1843.*

Preamble

**W**HEREAS the Inhabitants of the Township of Egerton are desirous that the Albion Mines, and all that part of the Township included within the limits hereinafter mentioned, should be set off as a separate District for the support of the Poor, and the same would be attended with many conveniences and advantages to the said Inhabitants generally:

Township of Egerton to be set off as a separate District

I. *Be it enacted by the Lieutenant-Governor, Council and Assembly*, That all that part of the Township of Egerton lying within the limits following, that is to say—to be bounded on the north by the upper or south line of William Frazer's (Og's) land, on the west by the

division