

Frequently Asked Questions About Interment Rights

What Are Interment Rights?

Interment Rights means the right to require or direct the interment or removal of human remains in a lot (grave, garden, tree program), plot (multiple graves), niche or crypt and/or direct any associated memorialization as outlined or permitted by the cemetery by-laws.

What Is an Interment Rights Holder?

Interment Rights Holder means the person(s) who hold the interment rights to a lot (grave, garden, tree program), plot (multiple graves), niche or crypt as purchased under contract and registered in the Cemetery's records and conveyed on the Interment rights certificate.

Why Is It Important To Be The Interment Rights Holder?

Without the consent or permission of the interment right holder of cemetery record, there is very little a cemetery operator or a family is permitted to do. Ontario Regulation 30/11, Item 161. (1) of the province's Funeral, Burial and Cremation Services Act, 2002 states,

"No cemetery operator shall inter human remains in a lot, other than the remains of the interment rights holder, without the written consent of the interment rights holder. "

O. Reg. 30/11, s. 158 (3) further states,

"An interment rights holder or a person authorized to act on the holder's behalf may install a marker on a lot if the installation of the marker does not contravene the cemetery by-laws."

Does The Interment Rights Holder Purchase or Own the Land?

The land, also known as lot/plot/space including all gardens or tree program for which interment rights are assigned, always remains titled to the Cemetery. A cemetery, under Ontario law, only offers to sell the "right to direct interments and memorialization within an assigned space (lot) within the cemetery". Never does the cemetery sell the land. This right is called 'interment rights' and may only be assigned by the cemetery or reassigned by registering with the cemetery, a transfer of the rights. All activity within that space is subject to the Funeral, Burial, and Cremation Services Act, (2002), its regulations, and the Cemetery's by-laws.

How Do I Know Who the Interment Rights Holder Might Be For "The Family Plot"?

The interment rights holder is named specifically on the cemetery-issued Certificate of Interment Rights and the Cemetery's official Registry of Interment Rights Holders. Please note that if the interment rights holder gave you the certificate, the interment rights are not yours until such time as you present the certificate to the cemetery and register the transfer of ownership for the interment rights and the cemetery issues a new new certificate. Only the cemetery can confirm or register a transfer of interment rights. Contact us if you are unsure or would like to know more.

If The Interment Rights Holder Is No Longer Living., Can I Still Use The Lot/Plot/ Space?

Cemeteries are not permitted to decide as to who can or cannot use the interment rights. Ontario Regulation 30/11, Item 161. (1) of the province's Funeral, Burial and Cremation Services Act, 2002 states , "No cemetery operator shall inter human remains in a lot, other than the remains of the interment rights holder, without the written consent of the interment rights holder. "

Simply put, the cemetery can only take direction form the Interment Rights Holder of Cemetery record. If the Interment Rights Holder has passed and he/she /they did not leave written instruction or authorization for additional interments or memorialization, then the remaining family is left with the choice s of A) register a transfer of the interment rights; or B) purchase their own interment rights. The Cemetery can only recognize and register a transfer of the interment rights if the applicant(s) presents documentation to the cemetery that clearly supports that the Interment Rights Holder of record had endorsed such a transfer.

Do Interment Rights Automatically Transfer Or Pass To A Spouse Or Children Or Grand Children Upon The Death Of The Interment Rights Holder Of Record?

Interment rights do not automatically transfer to the surviving family member(s). The interment rights remain in the name of the Interment Rights Holder(s) of cemetery record until such time as sufficient documentation is provided to the cemetery to demonstrate otherwise and until such time as the legal claimants register a transfer of the interment rights with the cemetery operator. If the Interment Rights Holder has died... then the interment right remain as a part of the rights holder's estate. Provincial regulations and the cemetery's by-laws clearly outline what is required of the Interment Rights Holder or estate trustee to see that the remaining interment rights are transferred so that the interment rights can continue to be available for use.

What If I/We Cannot Find The Interment Rights Holder's Last Will Or The Interment Rights Holder Has Died Intestate (Without A Last Will)?

Those wishing to continue using the interment rights have the burden of performing a diligent search for a copy of a Last Will , as required under Ontario law. Families are welcome to consult with cemetery staff....but... families should not substitute such information for legal counsel. In most cases, families will require their legal counsel to assist with matters involving a lost Will or intestacy. In some instances they interment right simply cannot be transferred and the lot/plot is closed.